



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #637

Bilingual-Bicultural Aid (DPI -- Categorical Aids)

[LFB 2023-25 Budget Summary: Page 491, #10]

CURRENT LAW

School districts are required by state law to provide special classes to pupils who are English learners (ELs) at schools that enroll 10 or more EL pupils in a language group in grades K-3, or 20 or more in grades 4-8 or 9-12. These school districts are eligible for categorical aid under current law. Aidable costs under the program are defined as the districts' prior year costs for salaries, special books, equipment and other expenses approved by DPI that are attributable only to programs for EL pupils. Base level funding is equal to \$8,589,800 GPR annually, which funds approximately 7.7% of aidable costs.

DISCUSSION POINTS

1. The state's bilingual-bicultural aid program was created in 1975 to offset a portion of the cost of providing bilingual programming for districts that are required by law to do so. Under current law, bilingual programming is required at schools that enroll 10 or more EL pupils in one language group in grades K-3, or 20 or more in grades 4-8 or 9-12. Schools that do not meet this minimum threshold are not required to offer special bilingual programming, and are not eligible for bilingual-bicultural aid. Pupils are eligible for a bilingual-bicultural education program only until they are able to perform ordinary classwork in English.

2. School districts are required to provide equal educational opportunities to EL pupils, regardless of whether they are enrolled in a state-mandated bilingual program under state and federal law. Under federal law, including the Civil Rights Act of 1964 and the Equal Educational Opportunities Act, school districts must ensure that language barriers do not prevent pupils from meaningful participation in instructional programming and services. Under the Every Student Succeeds Act (ESSA), school districts are required to ensure that EL pupils make progress towards

developing English proficiency and meeting the same academic standards that apply to other pupils, and must include disaggregated assessment data for ELs in annual accountability reports.

3. Schools that are required to offer bilingual programming must submit a plan of services annually to DPI, as well as an annual report. The plan of services is submitted prior to the start of the school year, and includes the goals and objectives for the program, a count of eligible ELs, staffing information, an estimated budget for the program, and a description of how EL pupils will be evaluated to assess language proficiency and progress towards meeting academic goals in other subject areas. The annual report is submitted at the end of the school year, and includes final staffing information and pupil counts. School districts also submit claims for reimbursement under the bilingual-bicultural aid program at the end of the school year, and are reimbursed in the following year.

4. To be eligible for reimbursement under the bilingual-bicultural aid program, expenditures must be consistent with the plan of services approved by DPI, must be for the benefit of EL pupils, and must be directly related to bilingual instruction. Eligible expenditures include the following: (a) salaries of appropriately licensed teachers and other staff working with bilingual pupils; (b) special books and materials used in the bilingual programming, not including general supplies or textbooks used by the school for all pupils; and (c) other expenses approved by the State Superintendent, such as professional development activities or curriculum writing done by appropriately licensed staff. Bilingual classes must be taught by a certified bilingual teacher, or, if one is not available, a certified English as a Second Language teacher and a bilingual aide.

5. State and federal law require that ELs are assessed annually to measure their English language proficiency and their progress towards achieving full proficiency. Most ELs in Wisconsin are assessed using the ACCESS for ELLs assessment, except for those who have significant cognitive disabilities. ACCESS was developed by WIDA, an organization based out of UW-Madison that provides resources for educating ELs. ACCESS assesses pupils on listening, speaking, reading, and writing, and provides a proficiency level score on a scale of one to six, from beginner to advanced.

6. State law requires that \$250,000 of the total appropriated for bilingual-bicultural aid is set aside for distribution to school districts whose enrollments in the previous school year were at least 15% ELs. In 2021-22, the following school districts were eligible for this aid: Abbotsford, Beloit, Darlington, Delavan-Darien, Green Bay, Madison, Sheboygan, Walworth, and Waterloo. The set-aside aid is divided proportionately among eligible school districts based on their reported costs.

