

SENATE . . . . . No. 262

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act for language opportunity for our kids.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Sal N. DiDomenico	Middlesex and Suffolk
Denise Provost	27th Middlesex
Jason M. Lewis	Fifth Middlesex
Angelo J. Puppolo, Jr.	12th Hampden
Kenneth J. Donnelly	Fourth Middlesex
Barbara A. L'Italien	Second Essex and Middlesex
Marjorie C. Decker	25th Middlesex
Joseph W. McGonagle, Jr.	28th Middlesex
Daniel J. Ryan	2nd Suffolk
James B. Eldridge	Middlesex and Worcester
Thomas J. Calter	12th Plymouth
Benjamin Swan	11th Hampden
Sonia Chang-Diaz	Second Suffolk
Eric P. Lesser	First Hampden and Hampshire
Patricia D. Jehlen	Second Middlesex
Michelle M. DuBois	10th Plymouth
Michael D. Brady	Second Plymouth and Bristol
Linda Dorcena Forry	First Suffolk

<i>Thomas M. Petrolati</i>	<i>7th Hampden</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>James T. Welch</i>	<i>Hampden</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

**SENATE . . . . . No. 262**

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By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 262) of Sal N. DiDomenico, Denise Provost, Jason M. Lewis, Angelo J. Puppolo, Jr. and other members of the General Court for legislation relative to language opportunity for our kids. Education.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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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. Chapter 71A of the General Laws, as appearing in the 2012 Official  
2 Edition, is hereby amended by striking sections 1 through 8 and inserting in place thereof the  
3 following: -

4           Section 1. Findings and Declarations

5           Whereas, all children are entitled to a high quality education that prepares them to  
6 participate and succeed in a global economy;

7           Whereas, for Massachusetts to remain a national and global leader in educational  
8 achievement, it must recognize, value, and invest in programs that help students acquire 21st  
9 century skills, including multilingualism, both through English language acquisition and dual  
10 language learning; and

11           Whereas, bilingualism, biliteracy, and multicultural understanding are skills essential to  
12 improving career and college readiness, and enhancing social and economic growth within a  
13 global economy;

14           Whereas, the current “one-size-fits-all” model for English language learners will continue  
15 to disadvantage students who are increasingly coming from diverse linguistic and cultural, and  
16 socio-economic backgrounds; and that the existing laws and practices are failing Massachusetts  
17 students, constraining teachers and school districts;

18           Whereas, providing parents with the opportunity to select the best education for their  
19 children, including language instruction educational programs, will enhance parental engagement  
20 in education

21           Whereas, celebration of linguistic and cultural diversity and understanding how the  
22 strength of values, practices, and linguistic and cultural capital are resources to our communities.

23           Therefore, it is resolved that: all children in Massachusetts public schools shall be  
24 provided with the highest quality education through access of innovative and research-based  
25 language education instructional programs that provide effective academic English language  
26 and/or dual language proficiency and high academic achievement as effectively as possible.

## 27           Section 2. Definitions

28           In this chapter:

29           (a)   “Language acquisition program” or Language Instruction Educational Program  
30 refers to an instructional program that includes English language acquisition for English learners

31 as a component. Language acquisition programs are not limited to any single program design or  
32 pedagogical style.

33 (b) “English learner” (also called an “English language learner”) means a child who  
34 does not speak English or whose native language is not English, and who is not currently able to  
35 perform ordinary classroom work in English.

36 (c) “Sheltered English immersion” a program composed of two instructional  
37 components: sheltered content instruction that focuses on teaching academic content using  
38 English as the primary language of instruction and English language development instruction  
39 that focuses on explicit and systematic English language instruction.

40 (d) “English Language Development” (ELD) or “English as a second language”  
41 (ESL), a specially designed course of study that focuses on the acquisition of the English  
42 language and is designed according to a student's English proficiency, performance and  
43 developmental level. It is a component of all comprehensive language acquisition programs, and  
44 explicit, systematic, developmental, proficiency-driven English language and literacy are the  
45 primary content.

