

# SENATE . . . . . No. 2134

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Senate July 27, 2017, – Text of the Senate amendment to the House Bill relative to language opportunity for our kids (House, No. 3740)

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## The Commonwealth of Massachusetts

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

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

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

137 The parent or legal guardian of a student may request a new language acquisition  
138 program for a student enrolled in an English learner program and if a school district or charter  
139 school receives requests from the parents or legal guardians of not less than 20 students to  
140 implement a specific program to provide language instruction in that school district or charter  
141 school, the school district or charter school shall, not later than 90 days after receiving the  
142 request, respond and provide: (i) a plan for implementation of the requested program; or (ii) a  
143 denial of the request, in writing, that includes an explanation of the 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 11 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. Upon receipt of success templates and guidelines from the department as  
218 described in this section, districts shall adopt procedures to identify English learners who do not  
219 meet benchmarks in attaining English proficiency established by the department and shall  
220 establish a process for the district to: (i) identify areas in which an identified English learner  
221 needs improvement and set individualized goals for the identified English learner to attain  
222 English proficiency; (ii) assess and track an English learner's progress on the areas of  
223 improvement; (iii) review resources and services available to an identified English learner that  
224 may assist the identified English learner in the identified areas of improvement; and (iv)  
225 incorporate input from a identified English learner's parents or legal guardian. .

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

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

230           The department shall establish guidelines for school districts to assist in the identification  
231 of an English learner who does not meet benchmarks in attaining English proficiency. The

232 guidelines shall include: (i) recommendations for school districts to identify and monitor an  
233 English learner's progress in English proficiency; (ii) ways for school districts to provide  
234 individualized goals and plans for an English learner who is not meeting benchmarks in attaining  
235 English proficiency; (iii) best practices for ensuring that an English learner meets individualized  
236 goals and plans to meet benchmarks in attaining English proficiency; and (iv) ways for school  
237 districts to share best practices among each other in assisting an English learner in gaining  
238 English proficiency..

239           The department shall solicit public comment before issuing the benchmarks, guidelines  
240 and English learning success template. The department shall review the benchmarks, guidelines  
241 and English learning success template every 5 years and may update them as appropriate. The  
242 review shall include a period of public comment.

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

248           Section 10. Teachers and administrators assigned to a language acquisition program shall  
249 be properly qualified under state law for the program type. A core academic teacher of English  
250 learners, as defined in regulation, including a core academic teacher in a vocational-technical  
251 education program under chapter 74, shall meet the requirements under section 38G of chapter  
252 71 and relevant regulations for certification in the teacher's subject area and endorsement or  
253 certification in content instruction of English learners.

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

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

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

261           SECTION 12. The department of elementary and secondary education shall establish and  
262 publish on its website the benchmarks, guidelines and English learning success template  
263 described in section 8 of chapter 71A of the General Laws not later than September 1, 2018.  
264 Districts shall adopt the procedures described in said section 8 of said chapter 71A not later than  
265 6 months after the establishment by the department of the benchmarks, guidelines and English  
266 learning success template described in said section 8 of said chapter 71A.

267           SECTION 13. Notwithstanding any general or special law to the contrary, the department  
268 of elementary and secondary education shall report on the teaching of civics in secondary or  
269 intermediate public school districts. The report shall include, but shall not be limited to, the  
270 number of school districts requiring the completion of a civics section before graduation.

271           The report shall be submitted to the clerks of the senate and house of representatives and  
272 the joint committee on education not later than December 31, 2017.

273           SECTION 14. Notwithstanding any general or special law to the contrary, the department  
274 of elementary and secondary education shall report on the teaching of United States history in

275 secondary or intermediate school. The report shall include, but shall not be limited to, the  
276 number of schools requiring the completion of a United States history section before graduation.

277 The report shall be submitted to the clerks of the senate and house of representatives and  
278 the joint committee on education not later than December 31, 2017.

279 SECTION 15. This act shall apply to school years beginning on and after the 2018-2019  
280 school year.