7. In 2020-21, 49,528 EL pupils were reported statewide. In that year, 50 school districts received aid under the program for 27,129 EL pupils who were enrolled in schools that met the statutory bilingual-bicultural education threshold; the remaining 22,399 EL pupils were enrolled in schools that did not meet the threshold, and thus no additional aid was provided for these pupils. Total eligible costs under the program equaled \$103.1 million, with an average cost of \$3,906 per EL. The proration rate was equal to 7.9%, or an average of \$307 per pupil. In 2021-22, eligible costs under the program are equal to \$106.0 million, and the proration rate is 7.7%

8. The following table shows the total amount of bilingual-bicultural aid appropriated in each year from 2012-13 to 2021-22, as well as the proration rate and the total number of ELs reported

statewide in each year, and the number of ELs and districts served by bilingual-bicultural programs.

Bilingual-Bicultural Aid and Participation History, 2012-13 to 2021-22

	<u>Appropriation</u>	<u>Proration</u>	Number of Districts <u>Reporting ELs</u>	<u>Total ELs</u>	Number of Aided <u>Districts</u>	<u>ELs Aided by Programs</u>
2012-13	\$8,589,800	8.6%	355	50,052	52	26,426
2013-14	8,589,800	8.8	351	49,560	51	23,716
2014-15	8,589,800	8.8	356	49,309	50	24,998
2015-16	8,589,800	8.6	355	48,405	51	25,962
2016-17	8,589,800	8.6	357	49,670	52	26,721
2017-18	8,589,800	8.1	361	52,446	53	27,961
2018-19	8,589,800	7.7	365	51,825	53	27,532
2019-20	8,589,800	8.1	361	51,706	51	29,321
2020-21	8,589,800	7.9	362	49,528	50	27,129
2021-22	8,589,800	7.7	N.A.	N.A.	N.A.	N.A.

9. In addition to state bilingual-bicultural aid, school districts qualify for federal aid for ELs under Title III of the Every Student Succeeds Act (ESSA). These funds can be used to pay for personnel salaries, instructional materials, family engagement activities, and professional development related to supplemental instructional programming for ELs. In 2020-21, the average Title III funding per EL in the state was approximately \$145.

10. The most recent decision by the State Supreme Court on the constitutionality of the school aid formula was issued in July, 2000, in the case of Vincent v. Voight. In that decision, the Court concluded that the state school finance system did not violate either the uniformity clause or the equal protection clause of the Wisconsin Constitution. The Court held that Wisconsin pupils have the right to an equal opportunity for a sound basic education that "will equip them for their roles as citizens and enable them to succeed economically and personally." The decision also noted that this standard must take into account districts with disproportionate numbers of disabled pupils, economically-disadvantaged pupils, and pupils with limited English proficiency.

11. Some have expressed concern that the state is no longer meeting the standards established in the Vincent v. Voight decision. Since 2000-01, the number of bilingual pupils in the state has increased by approximately 71%, from 29,016 pupils in 2000-01 to 49,528 pupils in 2020-21. During the same time, however, the appropriation for bilingual-bicultural aid increased by only \$298,400 or approximately 4%, from \$8,291,400 GPR in 2000-01 to \$8,589,900 in 2022-23.

12. It could be argued that general school aids, funded at \$5.20 billion in 2022-23, are more important than bilingual-bicultural categorical aids in the overall context of the state's efforts to equalize the tax base between school districts and provide an equal opportunity for a sound basic education under the state school finance system. In addition, the prorate of bilingual-bicultural aid was in decline prior to the Vincent decision in 2000, yet the Court still found the overall system

constitutional in Vincent. Accordingly, the Committee could chose to maintain bilingual-bicultural education aid at base funding. Under this alternative, the estimated prorated would decrease from approximately 7.7% of aidable costs in 2022-23 to approximately 7.6% in 2023-24 and 7.4% in 2024-25. [Alternative 5]

13. On the other hand, some have argued that providing services for EL pupils might be done at the expense of the district's regular education programs. Unlike general school aids, categorical aids are outside of revenue limits and, therefore, represent additional resources for school districts to provide services to EL pupils. Given that the Court has specifically highlighted the needs of school districts with relatively high numbers of EL pupils, it could be argued that the state should increase resources for bilingual-bicultural education aid. Funding increases for this type of aid could strengthen the state's legal position if there were another legal challenge of the equity or adequacy of financing for K-12 public schools.

