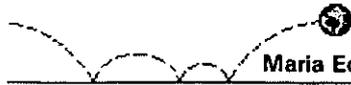


**NLWJC - Kagan**

**DPC - Box 017 - Folder 008**

**Education - Bilingual [3]**



Maria Echaveste

02/03/98 02:58:07 PM

Record Type: Record

To: Michael Cohen/OPD/EOP  
cc: Mickey Ibarra/WHO/EOP, Karen E. Skelton/WHO/EOP, Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP  
bcc:  
Subject: Re: Meeting with California School Boards Association 

Seems to me that we need to do this outreach--it's critical. I think conference calls do not convey the same seriousness that meeting with folks would. On the other hand, now that Riley is planning to be out there next week--we need to figure that into our outreach efforts. I really feel like I need to give personal attention to this issue and depending on how we work the secretary's schedule, I could join him in a meeting with advocates. I think the question for Mickey is whether for the electeds he would prefer to host them in a conference call while Riley is out there. The original plan was to do a meeting in Sacramento on 2/12 with electeds and then in SF on 2/12 or 2/13--let's make a decision by 5pm today. Also remember we needed to talk to people who had opposing views. We can do all of that on 2/12 and 2/13. Lastly, this issue of raising the profile--this is already a high profile issue. Now that the legislative fix is not going to work, the pressure will increase on us to take a position--this argues for completing our outreach sooner rather than later. Remember the election on this referendum is in June--we cannot, I repeat, we cannot wait until May 31 to take a position. Let me hear from you.  
Michael Cohen



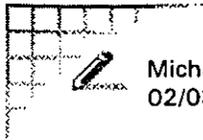
Michael Cohen  
02/02/98 11:37:25 AM

Record Type: Record

To: Mickey Ibarra/WHO/EOP  
cc: Maria Echaveste/WHO/EOP, Karen E. Skelton/WHO/EOP  
Subject: Re: Meeting with California School Boards Association 

Interesting suggestion--I just sent Maria a note indicating the Bruce and Elena were wondering whether our trip would raise the profile higher than desirable. Compared to bringing everyone back here, I don't think it would by much. However, your suggestion of conference calls would be much lower profile and easier to pull off.

Riley is going to CA later this week or next; we could see if he could meet with people we consider most important to talk to face to face, and pick up others with a conference call.



Michael Cohen  
02/03/98 04:23:05 PM

Record Type: Record

To: Angelique Pirozzi/WHO/EOP  
cc: See the distribution list at the bottom of this message  
Subject: Re: California Initiatives Briefing

Since I vented my frustration with the California School Boards Association's efforts to schedule yet another meeting on the same topic--in my earlier response to this memo--I thought it might now be constructive to share with all of you my summary of the meeting I had with them, discussing the Unz initiative, as well as other education initiatives in California.

#### Unz Initiative

1. They oppose Unz--they view it as bad education/bilingual ed policy; bad governance, because it erodes local control and because statewide initiatives are a bad way to make education policy;
2. They have absolutely no doubt that it will pass.
3. They say that an attempt to find a legislative compromise has fallen apart; Karen has picked up the same thing from different sources.
4. They don't have a strong view as to whether the Administration should take a position, and did not appear to have given much thought to that. They would love our support, recognize the possibility of mobilizing opposition if we do, and don't think we would effect the outcome. They asked if there were some way we could keep Diane Feinstein from supporting the initiative.
5. They expect the Hispanic Delegation from California to take strong stances against the initiative (even though they think some, such as Loretta Sanchez, will be seriously hurt by taking this position). They expect the rest of the delegation to support the proposition or stay out of the battle.
6. They have asked the Education Department for clarification as to whether the Unz initiative would jeopardize federal bilingual education funding for California districts (it apparently would not) and would put California districts in jeopardy of violating the Supreme Court's Lau guidelines (I don't know the answer to this yet.)

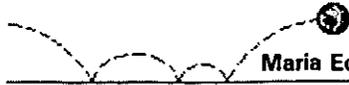
#### Other Education Initiatives

1. **95-5:** The California teacher's organization has developed an initiative that would require districts to devote 95% of their resources to the classroom. CSBA is opposed to this because it would limit funds for teacher training and other important programs in addition to general school district administration. Last year when the VP spoke to the California legislature he talked about reducing administrative overhead and driving \$ to the classroom--remarks which CSBA viewed as undesirable, though unintentionally, sympathetic to this initiative. They have asked us to stay out of this issue.
2. **Wilson and Feinstein Initiatives:** Both Wilson and Feinstein are advancing fairly complicated.

*Educ - bilingual*

## Bilingual Education

President Clinton's administration strongly supports the federal bilingual education program, which funds programs in local school districts that are designed to help kids become proficient in English. The program permits a variety of different approaches to helping students master English, including both bilingual and English immersion instruction. To help ensure that resources are available to assist children to learn English well, the Clinton Administration proposed a 27% increase in the program and successfully protected bilingual education in the budget and spending bill before the U.S. Congress.



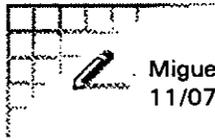
Maria Echaveste

11/09/97 05:41:15 PM

Record Type: Record

To: Miguel M. Bustos/OVP @ OVP  
cc: Moe Vela/OVP @ OVP, Elena Kagan/OPD/EOP, Michael Cohen/OPD/EOP  
bcc:  
Subject: Re: NABE 

Miguel, I think you should definitely consider having VP going to NABE, and I think we should have a position on the initiative by then.  
Miguel M. Bustos @ OVP



Miguel M. Bustos @ OVP  
11/07/97 01:52:06 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP  
cc: Moe Vela/OVP @ OVP  
Subject: NABE

Moe and I are interested in suggesting the National Association of Bilingual Education's conference in Feb. and Dallas, Texas as a possible event for the VP. However, we understand that the current climate on this issues is hazy and unclear. Should we submit the request for their consideration or should we drop it because the Administration would not have had a position yet. Please advise.  
Gracias...

Miguel / Maria -  
We might not have  
a position on the  
initiative by then -  
This seems risky to  
me. Elena

PS - Sorry for not  
responding earlier.



Karen E. Skelton

11/25/97 12:58:56 PM

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Record Type: Record

To: Michael Cohen/OPD/EOP, Maria Echaveste/WHO/EOP, Elena Kagan/OPD/EOP, Nelson  
Reyneri/WHO/EOP

cc:

Subject: Cal. bilingual legislation

Speaker Bustamante says that we will know in the next two weeks whether there is agreement on the Cal. bilingual education legislation. There is a negotiating team working now, and they will meet Dec. 10 or 11. I will circulate the proposed bill and analysis to ya'll.

Karen



Michael Cohen  
11/25/97 02:56:38 PM

Record Type: Record

To: Karen E. Skelton/WHO/EOP

cc: Maria Echaveste/WHO/EOP, Elena Kagan/OPD/EOP, Nelson Reyneri/WHO/EOP

Subject: Re: Cal. bilingual legislation

This is good news.

On a related issue, as you know, Delia Pompa has been invited to testify at a hearing of the Senate Select Committee on Bilingual Ed next week in LA. This committee and its chair, Sen. Hilda Solis, is part of the effort to craft a compromise proposal. Specifically, she was asked to "present an overview of federal implementation and funding of bilingual education, its history and the principles that guide the policy."

I shared the invitation letter last Friday with Karen and Maria for advice. I just talked with Delia, who feels that it would be very difficult to testify and not get drawn into a more detailed discussion than appropriate right now, and that she will be pushed either by members or by the press on the Administration's position on the initiative.

However, she would like to find a way to respond positively to this. Rather than testifying in person, she proposes to regret (she has legitimate scheduling concerns as well), and to offer to send written testimony (focused narrowly on the federal bilingual ed. issue she was asked to address, and avoiding any discussion of the initiative). She will share the testimony with us for review before sending it.

I think this is a good idea. Let me know ASAP if you have any problems.



Michael Cohen  
Elena Kagan

CRUZ M. BUSTAM *Maria Echaveste*  
SPEAKER *of the ASSEMBLY*

PLEASE DELIVER THE FOLLOWING

DATE ▶ Nov. 25, 1997

TO ▶ Karen Skelton

FAX ▶ 202-456-7163 ATTN:  
SUZANNE

FROM ▶ Dan Eaton

NOTES ▶

- ▶ **CAPITOL OFFICE**  
STATE CAPITOL, ROOM 219 • SACRAMENTO, CALIFORNIA 95814  
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FAX: (209) 445-6005

**Assembly  
California Legislature**  
**CRUZ M. BUSTAMANTE**  
**SPEAKER OF THE ASSEMBLY**



**MEMORANDUM**

November 24, 1997

**TO:** Karen Skelton  
**FROM:** Dan Eaton  
**RE:** Bilingual Education

Attached for your review is a copy of the Unz Initiative, a copy of Senate Bill 6 (a proposed new state law that would govern services to English learners), and an analysis of SB 6. Speaker Bustamante has asked Assemblyman Honda to review SB 6 and to suggest changes that are necessary to ensure that English learners would be properly identified and would receive appropriate instructional services. The changes that Mr. Honda is working on address the following concerns with the bill:

1. The method of measuring students' progress towards acquiring English and performing at grade level in the core curriculum needs to be clarified in order to properly hold school districts accountable for results.
2. Districts need to be required to hire appropriately credentialed or certificated teachers. If teachers are unavailable, the district should have a long-range plan for addressing the need.
3. If the school district is providing instruction solely in English, but the assessment of the student indicates that the student will need help in his or her own language in order to be successful in school, the student should have access to someone who speaks his or her own language.

The amendments should be available next week.

SA 97 RF 0009

Ron K. Unz  
555 Bryant St., #371  
Palo Alto, CA 94301  
(415)853-0368/(415) 853-0362(fax)  
rkunz@earthlink.net

Gloria Matta Tuchman  
1742 Lerner Lane  
Santa Ana, CA 92705  
(714)832-5262/(714)832-5265 (fax)

May 6, 1997

**RECEIVED**  
MAY - 8 1997

Daniel E. Lungren  
Attorney General, State of California  
Attn: Rosemary Calderon  
Office of the Attorney General  
1100 I Street, Suite 1700  
Sacramento, CA 95814

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear Mr. Lungren:

We, the undersigned, are filing the attached initiative, with the proposed title "English Language Education for Immigrant Children Initiative." and are requesting your office to prepare the appropriate title and summary for our signature-gathering efforts, in accordance with standard procedures.

Please feel free to have your office contact us if there are any questions.

Sincerely,



Ron K. Unz  
Software Developer



Gloria Matta Tuchman  
Public School Teacher

SA97RF0009

## English Language Education for Immigrant Children initiative

by

Ron K. Unz and Gloria Matta Tuchman

Text:

SECTION 1. Chapter 3 (commencing with Section 300) is added to Part 1 of the Educational Code, to read:

### CHAPTER 3. ENGLISH LANGUAGE EDUCATION FOR IMMIGRANT CHILDREN

#### ARTICLE 1. Findings and Declarations

300. The People of California find and declare as follows:

- (a) WHEREAS the English language is the national public language of the United States of America and of the state of California, is spoken by the vast majority of California residents, and is also the leading world language for science, technology, and international business, thereby being the language of economic opportunity; and
- (b) WHEREAS immigrant parents are eager to have their children acquire a good knowledge of English, thereby allowing them to fully participate in the American Dream of economic and social advancement; and
- (c) WHEREAS the government and the public schools of California have a moral obligation and a constitutional duty to provide all of California's children, regardless of their ethnicity or national origins, with the skills necessary to become productive members of our society, and of these skills, literacy in the English language is among the most important; and
- (d) WHEREAS the public schools of California currently do a poor job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over the past two decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children; and
- (e) WHEREAS young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.
- (f) THEREFORE it is resolved that: all children in California public schools shall be taught English as rapidly and effectively as possible.

#### ARTICLE 2. English Language Education

305. Subject to the exceptions provided in Article 3 (commencing with Section 310), all children in California public schools shall be taught English by being taught in English. In particular, this shall require that all children be placed in English language classrooms. Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed

one year. Local schools shall be permitted to place in the same classroom English learners of different ages but whose degree of English proficiency is similar. Local schools shall be encouraged to mix together in the same classroom English learners from different native-language groups but with the same degree of English fluency. Once English learners have acquired a good working knowledge of English, they shall be transferred to English language mainstream classrooms. As much as possible, current supplemental funding for English learners shall be maintained, subject to possible modification under Article 8 (commencing with Section 335) below.

306. The definitions of the terms used in this article and in Article 3 (commencing with Section 310) are as follows:

- (a) "English learner" means a child who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English, also known as a Limited English Proficiency or LEP child.
- (b) "English language classroom" means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language.
- (c) "English language mainstream classroom" means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English.
- (d) "Sheltered English immersion" or "structured English immersion" means an English language acquisition process for young children in which nearly all classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language.
- (e) "Bilingual education/native language instruction" means a language acquisition process for students in which much or all instruction, textbooks, and teaching materials are in the child's native language.

### ARTICLE 3. Parental Exceptions

310. The requirements of Section 305 may be waived with the prior written informed consent, to be provided annually, of the child's parents or legal guardian under the circumstances specified below and in Section 311. Such informed consent shall require that said parents or legal guardian personally visit the school to apply for the waiver and that they there be provided a full description of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child. Under such parental waiver conditions, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Individual schools in which 20 students or more of a given grade level receive a waiver shall be required to offer such a class; otherwise, they must allow the students to transfer to a public school in which such a class is offered.

**311. The circumstances in which a parental exception waiver may be granted under Section 310 are as follows:**

- (a) Children who already know English: the child already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores at or above the state average for his grade level or at or above the 5<sup>th</sup> grade average, whichever is lower; or**
- (b) Older children: the child is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child's rapid acquisition of basic English language skills; or**
- (c) Children with special needs: the child already has been placed for a period of not less than thirty days during that school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local Board of Education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to a waiver.**

**ARTICLE 4. Community-Based English Tutoring**

**315. In furtherance of its constitutional and legal requirement to offer special language assistance to children coming from backgrounds of limited English proficiency, the state shall encourage family members and others to provide personal English language tutoring to such children, and support these efforts by raising the general level of English language knowledge in the community. Commencing with the fiscal year in which this initiative is enacted and for each of the nine fiscal years following thereafter, a sum of fifty million dollars (\$50,000,000) per year is hereby appropriated from the General Fund for the purpose of providing additional funding for free or subsidized programs of adult English language instruction to parents or other members of the community who pledge to provide personal English language tutoring to California school children with limited English proficiency.**

**316. Programs funded pursuant to this section shall be provided through schools or community organizations. Funding for these programs shall be administered by the Office of the Superintendent of Public Instruction, and shall be disbursed at the discretion of the local school boards, under reasonable guidelines established by, and subject to the review of, the State Board of Education.**

**ARTICLE 5. Legal Standing and Parental Enforcement**

320. As detailed in Article 2 (commencing with Section 305) and Article 3 (commencing with Section 310), all California school children have the right to be provided with an English language public education. If a California school child has been denied the option of an English language instructional curriculum in public school, the child's parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute, and if successful shall be awarded normal and customary attorney's fees and actual damages, but not punitive or consequential damages. Any school board member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute by providing such an English language educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian.

**ARTICLE 6. Severability**

325. If any part or parts of this statute are found to be in conflict with federal law or the United States or the California State Constitution, the statute shall be implemented to the maximum extent that federal law, and the United States and the California State Constitution permit. Any provision held invalid shall be severed from the remaining portions of this statute.

**ARTICLE 7. Operative Date**

330. This initiative shall become operative for all school terms which begin more than sixty days following the date at which it becomes effective.

**ARTICLE 8. Amendment.**

335. The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate or by a statute to further the act's purpose passed by a two-thirds vote of each house of the Legislature and signed by the Governor.

**ARTICLE 9. Interpretation**

340. Under circumstances in which portions of this statute are subject to conflicting interpretations, Section 300 shall be assumed to contain the governing intent of the statute.

P. 014

TEL: 916 324 7129

NOV. -25 97 (TUE) 13:21

1 SEC. 3. Section 62000.2 of the Education Code is  
2 amended to read:

3 62000.2. The following programs shall sunset on June  
4 30, 1987:

- 5 (a) Miller-Unruh Basic Reading Act of 1965.
- 6 (b) School improvement program.
- 7 (c) Economic impact aid.

8 SEC. 4. Section 62002.5 of the Education Code is  
9 amended to read:

10 62002.5. Parent advisory committees and school site  
11 councils which are in existence pursuant to statutes or  
12 regulations as of January 1, 1979, shall continue  
13 subsequent to the termination of funding for the  
14 programs sunsetted by this chapter. Any school receiving  
15 funds from economic impact aid subsequent to the  
16 sunsetting of these programs as provided in this chapter,  
17 shall establish a schoolsite council in conformance with  
18 the requirements in Section 52012. The functions and  
19 responsibilities of the advisory committees and schoolsite  
20 councils shall continue as prescribed by the appropriate  
21 law or regulation in effect as of January 1, 1979.

22 SEC. 5. Notwithstanding any other provision of law,  
23 Article 3 (commencing with Section 52160) of Chapter 7  
24 of Part 28 of the Education Code, shall apply to all  
25 instructional programs or services provided to English  
26 learners that are funded from economic impact aid in the  
27 annual Budget Act.

28 SEC. 6. Article 3 (commencing with Section 52160) of  
29 Chapter 7 of Part 28 of the Education Code shall not  
30 become operative unless the Superintendent of Public  
31 Instruction certifies, in writing, to the Secretary of State  
32 that the following conditions are met:

- 33 (a) Funding is provided for the modification of a test  
34 that determines the English language skills of pupils  
35 whose primary language is other than English pursuant  
36 to Section 52166 of the Education Code or funding is  
37 provided for the development of the English language  
38 development test pursuant to Section 52166 of the  
39 Education Code.

- 1 (b) Funding is provided to develop a version of t  
2 test approved by the State Board of Education pursua  
3 to subdivision (d) of Section 60604 of the Education Co  
4 for each language, other than English, if the number  
5 English learners who speak that primary language  
6 equal to at least 10 percent of the total statewi  
7 enrollment in public schools in kindergarten and grad  
8 1 to 12, inclusive.

