

SENATE No. 2395

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

SENATE, Thursday, June 30, 2016

The committee on Ways and Means, to whom was referred the Senate Bill for language opportunity for our kids (Senate, No. 2288),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2395).

For the committee,
Karen E. Spilka

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act for language opportunity for our kids.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 69 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words “a limited English
3 proficient student” and inserting in place thereof the following words:- an English learner.

4 SECTION 2. Section 1A of said chapter 69, as so appearing, is hereby amended by
5 striking out, in line 57, the figure “3” and inserting in place thereof the following figure:- 2.

6 SECTION 3. Section 1I of said chapter 69, as so appearing, is hereby amended by
7 striking out, in line 283, the word “and”.

8 SECTION 4. The nineteenth paragraph of said section 1I of said chapter 69, as so
9 appearing, is hereby amended by striking out clause (j) and inserting in place thereof the
10 following 6 clauses:-

11 (j) whether there were any complaints filed with a federal or state court or administrative
12 agency since the program's inception concerning compliance with federal or state minimum legal

13 requirements, the disposition of the complaint and the monitoring and evaluation of any
14 agreement or court order relative to the complaint;

15 (k) opportunities that the district makes available to English language learners for
16 instruction in maintaining or developing proficiency in a student's native language;

17 (l) a description of the school district's plan to evaluate the effectiveness of its English
18 language learner programs relative to: (i) helping students attain English language proficiency
19 and master academic standards; (ii) measuring student readiness to join mainstream classrooms;
20 (iii) evaluations and measures provided in addition to department requirements; and (iv) a
21 description of the steps that the school district plans to take to address an identified deficiency;

22 (m) a record of: (i) instances in which a parent or guardian requested to withdraw a
23 student from or refused a student's participation in an English learner program; and (ii) meetings
24 held with parents regarding a student who is not making satisfactory progress toward
25 participating and learning in an integrated classroom;

26 (n) a description of training provided by the district to staff who work with culturally and
27 linguistically diverse student populations; and

28 (o) documentation detailing the participation of English language learners in the district's
29 regular and advanced educational programs and extracurricular activities.

30 SECTION 5. Said chapter 69 is hereby amended by inserting after section 1P the
31 following section:-

32 Section 1Q. The commissioner shall develop criteria and guidelines for a state seal of
33 biliteracy to be awarded by school districts to recognize high school graduates who have met

34 academic benchmarks determined by the department in 1 or more languages in addition to
35 English.

36 The department shall develop an insignia to be affixed to the diploma or transcript of a
37 student who has been awarded a state seal of biliteracy and make the insignia available to school
38 districts in an electronic format for the preparation of diplomas. A school district that chooses to
39 award the state seal of biliteracy to qualifying students under this section shall maintain
40 appropriate records in order to identify students who have earned a state seal of biliteracy and
41 affix the appropriate insignia to the diploma or transcript of a student who earns a state seal of
42 biliteracy.

43 SECTION 6. Section 59C of chapter 71 of the General Laws, as appearing in the 2014
44 Official Edition, is hereby amended by striking out, in line 44, the figure “3” and inserting in
45 place thereof the following figure:- 4.

46 SECTION 7. The fifth paragraph of said section 59C of said chapter 71, as so appearing,
47 is hereby amended by inserting after the first sentence the following sentence:-

48 In school districts with English language learners, the plan to improve student
49 performance shall include a description of the educational program models and approaches
50 offered by the school district to ensure the progress of English language learners in attaining
51 English speaking, reading, writing and oral comprehension skills and in meeting academic
52 standards under section 1D of chapter 69 and curriculum frameworks under section 1E of said
53 chapter 69.

54 SECTION 8. Chapter 71A of the General Laws is hereby amended by striking out
55 sections 1 to 8, inclusive, as so appearing, and inserting in place thereof the following 8
56 sections:-

57 Section 1. For the purposes of this section, the following words shall have the following
58 meanings unless the context clearly indicates otherwise:

59 “Commissioner”, the commissioner of elementary and secondary education.

60 “Department”, the department of elementary and secondary education.

61 "Dual language education" or “2-way bilingual”, a program that integrates language
62 learning and academic instruction for native speakers of English and native speakers of another
63 language with the goals of high academic achievement, first and second academic language
64 proficiency and cross-cultural understanding.

65 “English language development” or “English as a second language”, a specially designed
66 course of study that focuses on the acquisition of the English language consistent with a student's
67 English proficiency, performance and developmental level.

68 “English learner”, a student who does not speak English or whose native language is not
69 English and who is not currently able to perform ordinary classroom work in English.

70 “Foreign language”, a language other than English, which shall include American sign
71 language.

