

SENATE No. 2125

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, July 20, 2017

The committee on Ways and Means to whom was referred the House Bill relative to language opportunity for our kids (House, No. 3740) ,-- reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2125 (also based on Senate, No. 2070)

For the committee,
Karen E. Spilka

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1 SECTION 1. Section 1 of chapter 69 of the General Laws, as appearing in the 2016
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 words “conducted pursuant to the provisions of section 3 of chapter
6 71B”.

7 SECTION 3. Section 1I of said chapter 69, as so appearing, is hereby amended by
8 striking out, in line 279, the word “and”.

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

12 (j) whether there were complaints filed with a federal or state court or administrative
13 agency since the program's inception concerning compliance with federal or state minimum legal
14 requirements, the disposition of the complaint and the monitoring and evaluation of an
15 agreement or court order relative to the complaint;

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

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

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

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

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

31 SECTION 5. The last paragraph of said section 11 of said chapter 69, as so appearing, is
32 hereby amended by striking out the last sentence and inserting in place thereof the following 2
33 sentences:- The commissioner shall annually submit a report to the joint committee on education
34 on the data, which shall be disaggregated on a statewide and school district basis and into
35 categories including, but not limited to, language group and type of English learners program.
36 The report shall also include an analysis of the status of the progress of English learners,
37 referencing the relevant data required to be collected in this section.

38 SECTION 6. Said chapter 69 is hereby further amended by inserting after section 1P the
39 following section:-

40 Section 1Q. The commissioner of elementary and secondary education shall develop
41 criteria and guidelines for a state seal of biliteracy to be awarded by school districts to recognize
42 high school graduates who have met academic benchmarks determined by the department in 1 or
43 more languages in addition to English.

44 The department of elementary and secondary education shall develop an insignia to be
45 affixed to the diploma or transcript of a student who has been awarded a state seal of biliteracy
46 and make the insignia available to school districts in an electronic format for the preparation of
47 diplomas. A school district that chooses to award the state seal of biliteracy to qualifying
48 students under this section shall maintain appropriate records in order to identify students who
49 have earned a state seal of biliteracy and affix the appropriate insignia to the diploma or
50 transcript of a student who earns a state seal of biliteracy.

51 SECTION 7. Section 59C of chapter 71 of the General Laws, as appearing in the 2016
52 Official Edition, is hereby amended by striking out, in line 44, the figure “3” and inserting in
53 place thereof the following figure:- 4.

54 SECTION 8. The fifth paragraph of said section 59C of said chapter 71, as so appearing,
55 is hereby amended by inserting after the first sentence the following sentence:-

56 In school districts with English learners, the plan to improve student performance shall
57 include a description of the educational program models and approaches offered by the school
58 district to ensure the progress of English learners in attaining English speaking, reading, writing

59 and oral comprehension skills and in meeting academic standards under section 1D of chapter 69
60 and curriculum frameworks under section 1E of said chapter 69.

61 SECTION 9. Chapter 71A of the General Laws is hereby amended by striking out
62 sections 1 to 8, inclusive, as so appearing, and inserting in place thereof the following 9
63 sections:-

64 Section 1. For the purposes of this section, the following words shall have the following
65 meanings unless the context clearly requires otherwise:

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

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

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

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

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

77 “Foreign language”, a language other than English, which shall include American sign
78 language.

79 “Language acquisition program”, an instructional program that includes English language
80 instruction for English learners to gain fluency as a component, but which shall not be limited to
81 a single program design or pedagogical style.

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

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

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

100 English learner program to assess the academic achievement of English learners and the
101 effectiveness of language acquisition programs.

102 Section 3. An English learner enrolled in a public school, including a charter school, shall
103 be educated through a comprehensive, research-based instructional program that includes subject
104 matter content and an English language acquisition component. Programs for English learners
105 may include sheltered English immersion, dual language education and transitional bilingual
106 education but shall not be limited to a specific program or instructional design. The programs
107 shall be based on best practices in the field, linguistic and educational needs and the
108 demographic characteristics of English learners in the school district. A school district may
109 incorporate opportunities for students to develop and maintain native language proficiency as
110 part of a formal or extracurricular academic program.