9 SEC. 7. Notwithstanding Section 17610 of t  
10 Government Code, if the Commission on State Mandat  
11 determines that this act contains costs mandated by t  
12 state, reimbursement to local agencies and scho  
13 districts for those costs shall be made pursuant to Par  
14 (commencing with Section 17500) of Division 4 of Ti  
15 2 of the Government Code. If the statewide cost of t  
16 claim for reimbursement does not exceed one milli  
17 dollars (\$1,000,000), reimbursement shall be made fro  
18 the State Mandates Claims Fund.

19 Notwithstanding Section 17580 of the Governme  
20 Code, unless otherwise specified, the provisions of this a  
21 shall become operative on the same date that the a  
22 takes effect pursuant to the California Constitution.

1 Education pursuant to subdivision (a). The report on this  
2 item shall include the results of the annual assessment  
3 administered pursuant to Section 52167.1, with the data  
4 disaggregated by grade level, primary language, and the  
5 type of instructional services received.

6 (3) The number of pupils in each school district who  
7 were formerly assessed to be English learners who have  
8 met the language reclassification criteria adopted by that  
9 school district and have been reclassified as English  
10 proficient.

11 (4) A summary report of the instructional programs  
12 adopted by each district pursuant to Section 52164.

13 (5) A summary report of the district level criteria for  
14 reclassification adopted by each district pursuant to  
15 Section 52165.1.

16 (6) The number of teachers who provide instructional  
17 services to English learners.

18 (e) The State Department of Education shall report to  
19 the Legislature on or before January 1, 1999, all of the  
20 following:

21 (1) The status of the assessment changes required by  
22 this article.

23 (2) The progress made by the department in  
24 implementing the assessment changes required by this  
25 article.

26 (3) The assistance the department has rendered to  
27 school districts in their implementation of the assessment  
28 changes required by this article.

29 (4) A summary of the annual reports prepared by  
30 county offices of education on the number of English  
31 learners who have been reclassified as English proficient.

32 52170.5. (a) Two years after the commencement of  
33 this program, the State Department of Education, on the  
34 basis of criteria adopted by the State Board of Education,  
35 shall review the plans and progress reports submitted by  
36 the 25 school districts with the largest numbers of English  
37 learners and by 75 randomly selected school districts.  
38 Based on those reviews, the department shall advise  
39 school districts of potential problems that the school

1 districts shall consider in reviewing and revising  
2 school plans in the third year of the program.

3 (b) Four years after the commencement of  
4 program, the State Department of Education shall  
5 conduct a compliance review of those school districts  
6 that were reviewed pursuant to subdivision (a). This  
7 review shall include school districts with exempt  
8 programs and school districts that have failed  
9 to demonstrate progress in language acquisition  
10 and academic achievement.

11 52171. Existing standards imposed by the St  
12 Department of Education regarding bilingual educat  
13 program requirements for purposes of regulation a  
14 funding of those programs are null and void.

15 52172. It is the intent of the Legislature that fundi  
16 for the programs and services required by this article sh  
17 be provided from federal and state funds appropriated  
18 the annual Budget Act and from Economic Impact A  
19 funds that school districts receive for English learne  
20 Funds provided for supplemental services shall not  
21 be used to supplant a district's general funding, including  
22 categorical funds, for ensuring equal access  
23 educational opportunities for English learners.

24 52172.5. The State Department of Education sha  
25 contract for a comprehensive evaluation of th  
26 methodological approaches and longitudinal outcomes o  
27 instructional services for English learners. Th  
28 Legislative Analyst and the Department of Finance sha  
29 serve in an advisory capacity to the State Department c  
30 Education in its oversight of the evaluation. An interim  
31 report shall be submitted to the Legislature no later than  
32 January 1, 2004, and a final report shall be submitted no  
33 later than November 1, 2005, so as to allow for thorough  
34 review by the Legislature before January 1, 2007. It is the  
35 intent of the Legislature that the evaluation be  
36 conducted only if funding is made available through the  
37 annual Budget Act.

38 52173. This article shall become inoperative on  
39 January 1, 2007.

TEL: 916 324 7129 P. 013

NOV. -25' 97 (TUE) 13:21

P. 012  
TEL: 916 324 7129  
NOV. -25 97 (TUE) 13:20

1 (b) Each school district shall develop a plan for  
2 meeting the standards developed by the department and  
3 approved by the State Board of Education pursuant to  
4 subdivision (a).

5 (1) After June 30, 2000, if the English learners in a  
6 school district fail to make progress toward meeting the  
7 standards, as determined by the guidelines and  
8 procedures established by the State Board of Education  
9 pursuant to paragraph (5) of subdivision (a) of Section  
10 52163, the school district shall examine its instructional  
11 program for English learners, assess the need for revision,  
12 and implement changes designed to improve pupil  
13 performance. In revising its instructional program, the  
14 school district shall consider and assess the need for  
15 providing primary language instruction and all other  
16 accepted, educationally sound English learner  
17 instructional methodologies to improve pupil  
18 performance. Any changes made pursuant to this section  
19 after June 30, 2000, shall be presented to the districtwide  
20 advisory committee established pursuant to Section 52168  
21 before final submission to the governing board of the  
22 school district for final approval. *A school district shall*  
23 *implement revised changes to its plans within six months.*

24 (2) After June 30, 2002, if the English learners in a  
25 school district, required to implement changes to its  
26 instructional program pursuant to paragraph (1), fail to  
27 make progress toward meeting the standards, the school  
28 district shall examine its instructional program for  
29 English learners, assess the need for revision, submit  
30 proposed revisions to improve pupil performance in the  
31 school district. Based on the criteria it adopts pursuant to  
32 subdivision (a), the State Board of Education shall review  
33 the school district's proposed revisions and make any  
34 changes. The school district shall then implement the  
35 revisions approved by the State Board of Education  
36 within six months.

37 (3) In revising its instructional program pursuant to  
38 paragraph (2), the school district shall consider and assess  
39 the need for providing primary language instruction and  
40 all other accepted, educationally sound English learner

1 instructional methodologies to improve pupil  
2 performance.

3 (c) Each school district shall report to the State  
4 Department of Education not later than the 30th day of  
5 April of each year, and the department shall report to the  
6 State Board of Education all of the following:

7 (1) The census of pupils who are English learners  
8 conducted pursuant to Section 52165.

9 (2) The type of instructional program adopted by the  
10 district pursuant to Section 52164.

11 (3) The progress that the English learners in the school  
12 district make toward meeting the pupil performance  
13 standards approved by the State Board of Education  
14 pursuant to subdivision (a). The report on this item shall  
15 include the results of the annual assessment administered  
16 pursuant to subdivisions (a) and (c) of Section 52167.1,  
17 with the data disaggregated by grade level, primary  
18 language, and type of instructional services received.

19 (4) The number of pupils in the district who were  
20 formerly assessed to be English learners who have met  
21 the language reclassification criteria established by the  
22 school district pursuant to Section 52165.1 and have been  
23 reclassified as English proficient. The school district shall  
24 include the following:

25 (A) The primary language of the reclassified pupil.

26 (B) The length of time the reclassified pupil was in the  
27 instructional program.

28 (C) The number of reclassified pupils receiving free  
29 and reduced lunches.

30 (5) The criteria for reclassification adopted by each  
31 district pursuant to Section 52165.1.

32 (6) The number of teachers who provide instructional  
33 services to English learners.

34 (d) The Superintendent of Public Instruction shall  
35 report annually to the Legislature all of the following:

36 (1) The number of English learners that attend each  
37 school district in California.

38 (2) The progress that the English learners in each  
39 school district make toward meeting the pupil  
40 performance standards approved by the State Board of

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1 committee on instructional services for English learners.  
 2 Parents or guardians, or both, of English learners who are  
 3 not employed by the district shall constitute a majority of  
 4 the committee, unless the district designates for this  
 5 purpose an existing districtwide advisory committee on  
 6 which parents or guardians, or both, of English learners  
 7 have membership in at least the same percentage as their  
 8 children and wards represent of the total number of  
 9 pupils in the district, provided that a subcommittee on  
 10 instructional services for English learners on which  
 11 parents or guardians, or both, of English learners  
 12 constitute a majority is established. The district advisory  
 13 committee and subcommittee, if applicable, shall be  
 14 responsible for at least four specific tasks. These tasks shall  
 15 be to advise the district governing board regarding all of  
 16 the following:

17 (1) Establishment of a timetable for development of a  
 18 district master plan for instructional services for English  
 19 learners.

20 (2) Districtwide needs assessment on a  
 21 school-by-school basis.

22 (3) Establishment of district program goals and  
 23 objectives for instructional services for English learners.

24 (4) Administration of the annual language census.

25 (b) Each school with more than 20 English learners  
 26 shall establish a school level advisory committee on which  
 27 parents or guardians, or both, of English learners  
 28 constitute membership in at least the same percentage as  
 29 their children and wards represent of the total number of  
 30 pupils in the school. The school may designate for this  
 31 purpose an existing school level advisory committee, or  
 32 subcommittee of an existing school level advisory  
 33 committee, if the advisory committee, or subcommittee  
 34 where appropriate, meets the criteria stated above.

35 (c) Each school advisory committee maintained  
 36 pursuant to this section shall be responsible for advising  
 37 the principal and staff in the development of a detailed  
 38 master plan for instructional services for English learners  
 39 for the individual school and submitting the plan to the  
 40 governing board for consideration for inclusion in the

1 district master plan. It shall also be responsible for  
 2 assisting in the development of the school needs  
 3 assessment, language census, and ways to make parents  
 4 aware of the importance of regular school attendance.

5 (d) School advisory committees shall explain to  
 6 parents of English learners the value of instructional  
 7 services provided pursuant to this article. School advisory  
 8 committees and districtwide advisory committees shall  
 9 inform parents of English learners where they may enroll  
 10 in adult education courses for English learners that are  
 11 offered in their communities.

12 (e) The school district shall provide training to the  
 13 members of its districtwide and school-level parent  
 14 advisory committees so that those members can fulfill  
 15 their duties and responsibilities as committee members.

16 (f) The school district shall provide its districtwide and  
 17 school-level parent advisory committees with the  
 18 necessary support services so that those members may  
 19 fulfill their duties and responsibilities as committee  
 20 members. These services shall include, but not  
 21 necessarily be limited to, clerical support, provision of  
 22 materials in the primary language of the parents, and  
 23 translation services.

24 52170. (a) The State Department of Education shall  
 25 approve pupil performance standards for English  
 26 learners, for use by school districts as models. These  
 27 standards shall be the same standards as the statewide  
 28 academically rigorous content and performance  
 29 standards adopted by the State Board of Education for all  
 30 pupils pursuant to Section 60605. The department also  
 31 shall specify the means by which progress toward  
 32 performance and achievement standards will be  
 33 measured. The Superintendent of Public Instruction shall  
 34 recommend to the State Board of Education the criteria  
 35 with which to review a school district's progress toward  
 36 meeting the standards, as set forth in the plan developed  
 37 pursuant to subdivision (b). The State Board of Education  
 38 shall then adopt and establish the criteria through  
 39 regulations.

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1 parent or guardian in the primary language of that  
2 person.

3 52167.1. (a) In addition to the annual assessments of  
4 pupils' English language proficiency as set forth in  
5 paragraph (2) of subdivision (a) of Section 52166, a school  
6 district shall annually assess the academic skills of each  
7 English learner, to the extent assessment instruments are  
8 available at each grade level. The assessment shall be  
9 administered to determine the pupil's level of academic  
10 performance and achievement and to compare that  
11 performance and achievement to the pupil performance  
12 and achievement standards developed by the  
13 department pursuant to subdivision (a) of Section 52170.  
14 The assessment shall also be used to help determine how  
15 to modify the methods of instruction in English or the  
16 pupil's primary language.

17 (b) Assessment instruments in the pupil's primary  
18 language or in English, or both, may be used. The State  
19 Department of Education, using the English language  
20 development test that is provided by the State  
21 Department of Education pursuant to subdivision (c) of  
22 Section 52166 and administered by the school district,  
23 shall, at the request of the school district, assist the school  
24 district in determining which English learners are most  
25 appropriately assessed in their primary language instead  
26 of, or in addition to, being assessed in English.

27 (c) All English learners shall be annually assessed at  
28 the time of year specified by the Superintendent of Public  
29 Instruction pursuant to subdivision (a) of Section 60641  
30 with a test approved by the State Board of Education  
31 pursuant to subdivision (d) of Section 60604. The State  
32 Board of Education shall ensure that the test approved  
33 pursuant to subdivision (d) of Section 60604 is made  
34 available to school districts in any language for which the  
35 number of English learners is equal to at least 10 percent  
36 of the total statewide enrollment in public schools in  
37 kindergarten and grades 1 to 12, inclusive. If the English  
38 language development test indicates an English learner  
39 is to be tested in his or her primary language and no State  
40 Board of Education approved test exists, the school

1 district shall assess an English learner's academic skills in  
2 the core curriculum by alternative means. The State  
3 Department of Education shall assist school districts to  
4 select alternative means of assessment.

5 (d) It is the intent of the Legislature to require the  
6 State Department of Education, when the statewide test  
7 of applied academic skills as set forth in Chapter 5  
8 (commencing with Section 60600) of Part 33 is fully  
9 operational, to develop, where feasible, versions of the  
10 assessment instruments that are part of that program in  
11 the major primary languages spoken by English learners  
12 in California.

13 (e) English learners shall be included in any school  
14 district administration of the statewide test of applied  
15 academic skills as set forth in Chapter 5 (commencing  
16 with Section 60600) of Part 33, except in those  
17 circumstances where the State Department of Education  
18 determines that this testing would not lead to valid and  
19 reliable results. The results of this assessment shall be  
20 reported to determine the progress of English learners  
21 toward meeting the statewide academically rigorous  
22 content and performance standards adopted by the State  
23 Board of Education pursuant to Section 60605.

24 52167.3. Any parent or guardian whose child or ward  
25 has been, or will be, enrolled in programs authorized  
26 pursuant to this article shall have the right, either at the  
27 time of the original notification of enrollment or at the  
28 close of any semester thereafter, to withdraw his or her  
29 child or ward from the program, by written notice to the  
30 principal of the school in which his or her child or ward  
31 is enrolled. If withdrawing the child from the program  
32 would violate any court-ordered or voluntary  
33 desegregation plan applicable to the district, the school  
34 district may deny the parent's or guardian's request or  
35 take other measures to remedy the violation. If a district  
36 denies a request for withdrawal from the program, the  
37 burden of proof as to the merits of that denial shall rest  
38 with the district.

39 52168. (a) Each school district with more than 50  
40 English learners shall establish a districtwide advisory

1 English language development to be used for the  
 2 purposes of this article. The instrument shall assess the  
 3 English language skills of English learners, including, but  
 4 not limited to, speaking, comprehension, reading, and  
 5 written expression. The contract shall be awarded in  
 6 accordance with competitive bidding procedures.

7 (2) Upon completion of the contract, following  
 8 consideration of recommendations made by the  
 9 Superintendent of Public Instruction, the State Board of  
 10 Education shall appoint a panel of experts to review the  
 11 test developed or modified pursuant to this subdivision.  
 12 If necessary, the panel shall propose changes to the  
 13 assessment instrument to ensure that the test meets  
 14 psychometric standards and that the instrument is not  
 15 racially, culturally, or sexually discriminatory.

16 (3) Upon approval of the State Board of Education, the  
 17 State Department of Education shall make this  
 18 assessment instrument available to school districts for  
 19 them to use as needed to fulfill the duties imposed on  
 20 them by this article.

21 (d) The census prescribed by this section shall be  
 22 conducted by persons who are adequately trained and  
 23 prepared to evaluate cultural and ethnic factors and who  
 24 follow procedures adopted by the State Board of  
 25 Education pursuant to Section 52163.

26 (e) The department shall review the results of the  
 27 census each year. If any information provided by the  
 28 school district appears to be inaccurate or if parents,  
 29 teachers, or counselors file a formal written complaint  
 30 alleging that the census is inaccurate, the department  
 31 shall audit the school district's census. If the department  
 32 concludes that the census has been incorrectly taken, or  
 33 the results appear to be inaccurate, the department shall  
 34 require another census to be taken and the corrected  
 35 information to be provided.

36 52167. (a) After a pupil has been determined to have  
 37 a primary language other than English, within 30 days  
 38 from the date the results of the English language  
 39 development test administered pursuant to paragraph  
 40 (2) of subdivision (a) of Section 52166 are available to the

1 school district, the school district shall provide the parent  
 2 or guardian of the pupil with an opportunity for  
 3 consultation regarding the instructional services that are  
 4 recommended for the pupil.

5 (b) The governing board of the school district shall  
 6 notify, by mail or in person, the parent or guardian of the  
 7 pupil that instructional services under this article are  
 8 recommended and will be offered to the pupil. To the  
 9 extent practicable, the school district shall communicate  
 10 the notice in English and in the primary language of the  
 11 pupil.

12 (c) The notice shall inform the parent or guardian of  
 13 all of the following in a simple, nontechnical manner:

14 (1) The purposes, structure, and methods of the  
 15 instructional services that will be offered to the pupil.

16 (2) That a parent or guardian may request a  
 17 consultation to discuss the pupil's assessment and the  
 18 recommended instructional services.

19 (3) That a parent or guardian of a pupil has a right to  
 20 object to the instructional services, and may request other  
 21 instructional approaches.

22 (4) That a parent or guardian may participate in a  
 23 school or school district advisory committee, or both, if  
 24 selected by his or her peers.

25 (d) The notice shall clearly provide a simple method  
 26 for response by the parent or guardian.

27 (e) The parent or guardian of a pupil with a primary  
 28 language other than English has the right to object to the  
 29 instructional services offered to the pupil, and may  
 30 request other instructional approaches.

31 (f) The parent or guardian of a pupil who receives  
 32 instructional services pursuant to this article has the right  
 33 to terminate those services by written notice to the  
 34 principal of the school, pursuant to Section 52167.3.