46 (e) "Dual language education", (also called two-way bilingual) any program that  
47 integrates language learning and academic instruction for native speakers of English and native  
48 speakers of another language, with the goals of high academic achievement, first and second  
49 academic language proficiency, and cross-cultural understanding.

50 (f) “Transitional bilingual education," an English learner program that follows a  
51 bilingual approach to learning in which the native language of the ELL is used to support and

52 scaffold the student’s development of English and then gradually phase instruction in the native  
53 language out while delivering content instruction.

54 (g) “Foreign language” means a language other than English, and includes American  
55 Sign Language.

### 56 Section 3. Census

57 Local school districts shall annually ascertain, not earlier than the first day of April, under  
58 regulations prescribed by the Department of Education, the number of English learners within  
59 their school system in grades pre-Kindergarten through twelve, and shall classify them according  
60 to grade level, the language of which they possess a primary speaking ability, and the English  
61 learner program type in which they are enrolled, with all such information being made publicly  
62 available by school and school district on a website. Districts shall also monitor students who  
63 have exited English learner programs when assessing the academic achievement of English  
64 learners and the effectiveness of language acquisition programs.

### 65 Section 4. English Language Education

66 English learners enrolled in a Massachusetts public school district or charter school shall  
67 be educated through a comprehensive, research-based instructional program that includes a  
68 content component to ensure appropriate acquisition of subject matter content and a language  
69 acquisition component to ensure appropriate acquisition of the English language. The programs  
70 for English learners may include sheltered English Immersion, dual language education or  
71 transitional bilingual education but shall not be limited to any specific program or instructional  
72 design provided that any such programs shall include the acquisition of the English language.  
73 The department shall promulgate regulations to allow districts to choose one or more programs

74 that meet the requirements of this section based on best practices in the field, the linguistic and  
75 educational needs, and the demographic characteristics of their students. Districts may  
76 incorporate opportunities for students to develop and maintain native language proficiency as  
77 part of a formal or extracurricular academic program.

78 The department shall also promulgate regulations to ensure that English language  
79 learners receive English language development instruction at a level and frequency that is  
80 appropriate for their level of English language proficiency and educational needs and instructed  
81 by teacher holding an English as a second language license. Each school district shall employ at  
82 least one teacher licensed in English as a Second Language.

83 Any student who has exited an English learner program and attained English proficiency  
84 as determined by the Department regulations and guidelines shall have access to tutoring,  
85 English language development instruction or other instructional modifications as necessary in  
86 order to perform ordinary grade level classwork.

87 Local schools shall be permitted but not required to place in the same classroom English  
88 learners of different ages but whose degree of English proficiency is similar. Local schools shall  
89 be encouraged to mix together in the same classroom English learners from different native-  
90 language groups but with the same degree of English fluency. Once English learners acquire a  
91 good working knowledge of English and are able to do regular school work in English, they shall  
92 no longer be classified as English learners.

93 Foreign language programs and special education programs for physically or mentally  
94 impaired students shall be unaffected.

95 Section 5. Parental Choice

96 Parents or legal guardians of students who are deemed eligible to enroll in an English  
97 language learner program shall have the right to select any available English language learner  
98 program offered within the district.

99 Parents or legal guardians may refuse enrolling a child or remove their child from any  
100 English language learner program provided that written confirmation of any such request is  
101 retained in the student's cumulative folder. The student shall continue to be designated as limited  
102 English proficient and retain the right to return to an English language learner program at any  
103 time.

104 A school district may allow a nonresident English language learner to enroll in or attend  
105 its English language learner programs. The tuition for such student, which shall be established by  
106 the department, shall be paid by the school district in which the student resides. Any school  
107 district may join with any other school district or districts to provide English language learner  
108 programs required or permitted by this chapter.

109 The parents or legal guardians of 20 pupils or more in any grade may request a specific  
110 program within a single district or charter school that is designed to provide language instruction.  
111 Within 90 days the school district must respond and either provide the plan for implementation  
112 or provide written informed reason for denial.