111 An English learner shall receive English language development instruction at a level and
112 frequency that is appropriate for the English learner's level of English language proficiency and
113 educational need and shall be instructed by teachers qualified under state law. Each school
114 district shall employ a sufficient amount of teachers of English as a second language for
115 identified English learners; provided, however, that a school district shall employ at least 1
116 teacher licensed in English as a second language if that district has an English learner.

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

120 Schools may place English learners of different ages in the same classroom if the level of
121 English proficiency for those English learners is similar. Schools shall be encouraged to integrate

122 English learners from different native-language groups who have the same level of English
123 proficiency in the same classroom. If an English learner reaches proficiency in English, is able to
124 do grade level classwork in English and achieves a score of proficient or higher on the statewide
125 evaluation of English language proficiency under section 6, the student shall no longer be
126 classified as an English learner.

127 Section 4. The parent or legal guardian of a student eligible to enroll in an English learner
128 program may select any available English learner program offered by the school district and may
129 request a new language acquisition program for a student enrolled in an English learner program.

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

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

138 If a school district or charter school receives a request from the parents or legal guardians
139 of not less than 20 students to implement a specific program to provide language instruction in
140 that school district or charter school, the school district or charter school shall, not later than 90
141 days after receiving the request, respond and provide: (i) a plan for implementation of the
142 requested program; or (ii) a denial of the request, in writing, that includes an explanation of the
143 denial.

144 A school district operating a language acquisition program for English learners serving
145 more than 100 English learners or in which English learners are more than 5 per cent of the
146 district's student population, whichever is less, shall establish an English learner parent advisory
147 council. The parent advisory council shall be composed of parents or legal guardians of students
148 who are or have been identified as an English learners. The duties of the parent advisory council
149 shall include, but not be limited to: (i) advising the school district, school committee or board of
150 trustees on matters that pertain to English learners; (ii) meeting regularly with school officials to
151 participate in the planning and development of programs designed to improve educational
152 opportunities for English learners; and (iii) participating in the review of school or district
153 improvement plans established under section 59C of chapter 71 as they relate to English learners.
154 Upon request from a parent advisory council, each school committee within the school district or
155 the board of trustees of the charter school shall meet at least annually with the parent advisory
156 council. The parent advisory council shall establish by-laws regarding officers and operational
157 procedures. In the course of its duties under this section, the parent advisory council shall receive
158 assistance from the director of language acquisition programs for the school district or other
159 appropriate school personnel as designated by the superintendent.

160 Section 5. Communication to the parents and legal guardians of English learners by the
161 school district shall, at least annually, inform the parents or legal guardians of their rights to: (i)
162 choose a language acquisition program among those offered by the school district including, but
163 not limited to, sheltered English immersion, transitional bilingual education and 2-way bilingual
164 or dual language education; (ii) request a new language acquisition program under section 4; or
165 (iii) withdraw a student from a language acquisition program. Notice shall be sent by mail not
166 later than 10 days after the enrollment of the student in the school district. The notice shall, to the

167 extent possible: (1) be in a language that is understandable to the parents or legal guardians; (2)
168 contain a simple, easy to understand description of the purpose, method and content of the
169 available programs; (3) inform the parent or legal guardian of the right to visit an English learner
170 program in the school district; and (4) inform the parent or legal guardian of available
171 conferences or meetings to learn about the English learner programs.

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

178 Section 6. Each English learner shall participate, consistent with section 1I of chapter 69,
179 in the statewide assessment system.

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

184 Assessment scores of individual students shall not be made publicly available and shall
185 be provided in a confidential manner to a parent or legal guardian of the student. Aggregated
186 assessment data for schools and school districts shall be made publicly available online in
187 machine readable format. The aggregated assessment data of students classified as English

188 learners shall be separately sub-aggregated and made publicly available, with the data further
189 sub-aggregated based on the English learner program in which the student is enrolled.