35 (g) If the parent or guardian of a pupil who receives  
 36 instructional services pursuant to this article requests a  
 37 consultation to discuss the pupil's assessment and the  
 38 recommended instructional services, representatives of  
 39 the school district shall meet with the parent or guardian  
 40 and make a reasonable effort to communicate with the

1 districts in the state, which shall include, but need not be  
2 limited to, all of the following:

3 (1) A determination of the primary language of each  
4 pupil enrolled in the school district. The primary  
5 language of new pupils shall be determined when they  
6 are enrolled. Once determined, the primary language of  
7 a pupil need not be redetermined unless the parent or  
8 guardian claims there is an error. Primary language  
9 determinations are required only once, unless the results  
10 are disputed by a parent or guardian.

11 (2) An assessment of the language skills of all pupils  
12 whose primary language is other than English, using the  
13 English language development test that is provided by  
14 the State Department of Education pursuant to  
15 subdivision (c) of Section 52166 and administered by the  
16 school district. Comprehensive speaking, reading, and  
17 writing skills shall be assessed; however, reading and  
18 writing skills need not be assessed for pupils in  
19 kindergarten and grades 1 and 2. For those pupils who, on  
20 the basis of oral language proficiency alone, are clearly  
21 English learners, assessment of reading and writing skills  
22 shall be necessary only to the extent required by  
23 paragraph (3). This assessment, which shall be made as  
24 pupils enroll in the district, shall determine whether  
25 these pupils are fluent in English or are English learners.

26 (3) (A) For those pupils identified as English  
27 learners, a further assessment shall be made to determine  
28 the pupil's primary language proficiency, including  
29 speaking, comprehension, reading, and writing skills, to  
30 the extent assessment instruments are available. An  
31 assessment in the language designated for basic skills  
32 instruction measuring speaking, comprehension,  
33 reading, and writing skills, shall be administered for  
34 instructional use at the district level.

35 (B) The assessment required by this paragraph shall  
36 be made using a test from a list of tests approved by the  
37 State Board of Education. If no test approved by the State  
38 Board of Education exists, the school district shall assess  
39 an English learner's primary language proficiency by  
40 alternative means. The State Department of Education

1 shall assist school districts to select alternative means of  
2 assessment.

3 (C) The Superintendent of Public Instruction shall  
4 review tests that determine an English learner's primary  
5 language proficiency and shall recommend tests for  
6 approval by the State Board of Education. The State  
7 Board of Education shall approve tests for use by school  
8 districts. The assessment to determine an English  
9 learner's primary language proficiency shall be  
10 readministered as necessary to provide a curriculum  
11 meeting the individual needs of each English learner.

12 (D) If the assessment conducted pursuant to this  
13 subdivision indicates that the pupil has minimal  
14 proficiency in the primary language, further assessment  
15 of the pupil's primary language skills, including  
16 consultation with the pupil's parents or guardians, the  
17 classroom teacher, the pupil, or others who are familiar  
18 with the pupil's language ability in various environments,  
19 shall be conducted. If this detailed assessment indicates  
20 that the pupil has minimal proficiency in his or her  
21 primary language, then the curriculum designed to meet  
22 the individual needs of the English learner need not be  
23 based on the pupil's primary language.

24 (E) The assessment process shall be completed within  
25 60 days after the date of the pupil's initial enrollment in  
26 the school district and shall be performed in accordance  
27 with rules and regulations adopted pursuant to Section  
28 52163.

29 (b) The parent or guardian of the pupil shall be  
30 notified of the results of the assessment taken pursuant to  
31 paragraph (2) of subdivision (a) and of the procedures  
32 for appealing the results, pursuant to paragraph (6) of  
33 subdivision (a) of Section 52163.

34 (c) (1) The Superintendent of Public Instruction  
35 shall review tests that determine the English language  
36 skills of pupils whose primary language is other than  
37 English. Following consideration of recommendations  
38 made by the Superintendent of Public Instruction, the  
39 State Board of Education shall award a contract to modify  
40 an existing test or, if necessary, develop a test to assess

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1 (3) The cultural, socioeconomic, and educational  
2 background of pupils.

3 (4) The educational preferences of the parents.

4 (5) The number, experience, and training of those  
5 teachers in the school district that provide instructional  
6 services to English learners. *A school district shall  
7 consider this paragraph in the context of its responsibility  
8 to implement a long-term strategy to recruit  
9 appropriately trained teachers and to provide  
10 appropriate training to current teachers as required by its  
11 program for English learners.*

12 (c) All English learners shall receive daily instruction  
13 in English language development appropriate for their  
14 individual level of English language proficiency.  
15 Programs established for English learners shall not, in  
16 total, result in the isolation or segregation of pupils. This  
17 prohibition does not apply to limited breakouts for  
18 specific academic purposes.

19 52165. (a) Each school district shall ascertain, not  
20 later than March 1 of each year, under regulations  
21 adopted by the State Board of Education pursuant to  
22 Section 52163, the total number of English learners within  
23 the district, and shall classify those pupils according to  
24 primary language, age, and grade level. This accounting  
25 shall be known as the "census of pupils who are English  
26 learners" and shall consist of a determination of the  
27 primary language of each pupil enrolled in the school  
28 district and an assessment of the language skills of all  
29 pupils whose primary language is other than English. In  
30 ascertaining the total number of English learners within  
31 the school district, a school district shall not consider the  
32 funding made available to the school district for the  
33 purpose of providing instructional services to English  
34 learners.

35 (b) The census shall be taken by an individual, actual  
36 count, and not by estimates or by sample. All English  
37 learners, including migrant and special education pupils,  
38 shall be counted. Special language assessment  
39 instruments designated by the Superintendent of Public  
40 Instruction, and in compliance with the requirements of

1 subdivision (j) of Section 56001, may be used for special  
2 education pupils. The results of this census shall be  
3 reported to the State Department of Education not later  
4 than April 30 of each year. The census for the previous  
5 year shall be updated to include new enrollees and to  
6 eliminate pupils who no longer attend school in the school  
7 district, and shall be reported pursuant to Section 52166.  
8 52165.1. Each school district in which English learners  
9 are enrolled shall establish procedures and criteria for the  
10 reclassification of English learners as English-proficient  
11 pupils, under regulations adopted by the State Board of  
12 Education pursuant to Section 52163.

13 (a) The reclassification criteria shall, at a minimum,  
14 utilize multiple criteria, including, but not limited to, all  
15 of the following:

16 (1) Teacher evaluation, including a review of the  
17 pupil's curriculum mastery.

18 (2) Objective assessment of language proficiency and  
19 reading and writing skills, including the English language  
20 development test that is provided by the State  
21 Department of Education pursuant to subdivision (c) of  
22 Section 52166 and administered by the school district.

23 (3) Parental opinion and consultation.

24 (4) An empirically established range of performance  
25 in basic skills, based on English-proficient pupils of the  
26 same age, which demonstrates that the pupil is  
27 sufficiently proficient in English to participate effectively  
28 in a curriculum designed for pupils of the same age whose  
29 native language is English.

30 (5) Objective assessment of pupil performance and  
31 achievement, as compared to the pupil performance  
32 standards approved by the State Board of Education  
33 pursuant to subdivision (a) of Section 52170.

34 (b) In no event shall the reclassification criteria  
35 include a consideration of the funding made available to  
36 the school district for the purpose of providing  
37 instructional services to English learners.

38 52166. (a) The Superintendent of Public Instruction,  
39 with the approval of the State Board of Education, shall  
40 prescribe census-taking methods applicable to all school

1 (c) Enabling each pupil to acquire the knowledge and  
2 skills to successfully compete in the work force and to  
3 actively participate in a democratic culture.

4 (d) Recognizing the rich cultural and linguistic  
5 diversity that English learners contribute to California.

6 52163. (a) Within 120 days from the date this article  
7 becomes operative, the State Board of Education shall  
8 adopt regulations to do the following:

9 (1) Establish guidelines for school districts to use in  
10 ascertaining the number of English learners and their  
11 classification pursuant to Section 52165.

12 (2) Establish guidelines and procedures for school  
13 districts to use in performing the census-taking process  
14 prescribed in Sections 52165 and 52166.

15 (3) Establish guidelines and procedures for school  
16 districts to use pursuant to Section 52165.1 in determining  
17 when English learners have developed the  
18 communication and academic skills necessary to  
19 participate effectively in a curriculum designed for pupils  
20 of the same age whose native language is English.

21 (4) Establish guidelines for school districts to use in  
22 determining the level of pupil performance on the  
23 assessment conducted pursuant to Section 52166 that  
24 would indicate that the pupil cannot benefit from  
25 instruction conducted solely in English.

26 (5) Establish guidelines and procedures to determine  
27 those districts which fail to make progress toward  
28 meeting the standards approved by the State Board of  
29 Education pursuant to Section 52170.

30 (6) Establish procedures for a parent to appeal the  
31 results of the district-administered assessment test  
32 pursuant to paragraph (2) of subdivision (a) of Section  
33 52166.

34 (b) The Superintendent of Public Instruction shall  
35 develop and make available to school districts a variety of  
36 materials that will assist districts in selecting the  
37 appropriate instructional program that meets the  
38 requirements of this article, including model programs,  
39 research results, accurate assessment tools, and other  
40 technical assistance.

1 52164. (a) Each school district shall determine the  
2 type of instructional services to best accomplish the goal  
3 of English language development and academic  
4 achievement in order to meet the needs of the pupil  
5 population of each school district. In choosing, designing,  
6 and implementing its program for English learners,  
7 school district shall consult with the district advisor  
8 committee established pursuant to Section 52168 to  
9 ensure all of the following:

10 (1) The program is based on a sound educational  
11 theory that is recognized in the education community as  
12 a legitimate educational strategy, including, but not  
13 limited to, bilingual late exit instruction in the primary  
14 language of the English learner, bilingual early exit  
15 instruction in the primary language of the English  
16 learner, double immersion, English immersion, and  
17 specially designed academic instruction in English.  
18 *School districts may use multiple strategies in crafting  
19 their programs under this article.* The Legislature finds  
20 and declares that submersion is not a sound educational  
21 theory for teaching English learners. *The use of  
22 submersion under this article is therefore prohibited.*

23 (2) Each school in the school district has services,  
24 policies, and resources in place that will implement  
25 effectively the chosen educational strategy.

26 (3) The school district's ongoing assessment of its  
27 English learner language program demonstrates that  
28 pupils are making progress in overcoming language  
29 barriers, or that it is revising its program to achieve that  
30 goal.

31 (4) The program adopted by the school district  
32 pursuant to this section shall maintain compliance with  
33 any requirements mandated by federal law for purposes  
34 of ensuring continued federal financial assistance.

35 (b) In selecting a program, the school district shall  
36 consider at least all of the following:

- 37 (1) The number of languages spoken in the district.
- 38 (2) The percentage of pupils who speak each  
39 language.

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1 52160.1. The Legislature finds and declares that all  
 2 programs under this article shall, as effectively and  
 3 efficiently as possible, develop fluency in English in each  
 4 child, as well as his or her academic skills in the core  
 5 curriculum. The programs shall also provide positive  
 6 reinforcement of the self-confidence of participating  
 7 pupils, promote crosscultural understanding, and provide  
 8 each pupil with the equal opportunity for academic  
 9 achievement. The programs shall be based upon a sound  
 10 educational theory, recognized in the educational  
 11 community as a legitimate education strategy, and may  
 12 include, but not be limited to, bilingual late exit  
 13 instruction in the primary language of the English  
 14 learner, bilingual early exit instruction in the primary  
 15 language of the English learner, double immersion,  
 16 English immersion, and specially designed academic  
 17 instruction in English.

18 52160.2. Notwithstanding any other provisions of law,  
 19 the policies expressed in this article regarding programs  
 20 for English learners are the exclusive policies for  
 21 programs for English learners. These policies are based  
 22 on federal laws and on court decisions that interpret those  
 23 laws.

24 52160.5. The State Department of Education shall  
 25 periodically collect statistical information and bona fide  
 26 research on English learner instructional methodologies  
 27 and compile this material into a compendium of  
 28 information. This compendium shall be distributed to  
 29 school districts on an annual basis so that governing  
 30 boards of school districts may make informed decisions  
 31 about the best approaches to instructional services for  
 32 English learners.

33 52161. As used in this article:  
 34 (a) "Double immersion" means a program in which  
 35 pupils whose primary language is English and pupils who  
 36 are English learners receive instruction in both English  
 37 and a second language, with the objective of attaining  
 38 bilingual literacy for both groups.  
 39 (b) "English immersion" means a program in which  
 40 pupils who are English learners receive instruction in

1 English with the necessary support services in the core  
 2 academic curriculum.

3 (c) "English learner" means a pupil who does not have  
 4 the communication and academic skills necessary to  
 5 participate effectively in a curriculum designed for pupils  
 6 of the same age whose native language is English. An  
 7 English learner is determined by the English language  
 8 development test that is provided by the State  
 9 Department of Education pursuant to subdivision (c) of  
 10 Section 52166 and administered by the school district in  
 11 which the English learner is a pupil.

12 (d) "Instructional services" means any method of, or  
 13 approach to, instructing English learners that is  
 14 recognized as a legitimate educational strategy for  
 15 facilitating English language acquisition and access to the  
 16 core academic curriculum. Nothing in this subdivision  
 17 shall be construed to require that a school district adopt  
 18 a specific program.

19 (e) "Submersion" means that program in which the  
 20 English learners in a school district receive no assistance  
 21 in developing language skills, thereby denying those  
 22 pupils a meaningful opportunity to participate in the  
 23 educational program offered by that school district.

24 52162. Any program developed pursuant to this  
 25 article shall have the following goals:

26 (a) Developing proficiency in English for each pupil,  
 27 as effectively and efficiently as possible, in order to ensure  
 28 a timely transition into the regular school curriculum.

29 (b) Providing each pupil with an equal opportunity  
 30 for academic achievement, including academic  
 31 instruction through the primary language, if the  
 32 assessment conducted pursuant to Section 52166 indicates  
 33 that the pupil cannot benefit from instruction solely in  
 34 English. Any determination made pursuant to this  
 35 subdivision shall be made in conformity with the  
 36 guidelines established pursuant to paragraph (4) of  
 37 subdivision (a) of Section 52163 and shall be consistent  
 38 with the programmatic requirements of this article.

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of English learners who have been reclassified as English proficient.

This bill would require the establishment of school and district advisory committees, as specified, to advise the school administration and the governing board of the school district, respectively, on all aspects of instructional services for English learners. The bill would require school districts to provide specified training and support services to the members of these committees.

This bill would require the State Department of Education, with the approval of the State Board of Education, to develop pupil performance and achievement standards for English learners, for use by school districts, as specified, and require the State Board of Education and the Superintendent of Public Instruction to approve revisions to a school district's English learner program when the English learners in a school district fail to make progress toward meeting the standards by a specified time.

This bill would require the Superintendent of Public Instruction, with the approval of the State Board of Education, to prescribe methods by which each school district would be required to conduct, as specified, a census of English learners by ascertaining their actual total number within the district, classifying them according to primary language, age, and grade level, and assessing the language skills of all pupils whose primary language is a language other than English. The bill would provide that the primary language determination, unless appealed by a parent or guardian, would only be required once. The bill would require each school district to report the results of the census to the State Department of Education, which would review the results and audit the census if the accuracy of the census is questioned, as specified.

The bill would require the State Department of Education, on the basis of criteria adopted by the State Board of Education, to review the plans and progress reports submitted by specified school districts 2 years after the commencement of the program. The bill would require the State Department of Education to conduct a compliance review of those school districts 4 years after the commencement of the program as specified.

This bill would require the State Department of Education to contract for a comprehensive evaluation of the methodological approaches and longitudinal outcomes of instructional services for English learners, and would require an interim report to be submitted to the Legislature no later than January 1, 2004, and a final report submitted no later than November 1, 2005.

To the extent this bill would impose requirements on school districts that exceed the requirements of federal law regarding bilingual education, it would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Article 3 (commencing with Section
- 2 52160) of Chapter 7 of Part 28 of the Education Code is
- 3 repealed.
- 4 SEC. 2. Article 3 (commencing with Section 52160) is
- 5 added to Chapter 7 of Part 28 of the Education Code, to
- 6 read:
- 7
- 8 Article 3. Instructional Services for English Learners
- 9
- 10 52160. This article shall be known and may be
- 11 referred to as the Firestone-Alpert English Learners
- 12 Education Reform Act of 1998.

language is not English, and the Legislature's intent that the Commission on Teacher Credentialing implement an assessment system to certify those teachers who have the essential skills and knowledge necessary to meet the needs of California's limited-English-proficient pupils.

This bill would delete this existing statement of intent and instead make new findings and declare, among other things, that programs for instructional services for English learners shall develop fluency in English in each child as well as the child's academic skills in core curriculum.

(2) Existing law, which is presently inoperative, establishes the Bilingual-Bicultural Education Act of 1976 and specifies that the purpose of the act is to require school districts to offer bilingual learning opportunities to each pupil of limited English proficiency enrolled in the public schools.

This bill would repeal the act and would establish a new program of instructional services for English learners, to be known as the Alpert-Firestone English Learners Education Reform Act of 1998, to become operative if funding is provided, as specified, and to become inoperative January 1, 2007. The bill would require the State Department of Education to periodically collect statistical information and bona fide research on English learner instructional methodologies and to compile this material into a compendium of information to be distributed to school districts on an annual basis. The bill would define an "English learner" to be a pupil who does not have the communication and academic skills necessary to participate effectively in a curriculum designed for pupils of the same age whose native language is English. The bill would require the State Board of Education to develop guidelines for school districts to use in ascertaining the number of English learners, their classification, guidelines for school districts, as specified, and procedures for parents to appeal a determination that their child is an English learner. The bill would also require the board to establish guidelines and procedures for schools to use in determining when an English learner has developed the communication and academic skills necessary to participate effectively in the school curriculum.