113 Any district operating a language acquisition program for English learners shall establish  
114 an English learner parent advisory council. The parent advisory council shall be comprised of  
115 parents or legal guardians of students who are enrolled in language acquisition programs within  
116 the district. Membership shall be restricted to parents or legal guardians of students enrolled in  
117 English learner programs, dual language programs or other language acquisition programs within



118 the district. The duties of the parent advisory council shall include, but not be limited to, advising  
119 the school on matters that pertain to the education of students in language acquisition programs,  
120 meeting regularly with school officials to participate in the planning and development or  
121 programs designed to improve educational opportunities for English learners, and to participate  
122 in the review of school improvement plans established under section 59C of chapter 71 as they  
123 pertain to English learners. Any parent advisory council may, at its request, meet at least once  
124 annually with the school council. The parent advisory council shall establish by-laws regarding  
125 officers and operational procedures. In the course of its duties under this section, the parent  
126 advisory council shall receive assistance from the director of language acquisition programs for  
127 the district or other appropriate school personnel as designated by the superintendent.

#### 128 Section 6. Legal Standing and Parental Enforcement

129 The Department shall issue regulations regarding additional communication to parents of  
130 English learners in compliance with all state and federal requirements. Any such communication  
131 shall annually inform such parents or legal guardians of their rights to choose any language  
132 acquisition program among those that are offered at the school district, to request a new language  
133 acquisition program under Section 4, or to withdraw their child from a particular language  
134 acquisition program. Furthermore, should the school district issue a recommendation to place an  
135 English learner in an language acquisition program, the parents or legal guardian of such student  
136 shall have the right, either at the time of the original notification, or at any point thereafter, to  
137 withdraw the student from such program by sending written notice of such decision by mail to  
138 the school authorities of the school district in which the student is enrolled.

#### 139 Section 7. Monitoring Language Acquisition Programs

140 A nationally-normed test of English proficiency shall similarly be administered at least  
141 once each year to all Massachusetts schoolchildren in grades Kindergarten and higher who are  
142 English learners. English learners classified as severely learning disabled may be exempted from  
143 these tests. The particular tests to be used shall be selected by the Board of Elementary and  
144 Secondary Education, and it is intended that the tests shall usually remain the same from year to  
145 year. The national percentile scores of students shall be confidentially provided to individual  
146 parents, and the aggregated percentile scores and distributional data for individual schools and  
147 school districts shall be made publicly available on an internet web site; the scores for students  
148 classified as English learners shall be separately sub- aggregated and made publicly available  
149 there as well, with further sub- aggregation based on the English learner program type in which  
150 they are enrolled.

151 The results of any such assessments shall be used as evidence of efficacy of programs.  
152 The results of any single annual assessment of English proficiency under this section are  
153 considered inappropriate for use in the evaluations of districts, schools or individual teachers.

154 The district shall send report cards and progress reports including, but not limited to,  
155 progress in becoming proficient in using the English language and other school communications  
156 to the parents or legal guardians of students in the English learners programs in the same manner  
157 and frequency as report cards and progress reports to other students enrolled in the district. The  
158 reports shall, to the maximum extent possible, be written in a language understandable to the  
159 parents and legal guardians of such students.

160 Section 7A. Evaluation of Programs

161           The department shall conduct on-site visits to school districts at least once every 5 years  
162 for the purposes of evaluating the effectiveness of programs serving English learners and to  
163 validate evidence of educational outcomes. The evaluation shall include, but not be limited to, a  
164 review of individual student records of all English learners, a review of the programs and  
165 services provided to English learners and a review of the dropout rate of English learners  
166 formerly enrolled in the district within the prior 3 years. The ELL/Bilingual Advisory Council  
167 established under MGL Ch 15, Section 1G shall annually review the policies and procedures of  
168 on-site visits to schools districts.