72 “Language acquisition program”, an instructional program that includes English language
73 acquisition for English learners as a component, but shall not be limited to a single program
74 design or pedagogical style.

75 “Sheltered English immersion”, a program composed of the following 2 instructional
76 components: (i) sheltered content instruction that focuses on teaching academic content with
77 language support, using English as the primary language of instruction; and (ii) English language
78 development instruction.

79 “Transitional bilingual education”, an English learner program that follows a bilingual
80 approach to learning in which the native language of the English learner is used to support a
81 student’s development of English and content learning and then is gradually phased out of
82 instruction as a student’s English proficiency increases to assist a student in attaining oral
83 comprehension, speaking, reading and writing skills in English and in meeting academic
84 standards of curriculum frameworks established under sections 1D and 1E of chapter 69.

85 Section 2. A school district shall annually identify the number of English learners within
86 the school district in grades pre-kindergarten to grade 12, inclusive, for districts that have a pre-
87 kindergarten program and in grades kindergarten to grade 12, inclusive, for districts that do not
88 have a pre-kindergarten program, and shall classify an English learner according to: (i) grade
89 level; (ii) the language in which English learner possesses a primary speaking ability; and (iii)
90 the type of English learner program in which the English learner is enrolled. The information
91 shall be made publicly available for each school and the school district on the district’s website.
92 A school district shall also track the academic performance of the students who have exited an
93 English learner program to assess the academic achievement of English learners and the
94 effectiveness of language acquisition programs.

95 Section 3. An English learner enrolled in a public school, including a charter school, shall
96 be educated through a comprehensive, research-based instructional program that includes subject

97 matter content and an English language acquisition component. Programs for English learners
98 may include sheltered English immersion, dual language education or transitional bilingual
99 education but shall not be limited to a specific program or instructional design. A school district
100 may choose 1 or more programs that meet the requirements of this section based on best
101 practices in the field, linguistic and educational needs and the demographic characteristics of
102 English learners in the school district. A school district may incorporate opportunities for
103 students to develop and maintain native language proficiency as part of a formal or
104 extracurricular academic program.

105 An English learner shall receive English language development instruction at a level and
106 frequency that is appropriate for the English learner's level of English language proficiency and
107 educational need and shall be instructed by teachers qualified under state law. Each school
108 district shall employ a sufficient amount of teachers of English as a second language for
109 identified English learners; provided, however, that a school district shall employ at least 1
110 teacher licensed in English as a second language.

111 A student who has exited an English learner program and attained English proficiency
112 shall have access to English language support or development instruction, as needed, in order to
113 perform grade level classwork.

114 Schools may place English learners of different ages in the same classroom if the level of
115 English proficiency for those English learners is similar. Schools shall be encouraged to integrate
116 English learners from different native-language groups who have the same level of English
117 proficiency in the same classroom. If an English learner reaches proficiency in English, is able to
118 do grade level classwork in English and achieves a score of proficient or higher on the statewide

119 evaluation of English language proficiency under section 7, the student shall no longer be
120 classified as an English learner.

121 Section 4. The parent or legal guardian of a student eligible to enroll in an English learner
122 program may select any available English language learner program offered by the school
123 district.

124 A parent or legal guardian may refuse to enroll a student or may remove a student from
125 an English learner program. The parent or legal guardian shall provide written confirmation of
126 the decision, which shall be retained in the student's cumulative folder. The student shall
127 continue to be designated as an English learner, receive the support necessary to overcome
128 language barriers within the general academic program setting and retain the right to enter into
129 an English learner program at any time.

130 A school district may join with other school districts to provide an English learner
131 program under this chapter.

132 If a school district or charter school receives a request from the parents or legal guardians
133 of not less than 20 students to implement a specific program to provide language instruction in
134 that school district or charter school, the school district or charter school shall, within 90 days of
135 receiving the request, respond and provide: (i) a plan for implementation of the requested
136 program; or (ii) a denial of the request, in writing, that includes an explanation of the denial.

137 A school district operating a language acquisition program for English learners serving
138 more than 100 English learners or in which English learners are more than 5 per cent of the
139 district's student population, whichever is less, shall establish an English learner parent advisory
140 council. The parent advisory council shall be composed of parents or legal guardians of students

141 who are or have been identified as an English learners. The duties of the parent advisory council
142 shall include, but not be limited to: advising the school district, school committee or board of
143 trustees on matters that pertain to English learners; meeting regularly with school officials to
144 participate in the planning and development of programs designed to improve educational
145 opportunities for English learners; and participating in the review of school or district
146 improvement plans established under section 59C of chapter 71 as they relate to English learners.
147 A parent advisory council may meet at least once annually with each school council within the
148 school district or the board of trustees of the charter school. The parent advisory council shall
149 establish by-laws regarding officers and operational procedures. In the course of its duties under
150 this section, the parent advisory council shall receive assistance from the director of language
151 acquisition programs for the school district or other appropriate school personnel as designated
152 by the superintendent.