This bill would require the governing board of the school district to notify the parent or guardian of an English learner of, among other things, the results of the assessment and the purpose, structure, and methods of the instructional services that will be offered. The bill would require the school district to provide the parent or guardian of a pupil who has been determined to have a primary language other than English with an opportunity for consultation regarding the recommended instructional services and would require the school district to communicate the notice in the primary language of the pupil. The bill would permit a parent or guardian whose child or ward has been or will be enrolled in a program of instructional services for English learners to withdraw the child or ward from the program by written notice to the principal of the school. The bill would permit the school district to deny the request or take other measures if the transfer would violate a court-ordered or voluntary desegregation plan, but the bill would require that, in the event a school district denies a request for withdrawal, the burden of proof as to the merits of that denial rests with the district.

This bill would require each school district to develop instructional services to best accomplish the goals of English language development for English learners, and would require the Superintendent of Public Instruction to make available materials for school districts to use in selecting the appropriate instructional program for their English learners. The bill would require each school district to determine the method of, or approach to, instructing English learners, as defined, that the district will adopt in order to ensure timely transition into the regular school curriculum and in order to provide each pupil with an equal opportunity for academic achievement, and to enable each pupil to acquire the knowledge and skills to successfully compete in the work force and to actively participate in a democratic culture. The bill would require a school district to annually assess the academic skills of each English learner, as specified, and would require the State Department of Education to report to the Legislature on or before January 1, 1999, on the assessment changes required by this bill, as specified, and on the number

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AMENDED IN ASSEMBLY JULY 21, 1997  
AMENDED IN ASSEMBLY JULY 2, 1997  
AMENDED IN ASSEMBLY JUNE 30, 1997  
AMENDED IN SENATE JUNE 3, 1997  
AMENDED IN SENATE APRIL 23, 1997  
AMENDED IN SENATE APRIL 9, 1997  
AMENDED IN SENATE MARCH 31, 1997  
AMENDED IN SENATE MARCH 13, 1997  
AMENDED IN SENATE MARCH 3, 1997

**SENATE BILL**

**No. 6**

**Introduced by Senator Alpert  
(Coauthor: Senator Schiff)  
(Coauthors: Assembly Members Firestone and Lempert)**

December 2, 1996

An act to amend Sections 62000.2 and 62002.5 of, and to repeal and add Article 3 (commencing with Section 52160) of Chapter 7 of Part 28 of, the Education Code, relating to bilingual education.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Alpert. Bilingual education: English learners.

(1) Existing law expresses the Legislature's findings regarding the needs of California school pupils whose primary

SENATE RULES COMMITTEE  
Office of Senate Floor Analyses  
1020 N Street, Suite 524  
(916) 445-6614 Fax: (916) 327-4478

SB 6

THIRD READING

Bill No: SB 6  
Author: Alpert (D)  
Amended: 6/3/97  
Vote: 21

SENATE EDUCATION COMMITTEE: 7-2, 4/2/97  
AYES: Greene, Alpert, Haynes, Knight, McPherson, Monteith,  
Sher  
NOES: Hughes, Watson  
NOT VOTING: Dills, Hayden, O'Connell, Vasconcellos

SENATE APPROPRIATIONS COMMITTEE: 7-3, 5/29/97  
AYES: Johnston, Alpert, Burton, Johnson, Karnette, Kelley,  
McPherson  
NOES: Calderon, Leslie, Mountjoy  
NOT VOTING: Dills, Lee, Vasconcellos

SUBJECT: Bilingual education: English learners

SOURCE: Author

DIGEST: This bill repeals the inoperative provisions of law regarding bilingual education and replaces them with the Firestone-Alpert English Learners Education Reform Act of 1998; it specifies requirements for school districts in providing instructional services for English Learners (ELs), also known as Limited-English-Proficient (LEP) pupils. This bill also revises and reenacts some of the inoperative provisions for the Bilingual Teacher Training Assistance Program.

ANALYSIS: Approximately 1.3 million students (or about

one out of every five students) in California public schools are Limited-English-Proficient (LEP). LEP pupils, also called English Learners (ELs), are the fastest growing segment of the student population, more than doubling in number in the past decade. Dozens of different language groups are represented in California schools; statewide,

about 77% of LEP pupils speak Spanish, about 4% speak Vietnamese, and Hmong, Cantonese, Cambodian, and Filipino each account for about 2% of LEP pupils.

Sunset Provisions. Existing law that specifies program requirements for the operation of bilingual education in California is still contained in the Education Code as the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 (revised in 1980), but has been inoperative since June 30, 1987.

Existing law governing "sunsetts" or terminations of certain categorical programs (E.C. 62000, etc., originally enacted in AB 8, Greene, 1979) specifies that these programs will "sunset" on specified dates unless extended by the Legislature. Pursuant to that statute, all laws and regulations regarding the use of program funds would no longer be operative, except that: (a) State funding continues to flow to school districts for the general purposes of the program, and (b) Provisions of law regarding advisory committees and school site councils would remain operative. The general purposes for bilingual education, found in E.C. 52161, include the requirement that school districts offer bilingual learning opportunities to LEP pupils.

Existing federal law and court rulings require school districts to develop programs that (1) are based on sound theory; (2) provide adequate financial and personnel support; and (3) achieve results after a reasonable period, so that the application of theory actually overcomes English language barriers confronting the students and does not leave them with substantive academic deficits.

Current law requires school districts to provide services to ELs according to eight general principles of sunsetted law in Education Code sections 52161 and 62002. These principles require school districts to implement programs that: (1) provide in-service training to teachers and administrators; (2) develop in each child fluency in English; (3) provide positive reinforcement of the self-image of pupils; (4) promote cross-cultural understanding; (5) provide equal opportunity for academic achievement, including, when necessary, academic

instruction using primary language; (6) offer bilingual learning opportunities to each EL; (7) provide adequate supplemental financial support to achieve the previous goals, and (8) ensure that participation in bilingual education is voluntary.

The California Department of Education (CDE) administrative practices provide school districts with six options to comply with state and federal law:

Option 1--Results Based Assessment Program. A district may design its own program for ELs as long as it provides evidence of an assessment system to ensure that ELs are receiving services to develop their English language proficiency and to have access to the core curriculum.

Option 2--CCTC Authorized Teachers. Instead of designing a program, a school district may choose to comply with the law by having fully qualified teachers who hold credentials issued by the California Commission on Teacher Credentialing (CCTC) to meet the needs of ELs.

Option 3--Local Designation of Teachers. Districts may develop procedures and criteria as alternative training to CCTC authorizations (in Option 2), and upon approval by CDE, issue local certifications to teachers who meet the competence to teach ELs.

Option 4--Staffing Plan. Districts with a shortage of qualified teachers can develop a plan to remedy that shortage, and annually report to CDE on progress in implementing that plan.

Option 5--Waiver of Primary Language. Districts that are unable to provide the academic instruction through the primary language may apply for a waiver from the State Board of Education for one two-year general waiver, during which the districts continue to implement their staff plan, and other alternative programs.

Option 6--Small or Scattered Distributions. School districts that have less than 50 students district wide, or 20 students at any one school, may choose to provide an alternative program that serves their ELs.

School districts have broad flexibility to select one or more program options that best meet the needs of their schools. Through its compliance unit, CDE reviews programs for two key components: (1) does the program contain an English Language component to develop English language

skills quickly and efficiently, and (2) does the program provide ELs with an equal opportunity for academic achievement in the core curriculum?

This bill establishes a new state bilingual education program called the Firestone-Alpert English Learners Education Reform Act of 1998 that would require instructional services for English Learners (ELs), also known as Limited-English-Proficient (or LEP pupils). By its own terms, the provisions of this Act would become operative if funding is provided, as specified, and would become inoperative or "sunset" on January 1, 2007.

The major provisions of this bill:

1. Give school districts the complete flexibility to choose and design the most appropriate methodology to teach ELs as long as they meet federal requirements, and allow ELs to receive primary language instruction when their assessment indicates that they cannot benefit from an English-only instruction.
2. Develop tests to assess ELs in their English language skills and academic skills. The bill would require the CDE to contract out for the development of a single English language test that would be used to identify ELs

and assess their progress in learning the English language.

3. Require the CDE to develop model pupil performance standards for ELs. These standards must be as rigorous as the standards adopted by the State Board of Education for all pupils. The CDE must also specify the means by which progress toward performance and achievement standards will be measured.
4. Require school districts to develop a plan for meeting the adopted standards for ELs. If a district fails to make progress toward meeting the standards, the bill requires the district to revise its program by June 30, 2000. If the district continues to fail to make progress toward meeting the standards by June 30, 2002, then the district must revise its program again, and obtain approval from the State Board of Education.

Generally, this bill would provide school districts with more flexibility to develop their own programs, develop an assessment system, and require school districts to self-regulate for program effectiveness.

Funding and Enforcement of Requirements. The funding for programs for LEP pupils has continued through the original Economic Impact Aid (EIA) formula. The State Department of Education has issued program advisories describing its interpretation of continuing program requirements under both state and federal law to which school districts must still adhere; the Department enforces its interpretation of the "sunsetting" law through the Coordinated Compliance Review of school districts. The State Board of Education adopted a revised "Policy Statement on Educational Programs and Services for LEP Students" in 1995.

Specifically, this bill:

1. Program Purposes. States the primary goal of bilingual education programs to develop English fluency and academic achievement in the core curriculum; other purposes of the program include:
  - a. Positive reinforcement of pupils' self-image.
  - b. The promotion of cross-cultural understanding.
  - c. The provision of equal opportunity for academic achievement.
2. Program Based on Sound Theory. Requires the programs to be based on sound educational theory that is recognized in the educational community as a legitimate strategy, and may include, but not be limited to:
  - a. Bilingual late exit instruction in the primary language of ELs.
  - b. Bilingual early exit instruction in the primary language of ELs.

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- c. Double immersion.
  - d. English immersion.
  - e. Specially designed academic instruction in English.
3. Exclusive Policies for English Learners. Specifies that this bill is the exclusive set of policies for English Learners, and that these policies are based on federal laws and any interpretive court decisions.
4. Definitions:

- a. Defines "Double Immersion" as a program in which pupils whose primary language is English and pupils who are English learners receive instruction in both English and a second language, with the objective of attaining bilingual literacy for both groups.
- b. Defines "English Immersion" as a program in which pupils who are English learners receive instruction in English with the necessary support services in the core academic curriculum.
- c. Defines "English Learner" as a pupil without sufficient language proficiency and academic skills to participate in all-English curriculum, as determined by an English language development test.
- d. Defines "Instructional Services" as any methodology or approach to teaching ELs recognized as a legitimate educational strategy for English language acquisition and access to the core academic curriculum.
- e. Defines "Submersion" as a program in which English learners receive no assistance in developing language skills.

5. Specific Program Goals. Requires each program to have as its goals:
- a. Developing English proficiency as effectively and efficiently as possible in order to ensure a timely transition to the regular school curriculum.
  - b. An equal opportunity for academic achievement for each pupil.
  - c. Workforce skills to enable each pupil to successfully compete and actively participate in a democratic culture.
  - d. Recognition of the value of cultural and linguistic diversity.
  - e. That ELs shall not be isolated or segregated.

6. State Board of Education's Role. Requires the State

Board of Education to adopt regulations for school districts for:

- a. Language census procedures.
  - b. Determination of each pupil's primary language, and their English and primary language proficiency.
  - c. Redesignation of ELs when they have developed sufficient English proficiency and academic skills to function effectively in English-only classrooms.
  - d. Parental appeals of assessment results.
7. SPI Role. Requires the SPI to provide technical assistance to school districts.

Requires SPI to periodically collect statistical information and bona fide research on English learner instructional methodologies and to compile this material into a compendium of information to be distributed to school districts annually.

8. School District Flexibility:

- a. Allows school districts to determine the type of instructional services to best accomplish the program goals and meet pupil needs.
- b. Requires districts to consult with the district advisory committee on all aspects of the program.
- c. Requires districts to consider various elements in selecting a program, such as the preparation of their teachers and the input of the statewide advisory committee.

9. Language Census:

- a. Requires each school district to conduct an annual census of ELs by March 1st annually, pursuant to State Board of Education regulations, to include:
  1. Determination of each pupil's primary language.
  2. Language assessment of each pupil whose primary language is other than English.
- b. Prohibits districts from considering funding incentives when conducting the census.
- c. Allows districts to use special language assessment instruments for special education pupils.

- d. Requires a report of the census to the State

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Department of Education by April 30th annually.

- e. Requires parental notification of the assessment results and appeal procedures available.
  - f. Requires the census to be conducted by qualified personnel.
10. Specific Census Procedures. Requires the SPI, with State Board of Education approval, to specify procedures for the language census by school districts.
11. Redesignation of English Learners as English-Proficient.
- a. Requires districts to establish a process and criteria for the redesignation of ELs as English-Proficient pupils, pursuant to State Board of Education regulations.
  - b. Specifies the multiple criteria that must be included.
  - c. Requires objective assessment of pupil performance and achievement.
  - d. Prohibits consideration of funding in the redesignation criteria.
12. Parental Notification. Requires districts to notify parents within 30 days of the assessments, in English and the pupil's primary language, of:
- a. The pupil's need for specific instructional services.
  - b. An opportunity for consultation about the recommended services.
  - c. The opportunity to participate in an advisory committee.
  - d. The right to object to the recommended services and to request another approach.
  - e. The right to terminate services by written notice to the principal.
13. Annual Assessments. Each district would be required to annually assess the academic skills of each English learner. The assessment shall be administered to

determine the pupil's level of academic performance and achievement, as specified. The results of this assessment shall be reported to determine the progress of English learners toward meeting the statewide academically rigorous context and performance standards adopted by the State Board of Education.

14. Parental Right to Withdraw Child From Program. Specifies any parent's right to withdraw his or her child from the program unless it violates a desegregation plan, in which case the district may deny

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the request and find another solution. The burden of proof as to the merits of the denial rests with the district.

15. School and District Advisory Committees:

a. Requires schools with more than 20 ELs to establish a school advisory committee to advise the school administration about the instructional program, as specified.

b. Requires districts with more than 50 ELs to establish a district advisory committee to advise the school board about the instructional program, as specified.

Requires school districts to provide specified training and support services to these committees.

16. Pupil Performance Standards.

a. Requires the SDE to develop for districts minimum pupil performance and achievement standards for ELs and to specify the way to measure pupil progress.

b. Requires districts to develop a plan for meeting the standards.

c. Requires districts, with the approval of the districtwide advisory committee, to revise their instructional program for ELs if the pupils fail to make progress after June 30, 2000. If no further progress is made after two more years, requires the district to implement revisions approved by the State Board and the Superintendent of Public Instruction.

17. Reporting Requirements:

a. Requires districts to report to the SDE by April 30th annually on:

1. Language census results.
  2. Type of instructional program adopted.
  3. EL progress toward meeting standards.
  4. The number of ELs redesignated as English-Proficient.
  5. Criteria for Redesignation.
  6. The number of teachers providing instruction.
- b. Requires the SPI to report annually to the Legislature a summary of the district data.
  - c. SDE shall contract, if funding is made available through the Budget Act, for a comprehensive evaluation of the methodological approaches and outcomes of instructional services for English learners, with the LAO and DOF serving in an advisory capacity. An interim report is due to the Legislature January 1, 2004 and a final report by November 1, 2005.
18. SDE Program Standards. Specifies that existing SDE program standards do not apply under this bill.
19. Bilingual Teacher Training Program. Revises the specifications for the State Bilingual Teacher Training Assistance Program, with changes conforming to the new program of instructional services established for English learners.
20. Sunset Date. Deletes the sunset date for the bilingual program.
21. Continued EIA Funding. Specifies that Economic Impact Aid still funds the bilingual education program, and specifies that this bill does not authorize reductions in per pupil expenditures for EL services.
22. Act Conditional on Funding. Specifies legislative intent that funding for the bill be provided from federal and state funds appropriated in the Budget Act and from EIA funds that school districts receive for English learners. Specifies that the provisions of this bill shall not become operative unless the following conditions are met:
- a. Funding is provided for the modification of a test that determines the English language skills of pupils whose primary language is other than English, or funding is provided for the development of the English language development test.
  - b. Funding is provided to develop a version of the test for each language, other than English, if the number of English learners who speak that primary language

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is equal to at least 10 percent of the total statewide enrollment in K-12 public schools.

c. Prohibits funds appropriated for supplemental services from being used to supplant district general fund support for ELs.

23. Prohibits Waivers. Specifies that the State Board of Education cannot exercise its authority to waive any of the provisions of this Article.

#### Comment

1. School District Flexibility. By reinstating some of the provisions of the inoperative law, this bill provides school districts more flexibility in designing a bilingual education program. The bill contains language referring to its general purposes and declaring that these policies are based on federal and case law in order to provide protection of student rights and assurance that adequate services will be provided. However, opponents indicate that these references are not specific enough or sufficiently comprehensive to cover all requirements currently enforced by the State Department of Education and essential for the continuation of program services for English Learners.

It is the express intent of the author to allow more district discretion in providing services for ELs, but opponents indicate that they fear school districts will use this flexibility to ignore the academic needs of English Learners.

2. Use of Pupil's Primary Language in Instruction. Both provisions of the inoperative law that indicate the general purposes of the bilingual education program and the revised State Board of Education's policy statement on service to ELs include specific reference to "equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language." This bill does contain the reference to "equal opportunity for academic achievement," and contains a few references to primary language instruction, but not in the statement of the primary program purpose.

The opposition notes that, not only is this reference missing in the general purposes, but also that the absence of specific provisions for appropriate methodology and program components that exist in the inoperative law reinforces their concern that primary language instruction will disappear from district

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program offerings.

3. **Exclusive Policies.** The bill specifies in Section 52160.2 that these policies are the exclusive policies for English Learners. This language could be interpreted to mean that the State Board of Education's policy statement must be disregarded. However, it is the State Board's policy statement that should be made consistent with this bill, should it pass.
  