169           Section 8. Community-based English Tutoring

170           In furtherance of its constitutional and legal obligation to provide all children with an  
171 adequate education, the state shall encourage family members and others to provide personal  
172 English language tutoring to such children as are English learners, and support these efforts by  
173 raising the general level of English language knowledge in the community. Subject to  
174 appropriation by the General Court, commencing with the fiscal year in which this initiative is  
175 enacted and for each of the nine fiscal years following thereafter, a sum of five million dollars  
176 (\$5,000,000) per year shall be spent for the purpose of providing funding for free or subsidized  
177 programs of adult English language instruction to parents or other members of the community  
178 who pledge to provide personal English language tutoring to Massachusetts school children who  
179 are English learners. Programs funded pursuant to this section shall be provided through schools  
180 or community organizations. Funding for these programs shall be administered by the  
181 Department of Education, and shall be disbursed at the discretion of the local school committees  
182 in each district, under reasonable guidelines established by, and subject to the review of, the  
183 Board of Education.

184 SECTION 2. Chapter 71A of the General Laws, as so appearing, is hereby further  
185 amended by adding the following new sections:-

186 Section 9. Educator Certification and Endorsement

187 All teachers and administrators assigned to language acquisition programs shall hold the  
188 appropriate educator licensure and endorsements for the program type.

189 The Department shall promulgate regulations creating a pathway to for endorsement of  
190 educators who have completed coursework and field-based experiences in providing instruction  
191 within dual-language programs.

192 The Department shall promulgate regulations creating a Language Acquisition Program  
193 administrator licensure pathway. Educators qualifying for such licensure shall have demonstrated  
194 experience working in language acquisition programs, experience engaging parents and  
195 guardians from diverse backgrounds, graduate level coursework in education administration and  
196 field-based experiences in meeting local, state and federal requirements for language acquisition  
197 programs.

198 Section 10. Language Acquisition Program Administrator

199 (a) A school district with 200 students who are designated as English learners shall  
200 appoint a person to be its administrator of language acquisition programs. Such administrator  
201 shall devote full time to the duties involved in supervising the provision of all language  
202 acquisition programs in the school system.

203 (b) A school committee with fewer than 200 students designated as English learners shall  
204 appoint a person to be its administrator of language acquisition programs. Such administrator

205 shall have the duties involved in supervising the provision of all language acquisition programs  
206 in the school system for not less than 25 percent of the duties assigned to such a positions.

207 (c) Notwithstanding the provisions of paragraphs (a) and (b), the school committee of any  
208 city, town, or school district may, to meet its obligations under this section, with the approval of  
209 the department, enter into an agreement with any other school committee to jointly appoint an  
210 administrator of English language learners.

#### 211 Section 11. State Seal of Biliteracy

212 (a) Chapter 69 of the General Laws as appearing in the 2012 Official Edition is  
213 hereby amended by adding after Section 1O a new section:

214 Section 1P. The board shall establish the State Seal of Biliteracy to recognize high school  
215 graduates who have attained a high level of proficiency in speaking, reading, writing and  
216 listening in one or more languages in addition to English.

217 The purposes of the State Seal of Biliteracy are as follows: (1) To encourage students to  
218 study languages; (2) To certify attainment of biliteracy; (3) To provide employers with a method  
219 of identifying people with language and biliteracy skills; (4) To provide universities with a  
220 method to recognize and give academic credit to applicants seeking admission; (5) To prepare  
221 pupils with 21st century skills; (6) To recognize and promote foreign language instruction and  
222 native and heritage language instruction in public schools; (7) To strengthen intergroup  
223 relationships, affirm the value in diversity, and honor the multiple cultures and languages of the  
224 Commonwealth.

225           The Secretary of Education shall be responsible for administering the State Seal of  
226 Bilingual program including preparing and delivering to participating school districts an  
227 appropriate insignia to be affixed to the diploma or transcript of the student indicating that the  
228 student has been awarded a State Seal of Bilingual. The Department of Elementary and  
229 Secondary Education, in consultation with the Massachusetts Foreign Language Association, and  
230 in alignment with national trends for existing state Seals in the nation, shall promulgate  
231 regulations governing criteria for the awarding of the State Seal of Bilingual.

232           A school district that participates in the program under this section shall: maintain  
233 appropriate records in order to identify pupils who have earned a State Seal of Bilingual and  
234 affix the appropriate insignia to the diploma or transcript of each pupil who earns a State Seal of  
235 Bilingual. State Seals of Bilingual shall also be available electronically.