190 Results of assessments shall be used as a factor of the efficacy of an English learner
191 program offered by a school district but shall not be the sole basis for evaluation of a district,
192 school, English learner program or individual educator.

193 The district shall send report cards and progress reports including, but not limited to,
194 progress in becoming proficient in using the English language and other school communications,
195 to the parents or legal guardians of students in the English learners programs. Such report cards
196 and progress reports shall be completed in the same manner and with the same frequency as
197 report cards and progress reports to other students enrolled in the district. The report cards and
198 progress reports shall, to the maximum extent possible, be written in a language understandable
199 to the parent or legal guardian of a student.

200 Section 7. The department shall conduct an on-site visit in every school district at least
201 once every 6 years to evaluate the effectiveness of programs serving English learners. The
202 evaluation shall include, but not be limited to, a review of the individual student records of
203 English learners, a review of the programs and services provided to English learners and a
204 review of the dropout, graduation, discipline and special education incidence rates of the English
205 learner population in the district. Using the best available data, the department shall provide a
206 monitoring report of the dropout, graduation, discipline and special education rates of English
207 learners who exited the English learner education program within the 3 school years preceding
208 the on-site visit for that 3-year period. The report shall also include: a description of the
209 processes by which school-based teams, consisting of educators, administrators and support staff,

210 monitor the progress of English learners and former English learners; a review of the amount,
211 frequency and effectiveness of English as a second language instruction; and a review of the
212 administration and coordination of English learner education programs. The advisory council for
213 bilingual education established under section 1G of chapter 15 shall annually review the results
214 of the department's monitoring of English learner programs in school districts.

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

217 Section 8. Districts shall adopt procedures to identify English learners who do not meet
218 benchmarks, established by the districts, in attaining English proficiency and shall establish a
219 process for the district to: (i) identify areas in which a student needs improvement and set
220 individualized goals for an identified English learner to attain English proficiency; (ii) assess and
221 track an English learner's progress on the areas of improvement; (iii) review resources and
222 services available to the student that may assist the student in the identified areas of
223 improvement; and (iv) incorporate input from a student's parents or legal guardian.

224 The department shall develop an English learning success template for use by districts to
225 assist an English learner who does not meet benchmarks in attaining English proficiency.

226 Districts that implement the template may use the template to develop a plan for a student who
227 does not meet benchmarks in attaining English proficiency.

228 The department shall establish guidelines for school districts to assist in the identification
229 of an English learner who does not meet benchmarks in attaining English proficiency. The
230 guidelines shall include: (i) recommendations for school districts to identify and monitor an
231 English learner's progress in English proficiency; (ii) ways for school districts to provide

232 individualized goals and plans for an English learner who is not meeting benchmarks in attaining
233 English proficiency; (iii) best practices for ensuring that an English learner meets individualized
234 goals and plans to meet benchmarks in attaining English proficiency; and (iv) ways for school
235 districts to share best practices among each other in assisting an English learner in gaining
236 English proficiency. The department shall solicit public comment prior to issuing the guidelines.

237 Upon a student's enrolling in an English learner program, and at the beginning of each
238 subsequent school year during which the student remains enrolled in an English learner program,
239 materials describing the benchmarks, English learning success template, and guidelines shall be
240 provided to the student's parent or legal guardian in a language that the parents or legal guardian
241 and the student understand.

242 Section 10. Teachers and administrators assigned to a language acquisition program shall
243 be properly qualified under state law for the program type. A core academic teacher of English
244 learners, as defined in regulation, including a core academic teacher in a vocational-technical
245 education program under chapter 74, shall meet the requirements under section 38G of chapter
246 71 and relevant regulations for certification in the teacher's subject area and endorsement or
247 certification in content instruction of English learners.

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

250 SECTION 10. The department of elementary and secondary education may issue
251 regulations as necessary to implement this act.

252 SECTION 11. The department shall consider the recommendations of the language
253 opportunity coalition in developing the guidelines for the state seal of biliteracy under section 1Q
254 of chapter 69 of the General Laws.

255 SECTION 12. This act shall apply to school years beginning on and after the 2018-2019
256 school year.