14. Assembly Bill 43/Senate Bill 70 would provide an increase of \$8,199,100 GPR in 2023-24 and \$14,153,200 GPR in 2024-25 above base level funding of \$8,589,800 GPR annually for bilingual-bicultural aid. The bill would also modify the appropriation from sum certain to be sum sufficient and establish reimbursement rates in statute of 15% of eligible costs in 2023-24 and 20% in 2024-25 and annually thereafter. It is estimated that this additional funding would be sufficient to reimburse 15% of eligible costs in 2023-24 and 20% of eligible costs in 2024-25, assuming that eligible costs will increase by approximately 2.0% annually. [Alternative 1]

15. If the Committee wishes to provide some additional state funding for bilingual-bicultural aid but at a reduced cost, the Committee could consider providing an increase in aid of \$4,891,300 GPR in 2023-24 and \$5,156,000 GPR in 2024-25. These increases would fund an estimated reimbursement rate of 12% in each year, assuming eligible costs increase by 2% annually. [Alternative 2] The Committee could also consider providing an increase of \$2,686,200 GPR in 2023-24 and \$2,906,700 GPR in 2024-25, which would fund an estimated reimbursement rate of 10% in each year. [Alternative 3]

16. As the table on the previous page shows, a large number of the districts reporting ELs are not statutorily required to provide a bilingual-bicultural education program, and therefore do not qualify for bilingual-bicultural aid. The Committee could consider modifying the program to allow more districts to qualify for aid, while maintaining the current law thresholds at which districts are required to provide a bilingual-bicultural program. Under this approach, the threshold for aid could be lowered to five or more EL pupils in a language group in grades K-3, or 10 or more in grades 4-8 or 9-12. It should be noted that this approach would require additional districts to document and submit data related to costs spent to educate EL pupils; statutory language would be needed to specify that districts could submit documentation for costs spent to educate EL pupils (based on the categories of costs currently eligible for aid), rather than only costs related to a statutorily-required bilingual-bicultural education program. This would have the effect of increasing both the number of eligible districts and the types of costs that are eligible for aid. As a result, if the total amount of aid is not increased, expanding the program to include more districts could cause eligible costs to be higher and significantly lower the proration rate. DPI indicates that approximately 70 additional districts would qualify for aid under this proposed modification; however, because these districts are not currently required to submit data relating to costs to educate EL pupils, the impact that this proposal would

have on eligible costs is not known. Based on the number of districts that currently receive aid (approximately 50) and the number that would gain eligibility under the proposal, the Committee could increase costs proportionately to the increase in the number of eligible districts by providing an additional \$12,025,700 GPR annually. [Alternative 4]

ALTERNATIVES

1. Provide an increase of \$8,199,100 in 2023-24 and \$14,153,200 in 2024-25, which would result in an estimated reimbursement rate of 15% of eligible costs in 2023-24 and 20% in 2024-25. Modify the appropriation to be sum sufficient, and establish reimbursement rates in statute of 15% of eligible costs in 2023-24 and 20% in 2024-25 and annually thereafter.

ALT 1	Change to Base
GPR	\$22,352,300

2. Provide an additional \$4,891,300 in 2023-24 and \$5,156,000 in 2024-25, which would result in an estimated reimbursement rate of 12% in each year. Maintain the appropriation as sum certain.

ALT 2	Change to Base
GPR	\$10,047,300

3. Provide an additional \$2,686,200 in 2023-24 and \$2,906,700 in 2024-25, which would result in an estimated reimbursement rate of 10% in each year. Maintain the appropriation as sum certain.

ALT 3	Change to Base
GPR	\$5,592,900

4. Provide an additional \$12,025,700 GPR annually. Specify that any district with five or more EL pupils in a language group in grades K-3, or 10 or more in grades 4-8 or 9-12, could report expenditures related to providing education to EL pupils, and would be eligible for aid under the program. Maintain the appropriation as sum certain.

ALT 4	Change to Base
GPR	\$24,051,400

5. Take no action.

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