

**SENATE . . . . . No. 2395**

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The Commonwealth of Massachusetts

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Senate, June 30, 2016.

BILL #: S2288

BILL STATUS: Favorable with Amendment

DISSENTERS:

None

ACCOMPANIED BILLS:

None

For the committee,

KAREN E. SPILKA

# SENATE . . . . . No. 2395

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[Pin Slip]

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

171           Section 6. Each English learner shall participate in the statewide assessment system  
172 adopted pursuant to section 11 of chapter 69.

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

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

182           Results of assessments shall be used as evidence of the efficacy of an English learner  
183 program offered by a school district. The results of an annual assessment of English proficiency

184 under this section shall not be the sole basis for evaluation of a district, school, English learner  
185 program or individual educator.

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

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

206 education established under section 1G of chapter 15 shall annually review the results of the  
207 department's monitoring of English learner programs in school districts.

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

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

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

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

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

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