4. **Unresolved Issues in Bilingual Education.** Although numerous issues related to bilingual education have been resolved in discussions on this bill, a few remain unaddressed, including:
  - a. Evaluation of the Effectiveness of the Bilingual Education Program
  - b. A Longitudinal Study of the Progress and Achievement of English Learners
  - c. Assurance of Instructional Services for English Learners Unserved by Any Bilingual Services
  
5. **Status of Research.** Numerous research studies of bilingual education have been conducted over the past thirty years. These studies are consistent in documenting that high quality bilingual programs are effective in (1) teaching English learners the English language and (2) allowing students to access the core curriculum. Recent studies continue to show acquisition of academic English (defined as a sufficiently complex knowledge and understanding of the English language to succeed academically within an all English environment on par with comparable English speaking students) requires four to seven years of study. This research also shows that students provided with native language support and transitional programs continue to excel academically at a more rapid pace than students who are quickly transitioned into regular English-only classrooms with minimal or no native language assistance.

The issues that continue to spark debate are whether those bilingual programs that are unable to meet the programmatic and staffing requirements of the highest quality are more beneficial than those programs which focus on rapid English acquisition. There are reports which advocate for an English-only or rapid transition approach based on anecdotal evidence. It is important to note however, that no research using sound methodology appears to exist which shows that English instruction or rapid transition to English-only instruction is superior to bilingual education.
  
6. **Independent Analysis.** Prior to the sunset date of January 1, 2007, the Legislature should have an independent analysis of the outcome anticipated by this bill.

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Related Legislation

AB 2310 (Firestone and Alpert) of 1996 was similar to this bill. It died in the Senate Appropriations Committee.

SB 2138 (Greene) of 1996 was also similar to this bill. It was refused adoption in the Senate Appropriations Committee where it was sent from the Senate Floor due to a Rule 29-10 violation.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes  
Local: Yes

Fiscal Impact (in thousands)

Major Provisions	1997-98	1998-99	1999-00 Fund
CDE & SBE Administration	--	\$440	
\$440 General			
Test Development	\$800*	--	--General
LEA Mandate			
Pupil Assessment	--	\$15,000	
\$15,000 General*			
Parent Notification	--	\$1,000	
\$1,000 General*			
Advisory Committees	--		
-----Unknown-----			-----General*

\*Costs count towards the Proposition 98 guarantee

The bill specifies it shall be funded from redirected EIA, subject to future Budget Act appropriations. 1997-98 Department of Education costs of \$800,000 are included in the Senate Budget.

SUPPORT: (Verified 6/3/97)

- Association of California School Administrators (ACSA)
- California PTA
- California Teachers Association (CTA)
- Escondido Union High School District
- Little Hoover Commission
- Small School District's Association

OPPOSITION: (Verified 6/3/97)

- Alliance of California Taxpayers & Involved Voters
- American Federation of State, County and Municipal Employees

- Asian Pacific American Legal Center of Southern California
- California Association for Bilingual Education
- California Coalition of Hispanic Organizations
- California English Campaign
- California Federation of Teachers
- California Rural Legal Assistance Foundation

Claremont Graduate School  
Coalition of Labor-Agriculture-Business; Aptos, California  
Coalition to End Native-Language Bilingual Education  
East Palo Alto Community Law Project  
Educational Empowerment Program, Centro Legal de La Raza  
Equal Rights Advocates  
Legal Advocates for Children and Youth  
Legal Aid Society of San Francisco  
Legal Services of Northern California  
M.E.Ch.A. (Movimiento Estudiantil Chicano de Aztlan)  
Northern Region  
M.E.Ch.A., California State University, Sacramento Chapter  
Mexican American Legal Defense and Educational Fund  
(MALDEF)  
Multicultural Education, Training and Advocacy, Inc. (META)  
Protection and Advocacy, Inc.  
Sacramento City Unified School District  
Santa Clara County Bar Association Foundation; Legal  
Advocate for Children and Youth  
Servicios Hispanos (SHS)  
Woodland Joint Unified School District  
Numerous individual letters

ARGUMENTS IN SUPPORT: Proponents argue that as it relates to bilingual education, school districts need more flexibility and parents need more choice. They state that the one conclusion that can be drawn from a variety of academic studies on the topic is that a variety of approaches work depending on implementation, demographics, and resources. They argue the district is in the best position to make that determination. (See Comment section for additional discussion.)

ARGUMENTS IN OPPOSITION: Opponents argue the bill (1) fails to guarantee the appropriate assessment of LEP students, (2) fails to ensure that school districts will use the most effective means of providing LEP students equal access to the core curriculum, including, when necessary, primary language instruction, (3) codifies English immersion as an appropriate methodology and (4) provides little accountability. (See Comment section for additional discussion.)

NC:s1 6/5/97 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE  
\*\*\*\* END \*\*\*\*

Date of Hearing: August 27, 1997

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Carole Migden, Chairwoman

SB 6 (Alpert) - As Amended: 7/21/97

Policy Committee: Education

Vote: 13 - 4

Urgency: No State Mandated Local Program: Yes Reimbursable:  
Yes

SUMMARY

This bill repeals the inoperative provisions of law governing bilingual education and replaces it with the Firestone-Alpert English Learners Education Reform Act of 1998. Specifically, the bill:

1. Requires school districts to determine the type of instructional services to accomplish the goals of English language development and academic achievement, as specified. The bill specifies the program adopted by the school district shall maintain compliance with any requirements mandated by federal law for purposes of ensuring continued federal financial assistance.
2. Requires each school district in which English learners are enrolled to establish procedures and criteria, as specified, for the reclassification of English learners as English-proficient pupils, under regulations adopted by the State Board of Education (SBE).
3. Requires assessment of language skills of all pupils whose primary language is not English. In addition, the bill requires a further assessment be made to determine the pupil's primary language proficiency, as specified. The assessment would utilize the appropriate tests developed by the State Department of Education (SDE), and recommended for approval by the SBE.
4. Requires school districts to annually assess the academic skills of each English learner, presumably in the pupil's primary language if necessary, to the extent assessment instruments are available at each grade level.
5. Requires the SDE to develop, once a statewide test of applied academic skills is fully operational, versions of the

- continued

assessment instruments in the major primary languages spoken by English learners in California.

6. Provides for parental rights to withdraw their pupil from the program, as specified.
7. Requires the SDE to approve pupil performance standards for English learners, for use by school districts as models. The standards are required to be as academically rigorous as standards for all other students. Requires each school district to develop a plan for meeting pupil performance standards for English learners.
8. Requires school districts to report to the SDE various information, including the number of pupils in the district who were formerly assessed to be English learners who have met the language reclassification criteria established and have been reclassified as English proficient, as specified.
9. Requires SDE to review the plans and progress reports of 100 school districts, as specified, in order to advise school districts of potential problems the school districts shall consider in reviewing and revising their school program plans.
10. Establishes a sunset date of January 1, 2007.
11. Specifies conditions for enactment of the bill: (a) funding is provided for modification or development of a statewide English language development test; and (b) funding is provided to develop versions of tests approved by the SBE for the pupil testing incentive program, in languages other than English if the number of English learners who speak a language is equal to at least 10 percent of the statewide K-12 public school enrollment.

FISCAL EFFECT

1. GF costs, projected to be in excess of \$1.5 million, to the SDE for: (a) development and adoption of appropriate academic and primary language assessment instruments; (b) academic standards development, as specified; and (c) on-going review of school district plans and programs, as specified. These costs would decline to approximately \$750,000 annually thereafter.
2. Out-year GF (Proposition 98) costs to school districts, projected to be at least \$13 million, to assess academic skills, as specified, under the Pupil Testing Incentive Program.

- continued

3. Unknown annual GF (Proposition 98) costs, potentially in the millions, to school districts to the extent existing levels of federal and state funding do not adequately fund all other requirements of this bill.

COMMENT

Bilingual education in California was formerly governed by the Chacon-Mascone Bilingual-Bicultural Act of 1976. On June 30, 1987, the bilingual education program, along with several other categorical programs, became subject to the state's "sunset" provisions. Under the sunset laws, the statutory provisions governing bilingual education expired, while funding for the program continued for the program's "general purposes." By regulation, the State Department of Education requires school districts to meet the general intent provisions of the former Chacon Act.

- continued

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Date of Hearing: July 9, 1997

ASSEMBLY COMMITTEE ON EDUCATION  
Kerry Mazzone, Chair

SB 6 (Alpert) - As Amended: July 2, 1997

SENATE VOTE: 25-11

SUBJECT: Education programs for English learners.

SUMMARY: Repeals existing sunsetted law governing bilingual education and replaces it with the Firestone-Alpert English Learners Education Reform Act of 1998. This act a) requires districts to develop plans for educating English learners and provides them with flexibility to do so, b) requires the State Board of Education (SBE) to establish rules and regulations governing the education of English learners, c) requires the development of a statewide English language development test, d) establishes reporting requirements and accountability mechanisms for districts and the State Department of Education (SDE), e) requires a statewide evaluation of instructional methodologies, and f) makes various other related provisions. Specifically, this bill:

## GOALS AND PURPOSES OF THE ACT

- 1) Requires that all programs operating pursuant to this act:
  - a) Develop fluency in English in each child, as effectively and efficiently as possible;
  - b) Develop children's academic skills in the core curriculum;
  - c) Provide positive reinforcement and self-confidence in participants;
  - d) Promote crosscultural understanding; and
  - e) Provide each pupil with the opportunity for academic achievement.
- 2) Establishes the following goals for all programs operating pursuant to this act:
  - a) Developing proficiency in English to ensure timely transition into the regular school curriculum;
  - b) Providing all pupils with equal opportunity for academic achievement;

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- c) Enabling pupils to acquire the knowledge necessary to successfully compete in the work force and to actively participate in a democratic culture; and
- d) Recognizing the rich cultural and linguistic diversity that English learners contribute to California.

## FLEXIBILITY TO DISTRICTS IN DESIGNING PROGRAMS

- 1) Requires school districts to design a program for serving English learners which is based on a sound and legitimate educational theory. Requires districts to consult with the district advisory committee and consider the following when designing a program:
  - a) The number of languages spoken in the district;
  - b) The percentage of pupils who speak each language;
  - c) The cultural, socioeconomic, and educational background of pupils;
  - d) The educational preferences of the parents; and
  - e) The number, experience and training of the district's teachers that provide instructional services to English learners.
- 2) Requires districts to ensure that each school has services, policies and resources to effectively implement the chosen program.
- 3) Requires districts to ensure that pupils participating in the chosen program are making progress in overcoming language barriers, as measured by ongoing assessments, and requires them to revise their programs to achieve this goal.
- 4) Requires districts to provide daily instruction in English language development, appropriate for pupils' individual levels of English proficiency. Prohibits programs from resulting in the isolation or segregation of pupils.
- 5) Requires the Superintendent of Public Instruction (SPI) to develop a variety of materials regarding model programs and research results and make these available to districts to assist them in developing programs.
- 6) Requires districts to comply with federal law regarding services for English-learners.

- 7) Establishes legislative declarations and findings that "submersion" is not a sound educational theory. Defines "submersion" as a program in which English learners receive no assistance in developing English language skills.

#### ROLE OF STATE BOARD OF EDUCATION

- 1) Requires SBE to adopt the following regulations and guidelines for districts, within 120 days that this act takes effect:
  - a) Guidelines for districts in determining the number of English learners and their classification;
  - b) Guidelines and procedures for districts in carrying out the annual language census of English learners;
  - c) Guidelines for districts in determining when it is appropriate for pupils to be reclassified as English learners and participate in classes for pupils whose native language is English;
  - d) Performance levels on the English language development test that indicate that a pupil cannot benefit solely from instruction conducted solely in English, (i.e., that a district must provide some primary language support);
  - e) Criteria to determine which districts fail to have their English learners make progress toward statewide pupil performance standards; and
  - f) Procedures for parents to appeal districts' determination of their children's fluency in English.

#### SCHOOL AND DISTRICT ADVISORY COMMITTEES

- 1) Requires districts with more than 50 English learners to establish school district advisory committees to advise districts on matters relating to instructional services for English learners. Requires parents or guardians of English learners to constitute a majority of the committee. Allows subcommittees of existing district advisory committees to serve in this capacity if parents of English learners constitute a majority of the subcommittee and are represented on the existing advisory committee in at least the same proportion as English learners are to the district's total pupil population.

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- 2) Requires schools with more than 20 English learners to establish school advisory committees to advise the school administration on matters relating to instructional services for English learners. Requires parents or guardians of English learners to be represented in at least the same proportion as English learners are to the school's total pupil population. Allows subcommittees of existing school advisory committees to serve in this capacity, if they meet the above representation criteria. Requires these advisory committees to do the following:
- a) Assist school administration in developing the master plan, school needs assessment and language census;
  - b) Explain to parents of English learners the value of instructional services provided to their children; and
  - c) Inform parents of English learners of where they may enroll in adult education courses for adult English learners.
- 3) Requires districts to provide training and necessary support services to the school and district advisory committees.

**ASSESSMENT OF ENGLISH LANGUAGE DEVELOPMENT AND PROFICIENCY (ANNUAL LANGUAGE CENSUS OF ENGLISH LEARNERS)**

- 1) Requires SBE to award a contract to develop a test or modify an existing test, to serve as the statewide English language development test. Requires SBE to appoint a panel of experts to review the test and propose changes, if necessary. Requires the Superintendent of Public Instruction (SPI) to review different English language development tests and make recommendations to SBE. Requires SDE to distribute the test developed by SBE to all districts.
- 2) Requires school districts to determine all pupils' primary language at the time of enrollment, using the English language development test provided by SDE. Requires districts to assess the comprehensive speaking skills of English learners in grades kindergarten through 12, and assess the comprehensive reading and writing skills of those in grades 3 through 12. Requires districts to determine primary language only once, unless the results are disputed by a parent or guardian.
- 3) Requires districts to further assess, within 60 days of enrollment, those who are clearly identified as English learners, to determine their level of speaking, comprehension, reading and writing skills in their primary language. Requires

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districts to use SBE-approved tests for this purpose. Allows districts to provide a curriculum other than one based on the student's primary language if this further assessment indicates that the pupil's basic skills in his or her primary language are minimal.

- 4) Requires that people carrying out the above requirements be adequately trained and prepared to evaluate cultural and ethnic factors.
- 5) Requires SDE to annually review the results of the annual language census data submitted by districts. Requires SDE to audit districts' data if it appears to be inaccurate or if SDE receives a formal written complaint from parents, teachers or counselors that the data is inaccurate.

#### PARENTAL NOTIFICATION AND RIGHTS

- 1) Requires districts to provide parents an opportunity for consultation regarding districts' recommendations for instructional services for English learners, within 30 days that the district receives the results of the English language development assessment. If parents request such a consultation, districts must make a reasonable effort to communicate in the parents' primary language.
- 2) Requires districts to notify parents, in writing or in person and in English and the parents' primary language, of their child's results on the English language development test, of the instructional services recommended for their children, of the parents' right to a consultation, of their rights regarding their pupil's instruction (see following), and of the opportunity to participate in school or district advisory boards regarding instruction for English learners.
- 3) Gives parents the right to object to the instructional services offered to their children who are English learners and allows them to request other instructional services. Provides parents with the right to terminate any instructional services provided to their children or withdraw their children from any program for English learners, if they provide notice in writing.
- 4) Allows districts to deny parents' requests to withdraw their children any program for English learners, if the withdrawal would violate any court-ordered or voluntary desegregation plan which applies to the district. Under such a denial, the burden of proof as to the merits of the denial rests with the district.

#### CRITERIA FOR RECLASSIFICATION OF PUPILS AS ENGLISH SPEAKING

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- 1) Requires districts to establish their own procedures and criteria for reclassifying English learners and English proficient, provided they follow SBE regulations regarding reclassification and include the following criteria:
  - a) Evaluation by the teacher;
  - b) Objective assessment of pupils' language proficiency and reading and writing skills, using the English language development test developed by SBE and provided by the State Department of Education (SDE);
  - c) Parental opinion and consultation;
  - d) An empirically established range of performance in basic skills, based on English-proficient pupils of the same age; and
  - e) Objective assessment of pupil performance as compared with performance standards set by SBE.
- 2) Prohibits districts from including funding considerations in their decisions to reclassify English learners. (Because districts receive Economic Impact Aid based on the number of pupils classified as "limited-English-proficient", a reduction in the number of pupils labeled limited-English-proficient leads to a reduction in Economic Impact Aid funds.)

#### ACADEMIC ASSESSMENT AND PUPIL PERFORMANCE STANDARDS FOR ENGLISH-LEARNERS

- 1) Requires SDE to approve performance standards for English learners that are identical to the statewide academically rigorous content and performance standards. Requires SDE to make recommendations to SBE regarding criteria to determine whether English learners are meeting the state standards.
- 2) Requires districts to assess the academic skills of English learners on an annual basis, in order to compare pupils' performance with pupil performance standards and to determine how the methods of instruction for English learners might be modified. Districts may assess pupils in their primary language or in English, as appropriate.
- 3) Requires districts to test English learners at the same time they test native English speakers under the pupil testing incentive program. Requires SBE to provide any test approved for use under this program in any language for which the statewide population of English learners speaking that language is at least 10% of the total statewide K-12 population.

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length of time in instructional program, and whether the pupils receive free or reduced price lunches;

- e) The criteria for reclassification adopted by the district; and
- f) The number of teachers providing instructional services to English learners.

2) Requires SDE to report the above data to SBE.

#### SDE REPORTING AND EVALUATION REQUIREMENTS

- 1) Requires the SPI to provide the Legislature with an annual report containing the data provided by districts (see above), summarized by district.
- 2) Requires SDE to report the following to the Legislature by January 1, 1999:
  - a) The status of any assessment changes needed to implement this act and SDE's progress in implementing these changes;
  - b) Any assistance SDE has provided to districts in implementing necessary assessment changes; and
  - c) Summary of annual reports regarding the number of English learners reclassified as English speaking.
- 3) Requires SDE to contract for a comprehensive evaluation of methodological instructional approaches and their longitudinal outcomes for English learners. Requires SDE to submit an interim report to the Legislature by January 1, 2004 and a final report by November 1, 2005. Requires the Legislative Analyst and the Department of Finance to serve in an advisory capacity to SDE in overseeing the evaluation. Establishes legislative intent that the evaluation be conducted only if funding is made available through the annual Budget Act.