153 Section 5. Communication to the parents and legal guardians of English learners by the
154 school district shall, at least annually, inform the parents or legal guardians of their rights to
155 choose a language acquisition program among those offered by the school district including, but
156 not limited to, sheltered English immersion, transitional bilingual education and 2-way bilingual
157 or dual language education, to request a new language acquisition program under section 4 or to
158 withdraw a student from a language acquisition program. Notice shall be sent by mail not later
159 than 10 days after the enrollment of the student in the school district. The notice shall, to the
160 extent possible: (i) be in a language that is understandable to the parents or legal guardians; (ii)
161 contain a simple, easy to understand description of the purpose, method and content of the
162 available programs; (iii) inform the parent or legal guardian of the right to visit an English

163 learner program in the school district; and (iv) inform the parent or legal guardian of available
164 conferences or meetings to learn about the English learner programs.

165 If the school district recommends placing an English learner in an English learner program, the
166 parent or legal guardian of the student shall have the right, at the time of the original notification
167 under this section or at the close of any marking period, to withdraw the student from a program
168 by sending written notice of the decision by mail or electronic communication to the school
169 authority designated by the school district in which the student is enrolled.

170 Section 6. Each English learner shall participate in the statewide assessment system
171 adopted pursuant to section 1I of chapter 69.

172 A statewide standardized criterion-referenced test of English language proficiency that
173 assesses the achievement of English language oral and literacy skills shall be administered
174 annually to students who are English learners in kindergarten to grade 12, inclusive, and enrolled
175 in a public school, including a charter school.

176 Assessment scores of individual students shall be confidentially provided to a parent or
177 legal guardian of the student. Aggregated assessment data for schools and school districts shall
178 be made publicly available online in machine readable format. Scores of students classified as
179 English learners shall be separately sub-aggregated and made publicly available, with the scores
180 further sub-aggregated based on the English learner program in which the student is enrolled.

181 Results of assessments shall be used as evidence of the efficacy of an English learner
182 program offered by a school district. The results of an annual assessment of English proficiency
183 under this section shall not be the sole basis for evaluation of a district, school, English learner
184 program or individual educator.

185 The district shall send report cards and progress reports including, but not limited to,
186 progress in becoming proficient in using the English language and other school communications,
187 to the parents or legal guardians of students in the English learners programs. Such report cards
188 and progress reports shall be completed in the same manner and with the same frequency as
189 report cards and progress reports to other students enrolled in the district. The report cards and
190 progress reports shall, to the maximum extent possible, be written in a language understandable
191 to the parent or legal guardian of a student.

192 Section 7. The department shall conduct an on-site visit in every school district at least
193 once every 6 years to evaluate the effectiveness of programs serving English learners. The
194 evaluation shall include, but not be limited to, a review of the individual student records of
195 English learners, a review of the programs and services provided to English learners and a
196 review of the dropout, graduation, discipline and special education incidence rates of the English
197 learner population in the district. Using the best available data, the department shall provide a
198 monitoring report the dropout, graduation, discipline and special education rates of English
199 learners who exited the English learner education program within the 3 school years preceding
200 the on-site visit for that 3-year period. The report shall also include a description of the processes
201 by which school-based teams, consisting of educators, administrators and support staff, monitor
202 the progress of English learners and former English learners, a review of the amount, frequency
203 and effectiveness of English as a second language instruction and a review of the administration
204 and coordination of English learner education programs. The advisory council for bilingual
205 education established under section 1G of chapter 15 shall annually review the results of the
206 department's monitoring of English learner programs in school districts.

207 Nothing in this section shall prevent the department from conducting an evaluation of a
208 language acquisition program at any time.

209 Section 8. Teachers and administrators assigned to a language acquisition program shall
210 be properly qualified under state law for the program type. A core academic teacher of English
211 learners, including a core academic teacher in a vocational-technical education program under
212 chapter 74, shall meet the requirements under section 38G of chapter 71 and relevant regulations
213 for certification in the teacher's subject area and endorsement or certification in content
214 instruction of English learners.

215 The department shall create an endorsement for educators who have completed
216 coursework and field-based experience to provide instruction within dual-language programs.

217 SECTION 9. The department of elementary and secondary education may issue
218 regulations as necessary to implement this act.

219 SECTION 10. The department shall consider the recommendations of the language
220 opportunity coalition in developing the guidelines for the state seal of biliteracy under section 1Q
221 of chapter 69 of the General Laws.

222 SECTION 11. This act shall apply to school years beginning on and after the 2018-2019
223 school year.