#### PROGRAM REPEALS

- 1) Repeals existing sunsetted law governing bilingual education and services for English learners.
- 2) Nullifies all existing standards imposed by SDE regarding bilingual education program requirements.

#### CONDITIONS FOR ENACTMENT

- 1) Requires the following funding provisions to be met in order

for this act to become operative:

- a) Funding is provided for the modification or development of a statewide English language development test; and
- b) Funding is provided to develop versions of tests approved by SBE for the pupil testing incentive program, in languages other than English if the number of English learners who speak a language is equal to at least 10 percent of the statewide K-12 public school enrollment.

FUNDING

- 1) Establishes legislative intent that this act shall be supported from existing federal and state funds, including Economic Impact Aid funding that school districts receive for English learners.
- 2) Prohibits districts from using funding provided for supplemental services for English learners to supplant districts' general funds, including funding for categorical programs.

SUNSET DATE

Establishes that the act created by this bill shall become inoperative on January 1, 2007.

EXISTING LAW:

- 1) Existing law governing bilingual education in California has been inoperative, or "sunsetting" since 1987. However, the law is still contained in the Education Code as the Chacon-Moscone Bilingual-Bicultural Education Act of 1976. (When it was operative, it required districts to provide particular instructional methods, including primary language instruction, based on the number and distribution of English learners in the district and schools.) Current law requires school districts to provide services to English learners based on eight general principles of the sunsetted law:
  - a) Provide in-service training to teachers and administrators;
  - b) Develop in each child fluency in English;
  - c) Provide positive reinforcement of the self-image of pupils;
  - d) Promote crosscultural understanding;



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- e) Option #5 -- Waiver of Primary Language Instruction. Allows districts that are unable to provide primary language instruction to English learners to apply for a one-to-two-year general waiver, and requires them to implement staffing plans and the alternative instructional program in the meantime.
- f) Option #6 -- Small or Scattered Distributions. Allows districts with less than 50 English learners district-wide and no more than 20 English learners at any one school, to develop alternative programs to serve these English learners.

**FISCAL EFFECT:** The Senate Appropriations Committee estimates that it will cost approximately \$800,000 to develop the English language development test, and \$440,000 annually for SDE and SBE to administer this act. It estimates that the assessment requirements will create mandated costs of approximately \$15 million annually and that the parental notification mandate will cost approximately \$1 million annually.

**COMMENTS:**

**Related Legislation:** AB 36: In the current session, the Legislature considered AB 36 (Firestone), which is similar to this bill. The bill failed to gain the approval of the Assembly Education Committee. While the bill is similar to this bill, there are the following differences: a) **GOALS:** AB 36 establishes that the primary goals of all programs is to develop fluency in English, while SB 6 places fluency in English and development of academic skills on equal par; b) **INSTRUCTIONAL METHODS:** SB 6 contains slightly more specification regarding districts' programs; c) **ACCOUNTABILITY:** SB 6 requires SBE's approval of any revisions in the year 2002 and allows SBE to make changes, while AB 36 only requires districts to submit their revised plans to SBE; d) **STATEWIDE EVALUATION:** SB 6 requires that SDE contract for an evaluation of instructional methods and their effects on longitudinal outcomes; e) **BILINGUAL TEACHER TRAINING PROGRAM:** AB 36 makes various changes to statute governing the Bilingual Teacher Training Program.

**Other related legislation.** In the current session, the Legislature is also considering SB 91 (Solis), AB 748 (Escutia), AB 861 (Ducheny), and AB 1206 (Martinez). SB 91 replaces existing inoperative law with a new reform act. It failed to gain the approval of the Senate Education Committee. The Senate is still considering the remaining Assembly bills. AB 748 requires the state to develop an English language development test and requires the state to develop pupil performance standards for English







instruction (instruction in English with the necessary support services in the academic curriculum), which does not ensure that students comprehend the instruction, (which leads to poor academic performance), and which has proven to be the least effective way

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to transition pupils to English. Furthermore, it has a weak accountability structure. (Some of the opponents oppose SB 6 because it allows primary language instruction.)

REGISTERED SUPPORT / OPPOSITION: (as of 7/5/97)

#### Support

Little Hoover Commission  
California Teachers Association  
Association of California School Administrators  
Magnolia Elementary School District  
Small School Districts' Association  
California Congress of Parents, Teachers, and Students, Inc.  
Escondido Union High School District  
California Schools Boards Association

#### Opposition

California Federation of Teachers  
Alliance of California Taxpayers and Involved Voters  
Immigration Control Advocates of Northern California  
Woodland Joint Unified School District  
REBILLED: Committee to Reform Bilingual Education  
Mexican American Legal Defense and Education Fund  
Sacramento City Unified School District  
Legal Advocates for Children and Youth, Santa Clara County Bar  
Association Law Foundation  
Legal Services of Northern California  
East Palo Alto Community Law Project  
Servicios Hispanos  
The Claremont Graduate School  
California Coalition of Hispanic Organizations  
Equal Rights Advocates  
Coalition to End Native-Language Bilingual Education  
Chicano Federation of San Diego County, Inc.  
California Association for Bilingual Education  
Centro Legal de la Raza  
California English Campaign  
California Labor Federation, AFL-CIO  
Numerous individuals

Analysis prepared by: Leonor Ehling / aed / (916) 445-9431

TO: ELENA KAGAN  
MICHAEL COHEN

CC: MARIA ECHAVESTE  
JANET MURGUIA  
MICKEY IBARRA  
CRAIG SMITH

FROM: KAREN SKELTON

DATE: NOVEMBER 12, 1997

SUBJECT: BILINGUAL EDUCATION AND CALIFORNIA POLITICS

### OVERVIEW

The "English for the Children" initiative, sponsored by Republican and former gubernatorial candidate Ronald Unz, is planned for the June 1998 ballot. The initiative would move California's 1.4 million non-English proficient students from "bilingual education" classes into an intensive program of "sheltered English immersion." Bilingual education would remain an option for parents who specifically request it through a waiver. Supporters and opponents both agree that the measure would essentially end bilingual education in California, and probably spark a move to do the same nationwide.

Half of the children in America who are classified as "nonproficient" in English live in California. Most of these students come from Spanish-speaking homes. California spends approximately \$300 million annually on bilingual education.

The question of whether to abolish bilingual education for these mostly Latino children is a politically charged question in California. The initiative is California's third potentially divisive "race" initiative in 4 years. In 1994, Proposition 187 barred public benefits for illegal immigrants. In 1996, Proposition 209 ended affirmative action.

### THE POLITICS

The gut reaction of most Californians is that public school instruction should be conducted in English. Most people--Hispanic, Caucasian, Republican and Democrat--want kids to learn English as early as possible by the most effective means possible. Eleven years ago, Californians resoundingly approved a measure making English the state's official language.

The recent Los Angeles Times poll reflects this basic sentiment. The poll asked all registered voters whether they would vote for or against an initiative "*that would require all public school instruction to be conducted in English and for students not fluent in*

***English to be placed in a short-term English immersion program.***” The poll found 75 percent to 80 percent support for the initiative among every single voting group in the state. Liberals support it 2-to-1. Latino voters support the initiative by a ration of 84 percent to 16 percent. Latino parents, like other parents, want their children to learn English and prefer that their children’s courses be taught in English.

People disagree on the best way to achieve that result, or whether there’s one best way in all circumstances. Nobody thinks it is bad for students to be bilingual. People disagree on whether bilingual education is achieving that goal, or leaving students “limping along in both, masters of neither.”

Under the best circumstances, the “English for Children” initiative will provoke a healthy debate on the merits of bilingual education in California. But, that is unlikely. Even though many Latinos may privately feel bilingual education has failed, they and other voters may be reluctant to attack such a “sacred cow.”

The success of this initiative will depend more than anything else on the language in which it is framed. If the initiative is framed as anti-immigration, anti-affirmative action, anti-Latino, then Latinos are likely to fight against what they perceive to be “another racist campaign.” Given the history of Propositions 187 and 209, it is likely this initiative will devolve into nasty hand-to-hand combat over race.

The divisive political rhetoric is heating up on both sides. The initiative’s supporters declare it is “shameful that so many politicians continue to support a program which they realize does not work.” Opponents of the initiative call it “anti-Latino racism.”

At this time, most elected officials have not taken a position, but the line-up is taking shape. Last week, the California Teacher’s Association came out against the Initiative. On November 23, the United Teachers of Los Angeles will vote. Both sides have signed up endorsements that signal a tough fight ahead: Latino teachers say they support the initiative and a few Republican State Legislators say they oppose it. (See attached list)

## **CONCLUSION**

It does not make political sense for us to take a position on the initiative at this time.

First, we must assume for now that the Unz initiative is going to pass by a large margin, and it would take huge money to defeat it. Second, this initiative raises a California state issue that begs the question of federal “meddling.”

Third, a popular Democratic President’s opposition to the initiative will entice Governor Wilson, who has remained silent, to oppose the President and support the initiative. Other Republicans will follow Wilson’s lead. We are then in the position of a sitting President fighting a sitting Governor over a California issue. We do not want this.

Fourth, a Presidential position at this point could adversely effect the 1998 elections in California. Given the presumed popularity of the initiative, we may assume that Democratic candidates in the State may support it. If the President opposes the initiative,

it may cause a political disagreement between the Democratic President and Democratic candidates, and thus give the Republicans a "wedge" issue they'll readily exploit. If the President supports the initiative, he risks alienating "base voters" who the Democratic primary candidates must capture for a win. Thus, the President's least risky position in terms of the 1998 elections is to allow the candidates to make their own political determinations independent of the President.

Fifth, the State Legislature is considering drafting bi-partisan legislation which strikes a compromise between the Unz initiative and the position taken by the California Teacher's Association. The legislation may be drafted by January. Our involvement any earlier will ensure negotiations collapse.

### **RECOMMENDATION**

1. Keep the powder dry. Avoid knee jerk reactions. Do not get involved in the heated political rhetoric over the initiative. Wait for State Legislature's compromise.
2. Stay on the Offense. Unpack this issue and go back to what is at stake. Take a position that supports education for the 21st Century: bilingual graduates (however we get there), computers in the schools, local school flexibility.
3. Consult with gubernatorial candidates, Hispanic Caucus, Asian and Hispanic leaders, unions, and educational groups before making any decision on the initiative.
4. If we oppose the initiative, plan to spend a great deal of money to win.

## CURRENT POLITICAL ARGUMENTS

### ARGUMENTS USED TO SUPPORT THE INITIATIVE (To Abolish Bilingual Education)

- “Bilingual education” is a failed program.
  - The number of students classified as “limited English proficient” has more than doubled since 1982.
  - The number of students reclassified as “English proficient” has remained flat. Only 5% of students graduate to proficiency in a given year.
  
- Bilingual Education does not work if it is not done right, and California cannot do bilingual education right.
  - Only a third of supposedly bilingual classes are taught by credentialed bilingual teachers.
  - California schools have been trying to recruit and train more bilingual teachers for 25 years.
  - Class-size reduction has made the teacher shortage even more acute.
  - California can’t offer a high-quality bilingual program to more than a small number of students - - estimated at about 10% of English learners.

### ARGUMENTS USED TO OPPOSE THE INITIATIVE (Save Bilingual Education)

- Initiative would virtually end bilingual education.
- Initiative Process is poorly designed for dealing with complex education issues.
- Initiative removes flexibility from local schools over educational decisions.
- Initiative exposes teachers and other educators to personal liability lawsuits.

## POLITICAL LINE-UP

### SUPPORT INITIATIVE

- Ron Unz, Silicon Valley Republican, former gubernatorial candidate, and author of the initiative
- Gloria Matta Tuchman, Latina school teacher from Santa Ana and co-author
- Jaime Escalante, Latino calculus teacher whose success with inner-city kids was the basis of the movie "Stand and Deliver."
- Fernando Vega, past City Councilman and School Board Member, worked on Clinton-Gore 1992 campaign.
- Mayor Richard Riordan ✓
- Darrell Issa, Republican Senate Candidate opposing Senator Boxer

### OPPOSE INITIATIVE

- California Teachers Association
- MALDEF (Antonia Hernandez)
- Association of Latino Elected and Appointed Officials (Arturo Vargas)
- State Assemblyman Bill Leonard, Minority Leader
- State Assemblyman Rod Pacheco, only Republican Latino Assemblyman
- California Association of Bilingual Education
- U.S. Senator Barbara Boxer ✓

### NO POSITION YET

- California Federation of Teachers
- California Association of School Boards
- U.S. Senator Diane Feinstein
- PTA
- Lt. Governor Gray Davis (Democratic candidate for Governor in 1998) ✓
- Atty. General Dan Lungren (Republican candidate for Governor in 1998)
- Delaine Eastin, Supervisor of Public Instruction ✓
- Speaker Cruz Bustamante
- Assemblyman Antonio Villaregosa
- Supervisor Gloria Molina

### ALTERNATIVE VIEW

- Democrat Al Checchi opposes the initiative but thinks bilingual education has failed. He favors intensive language schooling of 3 and 4 year olds who do not speak English. Separate provisions would be made for students who are older when they arrive in California schools.

California Department of Education  
Complaints Management & Bilingual Compliance

LEP Program Guide

## BASES FOR STATE LEP PROGRAM LEGAL REQUIREMENTS

### I. FEDERAL LAW

#### A. U.S. Constitution: Fourteenth Amendment -- Due Process and Equal Protection Clauses

No State shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

#### B. Lau v. Nichols

In Lau v. Nichols (1974), the United States Supreme Court held that San Francisco's failure to provide supplemental English language instruction to 1,800 students of Chinese ancestry violated Title VI of the Civil Rights Act, 42 U.S.C. section 2000d. The Court stated that those students were thus denied a meaningful opportunity to participate in the public educational program.

#### C. Equal Educational Opportunities Act: 20 U.S.C. § 1703(f)

This statute recognizes the state's role in assuring equal educational opportunity for national origin minority students. It declares:

"No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by --

\*\*\*\*

"(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs."  
(Emphasis supplied.)

#### D. Major Federal Cases Interpreting Section 1703(f)

The Department relies on three major federal cases which have interpreted Section 1703(f): Castañeda v. Pickard (5th Cir. 1981) 648 F.2d 989, Gómez v. Illinois State Bd. of Educ. (7th Cir.) 1030, and Keyes v. School Dist. No. 1 (D.Colo. 1983) 576 F. Supp. 1503. The most important portions of each of these three cases are quoted below:

##### 1) Castañeda v. Pickard:

"In a case... in which the appropriateness of a particular school system's language remediation program is challenged under § 1703(f). ... the responsibility of the federal court is threefold. First, the court must examine carefully the evidence the record contains concerning the soundness of the educational theory or principles upon which the challenged program is based.... The court's second inquiry would be whether the programs and practices actually used by a school system are reasonably calculated to implement effectively the educational theory adopted by the school.... Finally, ... [if a school's program, although premised on a legitimate educational theory and implemented through the use of adequate techniques, fails, after being employed for a period of time sufficient to give the plan a legitimate trial, to produce results indicating that the language barriers confronting students are actually being overcome, that program may, at that time, no longer constitute appropriate action as far as that school is concerned." (Castañeda, at pp. 1009-1010.)

"In order to be able ultimately to participate equally with the students who entered school with an English language background, the limited English speaking students will have to acquire both English language proficiency comparable to that of the average native speakers and to recoup any deficits which they may incur in other areas of the curriculum as a result of this extra expenditure of time on English language development." (Id. at p. 1011.)

\*\*\*\*

"As in any educational program, qualified teachers are a critical component of the success of a language remediation program. A bilingual education program, however sound in theory, is unlikely to have a significant impact on the language barriers confronting limited English speaking school children, if the teachers charged with day-to-day responsibility for educating these children are termed 'qualified' despite the fact that they operate in the classroom under their own unremedied language disability. The use of Spanish speaking aides may be an appropriate interim measure, but such aides cannot, [the district] acknowledges, take the place of qualified bilingual teachers." (Id. at p. 1013.)

2) Gómez v. Illinois State Bd. of Educ.:

Section 1703(f) "requires that state, as well as local, educational agencies ensure that the needs of LEP children are met." (Gómez at p. 1043.)

\*\*\*\*

"Exactly what state educational agencies must do beyond establishing the minimums for the implementations of language remediation programs and enforcing those minimums is not at issue in the instant appeal, because the plaintiffs have done no more than allege that the defendants failed even to establish the minimums needed for identifying and placing LEP children." (Id. at p. 1043.)

3) Keyes v. School Dist. No. 1:

"The key to an effective elementary bilingual classroom is the ability of the teacher to communicate with the children. Thus, if it is expected that understandable instruction will take place, there must be assurance that the teacher has the necessary bilingual skills. That is not the fact in Denver." (Keyes at p. 1516.)

## II. CALIFORNIA LAW

### A. State Constitution: Due Process and Equal Protection Clauses

"A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws...." (Article I, section 7(a).)

### B. Former State Bilingual Education Act, A.B. 507

This Act established specific bilingual program requirements for identification, instruction, staffing assignments, classroom composition, reclassification and parent involvement.

### C. California's "Sunset" Statutes

"Sunset" is defined in Education Code section 62000 as follows:

"Sunset" and "sunset date," as used in this part, mean the date on which specific categorical programs cease to be operative and Sections 62002, 62003, 62004, 62005, and 62005.5 govern program funding.

The educational programs referred to in Sections 62000.1 to 62000.5, inclusive, shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006. (Emphasis supplied.)

Accordingly, there are five "sunset" statutes which govern the bilingual education program, which "sunset" on June 30, 1987: Sections 62002, 62003, 62004, 62005, and 62005.5. Of these, the most important is Section 62002. It states:

If the Legislature does not enact legislation to continue a program listed in Sections 62000.1 to 62000.5, inclusive, the funding of that program shall continue for the general purposes of that program as specified in the provisions relating to the establishment and operation of the program. The funds shall be disbursed according to the identification criteria and allocation formulas for the program in effect on the date the program shall cease to be operative pursuant to Section 62000.1 to 62000.5, inclusive, both with regard to state-to-district and district-to-school disbursements. The funds shall be used for the intended purposes of the program, but all relevant statutes and regulations adopted thereto regarding the use of the funds shall not be operative, except as specified in Section 62002.5. (Emphasis supplied.)

When Section 62002 is applied to the intent section of A.B. 507, former Section 52161, eight "general" or "intended" purposes are located. They are:

- 1) "[The primary goal of all [bilingual] programs is, as effectively and efficiently as possible, to develop in each child fluency in English."
- 2) The program must "provide equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language."
- 3) The program must "provide positive reinforcement of the self-image of participating pupils."
- 4) The program must "promote cross-cultural understanding."
- 5) California school districts are required "to offer bilingual learning opportunities to each pupil of limited English-proficiency enrolled in the public schools."
- 6) California school districts are required "to provide adequate supplemental financial support" in order to offer such bilingual learning opportunities.
- 7) "Insofar as the individual pupil is concerned participation in bilingual programs is voluntary on the part of the parent or guardian."
- 8) School districts must "provide for in-service programs to qualify existing and future personnel in the bilingual and cross-cultural skills necessary to serve the pupils of limited English-proficiency of this state."

The other major "sunset" statute is Section 62002.5. It provides for parent advisory committees and school site councils in the following manner:

Parent advisory committees and school site councils which are in existence pursuant to statutes or regulations as of January 1, 1979, shall continue subsequent to the termination of funding for the programs sunsetted by this chapter. Any school receiving funds from Economic Impact Aid or Bilingual Education Aid subsequent to the sunseting of these programs as provided in this chapter, shall establish a school site council in conformance with there requirements in Section 52012. The functions and responsibilities of such advisory committees and school site councils shall continue as prescribed by the appropriate law or regulation in effect as of January 1, 1979. (Emphasis supplied.)

III. **OFFICE OF ADMINISTRATIVE LAW DETERMINATION** of December 22, 1994, pursuant to Government Code Section 11347.5; Title 1, California Code of Regulations, Chapter 1, Article 3, Sections 121-128.

At the request of the Little Hoover Commission, the Office of Administrative Law (OAL) provided a regulatory determination concerning certain Program Advisories issued by the California Department of Education. One of the Advisories was the Categorical Funding Sunset Advisory, dated August 2, 1987, which the Department issued to guide districts in carrying out responsibilities after the sunset of five categorical programs. One of the programs addressed in this Advisory was the *State Program for Students of Limited English Proficiency (LEP)*.

In its evaluation of the CDE Advisory, the OAL concluded that: "The Department is expressing the only legally tenable interpretation of the law or laws about which it is advising."

IV. **STATE BOARD OF EDUCATION POLICY**

On July 14, 1995, the State Board of Education (SBE) adopted a policy statement on educational programs and services for Limited-English Proficient (LEP) students. The policy statement is not binding on school districts. It is intended to guide school districts and motivate them to implement high quality language and academic programs for LEP pupils. For a complete copy of the policy, see Appendix I.

The policy acknowledges that the legal bases for the *State Program for Students of Limited English Proficiency (LEP)* are federal and state law, as well as applicable court decisions cited above. The policy also expresses the intent of the SBE to approve waiver requests relating to the general purpose requirements of former A.B. 507 where results are being or will be achieved by the applying agency.

The policy establishes two goals which the SBE urges all school districts to achieve through educational programs and services for LEP students:

- ◆ Rapid development of English language proficiency (literacy), including speaking, reading and writing.
- ◆ Opportunity to learn, including access to a challenging core curriculum and access to primary language development.

California Department of Education  
Complaints Management & Bilingual Compliance

LEP Program Guide  
(Rev. 8/97)

**STATE PROGRAM FOR STUDENTS OF  
LIMITED-ENGLISH PROFICIENCY  
1997-98**

**List of Legal Requirements**

<i>New Item</i>	<i>Description</i>	<i>Former LEP Item</i>
<b>Standards, Assessment and Accountability</b>		
I-CON3	LEP Student Redesignation to FEP	(LEP e)
<b>Teaching and Learning</b>		
II-CON12	English Language Development	(LEP 2)
II-CON13	Academic Instruction Through the Primary Language	(LEP 3)
II-CON14	Specially Designed Academic Instruction in English (SDAIE)	(LEP 4)
II-CON15	Self-Image and Cross-Cultural Understanding	(LEP 5)
<b>Opportunity (Equal Educational Access)</b>		
III-CON20a	Home Language Survey	(LEP 1a)
III-CON20b	English Language Proficiency test (30 Days)	(LEP 1b)
III-CON20c	Primary Language Proficiency test (90 Days)	(LEP 1c)
<b>Staffing and Professional Growth</b>		
IV-CON22	Adequate Qualified Teachers: English Language Development	(LEP 6)
IV-CON23a	Adequate Qualified Teachers: Primary Language Instruction	(LEP 7)
IV-CON23b	Adequate Qualified Teachers: SDAIE	(new)
IV-CON24	Adequate In-service Training for Existing and Future Staff	(LEP 8)
<b>Parent and Community Involvement</b>		
V-CON30	LEP/FEP Parent Notification (test results)	(LEP 10)
V-CON31	Parent Notification of Voluntary Program Participation	(LEP 11)
V-CON32a	School Bilingual Advisory Committee (BAC)	(LEP 12a)
V-CON32b	District Bilingual Advisory Committee (DBAC)	(LEP 12b)
<b>Governance and Administration</b>		
VI-CON35	Annual Language Census Survey Report (R30-LC)	(LEP 1d)
<b>Funding</b>		
VII-CON39a	Adequate Basic General Fund Resources	(LEP 9a)
VII-CON39b	Appropriate Use of EIA-LEP Funds	(LEP 9b)

California Department of Education LEP Program Guide  
 Complaints Management & Bilingual Compliance(Rev. 8/97)

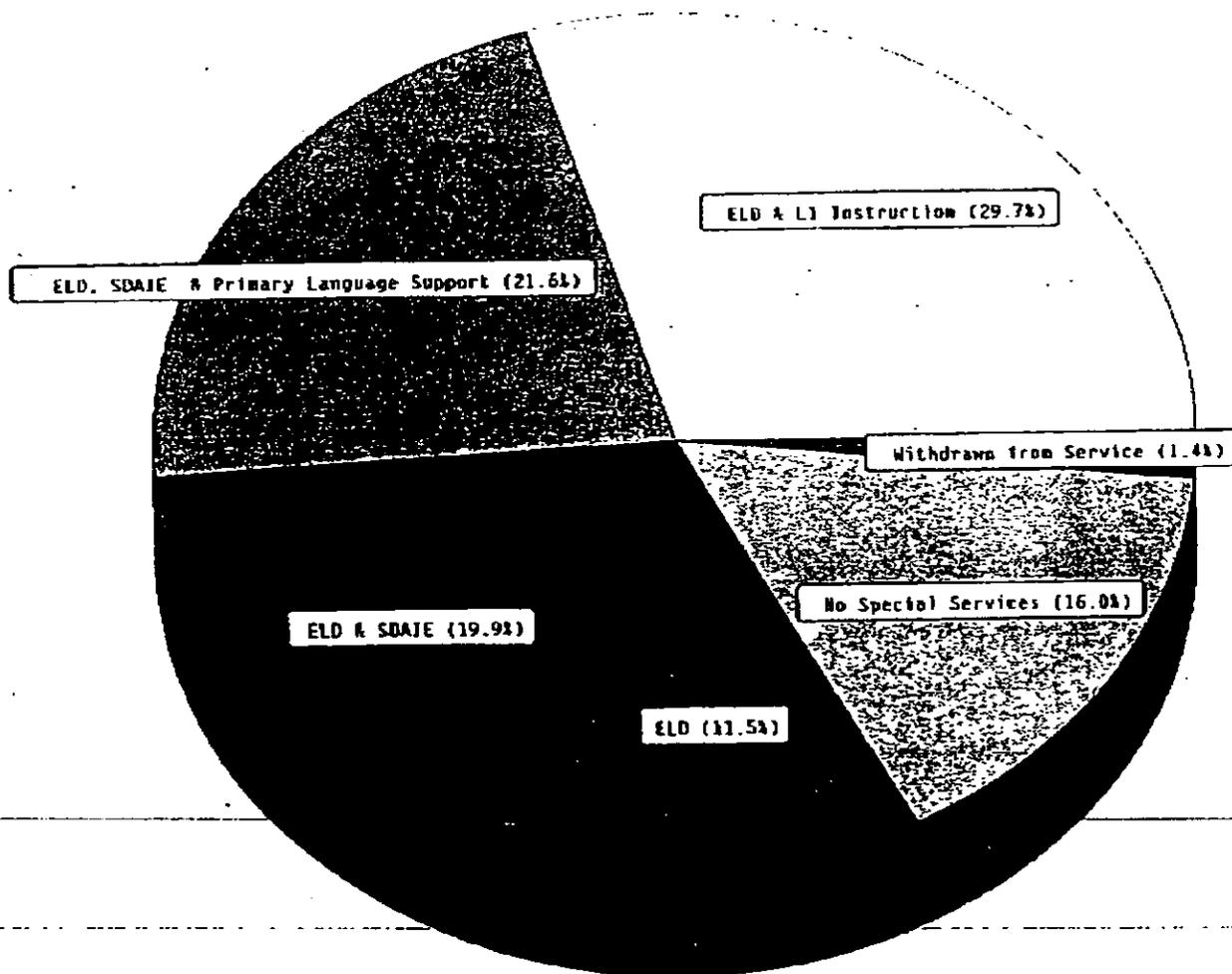
**LEP Administrative Options**

Option/Resource	Description
<p>1 - <b>Results Based Assessment of District Services to LEP Students</b>  <u>Option 1 Alternatives: Technical Standards and Recommended Practices for Development of Outcome Based Assessment of District Services to Limited-English-Proficient (LEP) Students, 1991</u></p>	<p>A district provides evidence that its program for LEP students is effective in developing their English proficiency, and in providing them equal opportunity for academic achievement. Data show that the district's program does not result in substantive academic deficits for LEP (or former LEP) students.</p>
<p>2 - <b>CTC Authorized Teachers</b>                      Commission on Teacher Credentialing</p>	<p>Districts assign CTC authorized teachers to meet all or part of the need for bilingual, ELD and SDAIE teachers.</p>
<p>3 - <b>Local Designation of Teachers</b>  <u>Technical Assistance Manual: Local Designation of Qualified Teachers - LEP Staffing Option 3 (September 1989)</u>  <u>Guidelines for Proficiency Tests (1982)</u></p>	<p>Districts may develop procedures and criteria as alternatives to CTC authorizations, and, upon approval by CDE, issue local certifications to teachers who meet established standards of competence as ELD, SDAIE or bilingual teachers.</p>
<p>4 - <b>LEP Staffing Plan and Annual Report</b>  <u>Sample Plan to Remedy the Shortage of Qualified Teachers for LEP Students (1989)</u>  <u>A Resource Guide: Plan to Remedy the Shortage of Qualified Teachers (1989)</u>  <u>Overcome Teacher Shortages for LEP Students: A Promising Practices Guide (1991)</u></p>	<p>Districts with a shortage of bilingual or ELD teachers develop a plan to remedy that shortage, and annually report to CDE on progress in the implementation of that plan.</p>
<p>5 - <b>Waiver of Primary Language Instruction</b>  <u>Sample General Waiver Request (1989)</u></p>	<p>Districts that are unable to provide the academic instruction through the primary language that some LEP students are diagnosed to require, may develop an alternative program of instruction, and apply to CDE for a one to two-year general waiver. During the time of the waiver the district continues to implement its <u>LEP Staffing Plan</u>, as well as the alternative instructional program described in the waiver.</p>
<p>6 - <b>Small or Scattered Distributions</b>  <u>Memorandum: Six Staffing and Instructional Options and CCR Implications (September 18, 1989)</u></p>	<p>Districts that enroll one or more language groups of LEP students who number no more than 50 districtwide, and no more than 20 at any one school, may participate in this option for such language group(s). The specific CCR requirements for the instructional program (II-CON12, 13, &amp; 14) and staffing (IV-CON22, 23) are not reviewed.</p>

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**ENROLLMENT OF LEP STUDENTS IN RECEIVING INSTRUCTIONAL SERVICES**

(Refer to Table 13)



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1997 TOTAL LEP = 1,381,393

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TABLE 13

Number of Limited-English-Proficient (LEP) Students Receiving Bilingual Instructional Services in California Public Schools, by Service Received, 1997

County	English Language Development (ELD)	ELD and Specially Designed Academic Instruction in English (SDAIE)	ELD and SDAIE with Primary Language Support	ELD and Academic Subjects through the Primary Language (L1)	Withdrawn from all Services	Not receiving instructional services as described in the other categories	Total LEP
Alameda	3,856	10,445	7,814	7,091	1,051	7,809	38,066
Alameda							46
Amador	30	6	4	0	0	6	3,693
Butte	542	577	1,368	467	9	730	52
Calaveras	14	0	3	0	0	35	1,335
Colusa	410	719	34	20	1	151	14,557
Contra Costa	2,849	3,491	2,372	2,989	537	2,319	348
Del Norte	209	0	108	0	18	13	1,352
El Dorado	166	146	242	422	1	375	47,334
Fresno	6,894	15,867	10,100	8,040	357	6,076	1,093
Glenn	128	180	269	350	15	151	636
Humboldt	475	22	47	50	0	42	15,383
Imperial	1,666	3,613	2,959	5,835	332	978	209
Inyo	62	0	56	61	2	26	25,466
Kern	2,797	5,531	5,862	8,730	837	1,709	3,950
Kings	645	789	985	1,214	6	311	396
Lake	70	3	77	222	3	21	96
Lassen	37	4	13	0	0	42	557,540
Los Angeles	43,889	95,382	119,097	189,120	4,670	105,482	6,133
Madera	158	1,208	833	2,550	142	1,242	2,693
Marin	743	488	534	499	33	396	11
Mariposa	0	0	3	0	0	8	1,808
Mendocino	24	147	397	610	2	628	15,854
Merced	1,153	2,648	5,449	5,493	246	865	305
Modoc	94	3	64	0	0	144	204
Mono	23	11	24	88	13	45	22,529
Monterey	3,565	3,267	2,788	10,537	162	2,190	3,457
Napa	275	1,076	165	859	25	1,057	68
Nevada	48	0	0	0	0	20	134,332
Orange	16,721	28,229	46,428	17,715	1,787	21,452	1,733
Placer	741	224	407	86	79	196	58
Plumas	0	0	0	0	0	58	52,781
Riverside	5,073	12,788	11,427	16,023	844	6,626	34,307
Sacramento	6,124	10,869	11,129	2,036	526	3,623	1,740
San Benito	52	431	195	1,024	2	36	54,644
San Bernardino	7,141	4,528	14,798	15,742	1,345	11,090	97,490
San Diego	12,529	18,941	12,832	39,363	2,114	11,711	19,673
San Francisco	5,820	2,480	0	7,699	697	3,591	23,670
San Joaquin	2,527	5,096	9,226	2,826	404	416	19,069
San Luis Obispo	351	315	475	1,199	86	1,440	16,355
San Mateo	2,964	5,533	4,404	4,514	214	2,821	56,015
Santa Barbara	1,231	3,126	1,462	7,471	244	6,021	10,445
Santa Clara	11,797	16,199	7,747	13,646	605	1,673	908
Santa Cruz	819	1,223	685	5,984	61	131	1
Shasta	190	50	510	0	17	14	142
Sierra	0	0	0	0	0	1	6,013
Siskiyou	43	52	33	0	0	14	8,191
Solano	817	1,523	662	1,133	50	1,828	16,550
Sonoma	2,236	1,026	2,030	1,947	229	724	2,998
Stanislaus	3,648	2,997	1,515	4,005	113	4,272	1,048
Sutter	940	660	137	96	49	1,116	3
Tehama	87	45	568	328	2	18	20,773
Trinity	1	0	2	0	0	0	48
Tulare	1,442	8,155	4,060	5,538	210	1,368	26,299
Tuolumne	0	6	0	7	0	35	5,351
Ventura	1,541	2,562	3,236	14,895	830	3,235	3,180
Yolo	483	1,532	1,098	1,469	23	756	1,381,393
Yuba	471	622	1,560	134	0	293	100.0%
State totals	158,540	274,845	298,395	410,127	18,993	220,393	1,381,393
Percent	11.5%	19.9%	21.6%	29.7%	1.4%	16.0%	100.0%

## Information about California Requirements for Limited English Proficient Students

### Office of Bilingual Education and Minority Languages Affairs

#### California Law

- The California Bilingual-Bicultural Education Act of 1976 was sunsetted on June 30, 1987.
- The former State Bilingual Education Act established specific bilingual program requirements for identification, instruction, staffing assignments, classroom composition, reclassification and parent involvement.
- California currently has no existing requirements for bilingual education of its own. On July 14, 1995, the State Board of Education (SBE) adopted a policy statement on educational programs and services for Limited English Proficient (LEP) students. The policy is not binding on school districts.
- However, Section 62002 states that if the Legislature does not enact legislation to continue a program listed in The Bilingual-Bicultural Education Act of 1976, "the funding of that program shall continue for the general purposes as specified in the provisions relating to the establishment and operation of the program." The funds shall be used for the intended purposes of the program. There are eight intended purposes:
  - ▶ The primary goal of all (bilingual) programs is, as effectively and efficiently as possible, to develop in each child fluency in English.
  - ▶ The program must provide equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language.
  - ▶ The program must provide "positive reinforcement of the self image of participating children".
  - ▶ The program must promote "cross-cultural understanding".
  - ▶ California school districts are required to offer "bilingual learning opportunities" to each pupil of limited English-proficiency enrolled in the public schools."
  - ▶ California school districts are required to "provide adequate supplemental financial support" in order to offer such bilingual learning opportunities.
  - ▶ Insofar as the individual pupil is concerned participation in bilingual programs is voluntary on the part of the parent or guardian."
  - ▶ School districts must "provide for in-service programs to qualify

existing and future personnel in the bilingual and cross-cultural skills necessary to serve the pupils of Limited English- Proficiency of this state.”

- The Bilingual-Bicultural Education Act of 1976 provided for parent advisory committees and school site councils to continue subsequent to the termination of funding for the programs sunsetted and that provision continues.

### Some California Facts:

- The number of Limited English Proficient students has nearly doubled in less than a decade.
- Nearly 80 percent of the California LEP population is Hispanic.
- The California State Department of Education estimates that there is a shortage of 21,000 qualified bilingual teachers in California.
- About 30 percent of all LEP students receive instruction in the academic subjects through the primary language.
- In California, Hispanics have a 50 percent dropout rate.
- An average annual rate for transfer out of a bilingual program is 5 percent.
- In 1997, the total LEP population in California was 1,381,393.

- 29.70% received English Language Development (ELD) and Primary Language Instructional services
- 21.61% received ELD, Specifically Designed Academic Instruction in English (SDAIE) and Primary Language support services
- 19.91% receive ELD and ~~SDAIE~~ services
- 16.00% receive no special services
- 11.50% receive ELD services
- 1.40% withdrawn from services

under Purpos

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### California Funding

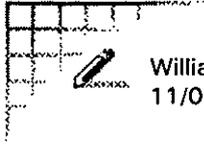
- Distribution of Education Funds in California--about 60% of the money is for general purposes, and about 40% is earmarked for special purposes or categories of students. Each district has its own combination of federal, state and local sources. The amount depends on: 1) the average number of students (Average Daily Attendance or ADA), 2) the general purpose money the district is allowed to have for each student (its revenue limit) and 3) the special support for which it qualifies (categorical aid). (EDFACT Sheet, September 1996. EdSource).
- Schools fund bilingual programs through their General Fund. Each district receives a set amount of general purpose income (“revenue limit”) from a combination of state

of all funds  
incl. English  
state funds

aid and local property taxes for each pupil (ADA). Revenue limit income is the largest portion of each district's budget. The school board decides how to spend this support (i.e. whether and how to fund bilingual education programs or LEP services). (EDFACT Sheet, October 1996. EdSource).

- Schools also fund bilingual programs through Economic Impact Aid (EIA) . This funding is based on the number of special category, including LEP and economically disadvantaged, students. EIA funds are used at the district's discretion. Each individual district decides what percent of EIA money will be allocated to LEP services and what percent will be allocated to other categories. (Leroy Hamm at the Bilingual Compliance Unit of Economic Impact Aid).

Educati - - bilingual



William R. Kincaid  
11/05/97 09:24:13 PM

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Michael Cohen/OPD/EOP  
Subject: Lau decision

fyi -- This decision (Lau v. Nichols, 414 U.S. 563, 1974) came up in the CA bilingual meeting this week. In answer to Elena's question, it was a Douglas decision, joined by Brennan, Marshall, Powell, and Rehnquist(!). There were three opinions concurring in the result: Stewart, joined by Burger and Blackmun; White; and Blackmun, joined by Burger. The claim was based on equal protection and Title VI, but the decision was based on Title VI alone (did not reach the 14th Amendment grounds).

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## English Language Education for Children in Public Schools

by [Ron K. Unz](#) and [Gloria Matta Tuchman](#)

Text:

SECTION 1. Chapter 3 (commencing with Section 300) is added to Part 1 of the Educational Code, to read:

### CHAPTER 3. ENGLISH LANGUAGE EDUCATION FOR IMMIGRANT CHILDREN

#### ARTICLE 1. Findings and Declarations

300. The People of California find and declare as follows:

(a) WHEREAS the English language is the national public language of the United States of America and of the state of California, is spoken by the vast majority of California residents, and is also the leading world language for science, technology, and international business, thereby being the language of economic opportunity; and

(b) WHEREAS immigrant parents are eager to have their children acquire a good knowledge of English, thereby allowing them to fully participate in the American Dream of economic and social advancement; and

(c) WHEREAS the government and the public schools of California have a moral obligation and a constitutional duty to provide all of California's children, regardless of their ethnicity or national origins, with the skills necessary to become productive members of our society, and of these skills, literacy in the English language is among the most important; and

(d) WHEREAS the public schools of California currently do a poor job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over the past two decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children; and

(e) WHEREAS young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.

(f) THEREFORE it is resolved that: all children in California public schools shall be taught English as rapidly and effectively as possible.

#### ARTICLE 2. English Language Education

305. Subject to the exceptions provided in Article 3 (commencing with Section 310), all children in California public schools shall be taught English by being taught in English. In particular, this shall require that all children be placed in English language classrooms. Children who are English learners shall be educated through sheltered English immersion during a temporary

transition period not normally intended to exceed one year. Local schools shall be permitted to place in the same classroom English learners of different ages but whose degree of English proficiency is similar. Local schools shall be encouraged to mix together in the same classroom English learners from different native-language groups but with the same degree of English fluency. Once English learners have acquired a good working knowledge of English, they shall be transferred to English language mainstream classrooms. As much as possible, current supplemental funding for English learners shall be maintained, subject to possible modification under Article 8 (commencing with Section 335) below.

306. The definitions of the terms used in this article and in Article 3 (commencing with Section 310) are as follows:

- (a) "English learner" means a child who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English, also known as a Limited English Proficiency or LEP child.
- (b) "English language classroom" means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language.
- (c) "English language mainstream classroom" means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English.
- (d) "Sheltered English immersion" or "structured English immersion" means an English language acquisition process for young children in which nearly all classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language.
- (e) "Bilingual education/native language instruction" means a language acquisition process for students in which much or all instruction, textbooks, and teaching materials are in the child's native language.

### ARTICLE 3. Parental Exceptions

310. The requirements of Section 305 may be waived with the prior written informed consent, to be provided annually, of the child's parents or legal guardian under the circumstances specified below and in Section 311. Such informed consent shall require that said parents or legal guardian personally visit the school to apply for the waiver and that they there be provided a full description of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child. Under such parental waiver conditions, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Individual schools in which 20 students or more of a given grade level receive a waiver shall be required to offer such a class; otherwise, they must allow the students to transfer to a public school in which such a class is offered.

311. The circumstances in which a parental exception waiver may be granted under Section 310 are as follows:

(a) Children who already know English: the child already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores at or above the state average for his grade level or at or above the 5th grade average, whichever is lower; or

(b) Older children: the child is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child's rapid acquisition of basic English language skills; or

(c) Children with special needs: the child already has been placed for a period of not less than thirty days during that school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local Board of Education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to a waiver.

#### ARTICLE 4. Community-Based English Tutoring

315. In furtherance of its constitutional and legal requirement to offer special language assistance to children coming from backgrounds of limited English proficiency, the state shall encourage family members and others to provide personal English language tutoring to such children, and support these efforts by raising the general level of English language knowledge in the community. Commencing with the fiscal year in which this initiative is enacted and for each of the nine fiscal years following thereafter, a sum of fifty million dollars (\$50,000,000) per year is hereby appropriated from the General Fund for the purpose of providing additional funding for free or subsidized programs of adult English language instruction to parents or other members of the community who pledge to provide personal English language tutoring to California school children with limited English proficiency.

316. Programs funded pursuant to this section shall be provided through schools or community organizations. Funding for these programs shall be administered by the Office of the Superintendent of Public Instruction, and shall be disbursed at the discretion of the local school boards, under reasonable guidelines established by, and subject to the review of, the State Board of Education.

#### ARTICLE 5. Legal Standing and Parental Enforcement

320. As detailed in Article 2 (commencing with Section 305) and Article 3 (commencing with Section 310), all California school children have the right to be provided with an English language public education. If a California school child has been denied the option of an English language instructional curriculum in public school, the child's parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute, and if successful shall be awarded normal and customary attorney's fees and actual damages, but not punitive or consequential damages. Any school board

member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute by providing such an English language educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian.

#### ARTICLE 6. Severability

325. If any part or parts of this statute are found to be in conflict with federal law or the United States or the California State Constitution, the statute shall be implemented to the maximum extent that federal law, and the United States and the California State Constitution permit. Any provision held invalid shall be severed from the remaining portions of this statute.

#### ARTICLE 7. Operative Date

330. This initiative shall become operative for all school terms which begin more than sixty days following the date at which it becomes effective.

#### ARTICLE 8. Amendment.

335. The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate or by a statute to further the act's purpose passed by a two-thirds vote of each house of the Legislature and signed by the Governor.

#### ARTICLE 9. Interpretation

340. Under circumstances in which portions of this statute are subject to conflicting interpretations, Section 300 shall be assumed to contain the governing intent of the statute.

END

Ron K. Unz, a high-technology entrepreneur, is Chairman of One Nation/One California, 555 Bryant St. #371, Palo Alto, CA 94301.

Gloria Matta Tuchman, an elementary school teacher, is Chair of REBILLED, the Committee to Reform Bi-Lingual Education, 1742 Lerner Lane, Santa Ana, CA 92705.

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**Analysis of Unz Initiative**  
**Office of Bilingual Education and Minority Languages Affairs**

- All children are to be placed in English language classrooms.
- English learners shall receive their education in a sheltered English immersion program.
- After acquiring “a good working knowledge of English” the children will be transferred to English language mainstream classes.
- Parent waivers must be in writing, acknowledged each year by a personal visit to the school by the parents or guardians.
- The waivers will be granted if:
  - the child already possesses good English language skills,
  - the child is age 10 years or older, or
  - the child has special physical, emotional, psychological, or educational need.
- Adult English instruction will be provided for parents or members of the community who pledge to provide personal tutoring to California LEP students. \$50,000,000 per year for ten years will be appropriated from the General Fund for this purpose.
- Parents will have the right to sue for enforcement of the provisions of this statute. Administrators or elected officials or teachers can be held personally liable.

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September 28, 1997

Ms. Glenda Booth  
Office of Senator Dianne Feinstein  
U. S. Senate

Dear Glenda:

I am pleased to offer the following comments about the proposed California ballot initiative, "English Language Education for Children in Public Schools", authored by Mr. Ron K. Unz.

1. The initiative focuses exclusively on the language of instruction, and does not address the quality of instruction in the content areas (such as reading, math, science and social studies). Research amply demonstrates that program quality involves multiple factors, of which the language of instruction is just one. The goal of educational reform should be the continuous improvement in all instructional aspects of schools, not just whether the environment is conducive to the learning of English.
2. The initiative assumes that sheltered immersion in English will result in more rapid and efficient acquisition of English. This is not the case. Exposure to programs that use the student's native language does not appear to slow down their progress in English. At least one major study funded by the U.S. Department of Education and subsequently reviewed by an independent panel of statisticians at the National Academy of Sciences<sup>1</sup> showed no difference between immersion and short- and long-term bilingual education programs in how long it took students to learn English. Language minority students across the U.S. appear to be learning English "at the speed limit" across program types. Research does show considerable variation across individuals - mostly, the speed of English acquisition is related to family education background and level of development in their native language.<sup>2</sup>
3. The initiative assumes that there is no finding supporting the efficacy of bilingual education programs. But at least two independent committees of the National Academy of Sciences that reviewed the evidence of program effectiveness concluded, tersely but in no uncertain terms, that: "the panel still sees the elements of positive relationships that are consistent with empirical results from other

<sup>1</sup> M. Meyer & S. Fienberg (1992), *Assessing Evaluation Studies: The Case of Bilingual Education Strategies*. Washington, DC: National Academy Press.

<sup>2</sup> Bialystok, E. & Hakuta, K. (1994), *In Other Words: The Science and Psychology of Second Language Acquisition*. New York: Basic Books.

studies that support the theory underlying native language instruction".<sup>3</sup> In the study that compared immersion and short- and long-term bilingual education programs, the cleanest comparisons showed the short-term bilingual education programs to be significantly better than immersion program in the areas of reading and mathematics achievement.

In sum, I believe that the initiative is misguided because it will focus attention on English acquisition, and away from attending to academic standards. Children are learning English anyway. Attention needs to be directed toward why, despite successfully learning English, many language minority students (80 percent of whom are economically poor) do poorly in our schools. This initiative does not help us focus on this key issue, and instead drags us back into the 30-year-old debate of language of instruction, a trap from which most serious educators are hoping to escape.

Please do not hesitate to contact me if I can provide you with any additional information or supporting documents.

Sincerely,



Kenji Hakuta  
Professor

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<sup>3</sup> August, D. & Hakuta, K. (1997), *Improving Schooling for Language-Minority Children: A Research Agenda*. Washington, DC: National Academy Press.

## Democracy, Deception, and Denial

### The 1998 California "English for the Children" Initiative

by James J. Lyons, Esq., Executive Director  
National Association for Bilingual Education

In 1967, California Governor Ronald Reagan signed legislation ending a 95-year-old state education mandate which required that "all schools shall be taught in the English language." Governor Reagan signed the bipartisan bill ending the state's English-only classroom mandate and authorizing bilingual instruction because of solid evidence that English-only schooling had harmed Hispanic, Asian, and Native American students. The 1960 Census showed, for example, that 50 percent of California's 1.4 million Hispanic residents had dropped out of school before completing the 8<sup>th</sup> grade.

Now, thirty years later, a wealthy and politically ambitious California businessman by the name of Ron Unz wants to ban bilingual instruction and re-impose an English-only mandate on all state classrooms. To achieve his objective, Unz has mounted a slick, expensive media campaign to promote a ballot "initiative" for the Spring state election called "English for the Children."

If approved by California voters, the Unz initiative would require the placement of *all* public school pupils in "English language classrooms." The state's 1.3 million limited-English-proficient (LEP) students would "be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one year."

The Unz initiative campaign doubly debases democracy. It is a campaign based on deception, and the initiative's objective is the denial of fundamental rights.

#### Deception

Ron Unz argues that "California's future depends on these [LEP] children becoming fluent and literate in English..." The development of oral proficiency and literacy in English is important and absolutely necessary. Mastery of English is not enough, however, to secure the state's future. California's future also depends on its students mastering science, mathematics, government, history and other academic subjects and on their ability to engage in critical thinking. And because of its location — on the border with Mexico and the edge of the Pacific rim — California's economic and social future increasingly depends upon the development of multilingual skills by its citizenry.

English-only is not a meaningful goal for California public education. Nor is English-only an effective instructional approach for helping LEP students succeed academically.

For nearly a century, California pursued an English-only educational policy with the disastrous results noted above. English-only schooling failed not only in California but also in Arizona, Florida, New Mexico, New York, Texas, and other states. It failed because it defied a basic pedagogical principle dictated by commonsense and documented by research: effective instruction depends upon intelligible communication. Students learn little when they do not understand their teacher's lessons, when they do not comprehend the language of their textbooks.

It is deceptive for Ron Unz to claim that "young children can easily acquire full fluency in a new language, such as English..." Indeed, Mr. Unz has not proffered a single piece of evidence to support his claim of easy and rapid second-language learning or his proposal to limit special instructional programs for non-English-language students to generally no more than one year. Why? Because no evidence exists.

Language development involves progression through a natural hierarchy of skills — from listening to speaking, from speaking to reading, and lastly, from reading to writing. By the time a child enters school at the age of five, he or she will have developed a vocabulary of between 2,000 and 5,000 words. These words, developed through thousands of hours of mother-tongue communication with parents, siblings, and caregivers, give meaning to a child's world and enable a child to interact with the people in it.

Requiring California teachers to teach only in English would compel them to ignore the knowledge that all children bring to school, and would effectively reduce LEP students to the learning level of infants. While LEP students are learning the words their English-speaking classmates already know, they would fall behind in their development of literacy skills and academic studies; they would be retained in grade; they would grow frustrated in school; and they would drop out. Given the escalating educational demands brought about by the advancement of technology, it is unthinkable that California should return to the English-only instructional approach which, for more than a century, proved to be a failure.

what is different from now?

Ron Unz's allegation that California's current system for educating LEP students is "centered on use of native language instruction, with English being introduced to children only in later grades" is deceptive. In truth, most California limited-English-proficient students do not receive native-language instruction. Most LEP students in the state are educated in English-only instructional programs. Fewer than one-in-three LEP students (32.49 percent) are in classes where native-language instruction is provided according to the California Department of Education. The remaining two-thirds of the state's LEP students are taught by teachers who use English as the language of instruction. The vast majority of California LEP students do not have the benefit of native-language instruction. Accordingly, it is deceptive for Mr. Unz to claim that they suffer from



native-language instruction.

### Denial

Ron Unz's initiative would deny LEP students the opportunity to learn academic subjects while they are in the process of acquiring English. It does so by forbidding schools from using a child's native language to facilitate subject matter teaching.

The initiative also suggests that instruction in California schools be restructured solely on the basis of student English proficiency. The initiative states that "local schools shall be permitted to place in the same classroom English learners of different ages but whose degree of English proficiency is similar." Grouping students based on a single criteria of level of English language proficiency ignores important student differences and would create an educational nightmare.

The proposal to reorganize schools on the basis of student English proficiency ignores the academic knowledge that students bring to the classroom. Moreover, it does not take into account the reality that LEP students enter California schools at different ages, with different levels of previous schooling. And finally, it ignores the fact that there is no correlation between a child's level of English proficiency and the child's level of subject matter knowledge. Little, if any, academic content can be taught and learned in a class containing both sixth and first graders. As a consequence, even those LEP students who know math or science as well as their English-speaking peers would quickly fall behind in their academic progress. Organizing instruction on the basis of student English proficiency is a prescription for student failure.

The Unz initiative would deny parents' right to choose the educational program they deem most effective for their LEP children. Current California law affords the parents of all LEP children with the choice of English-only instructional programs if they don't want their children placed in a bilingual classroom. Simply by sending a signed written request to the school principal, parents of LEP children can have them placed in an English-only classroom.

Under the Unz initiative, parents of LEP children under the age of 10 who do not have "special physical, emotional, psychological, or educational needs" have no choice about the kind of instruction provided to them -- it will be English-only.

Waivers from the English-only instructional mandate may be obtained by parents of LEP children 10 years or older "if it is the informed belief of the school's principal and educational staff that an alternative course of educational study would be better suited to the child's rapid acquisition of basic English language skills." To obtain the waiver, the parents must "personally visit the school to apply for the waiver and ... there be provided

SRF-15-3, JUE 17:44 P. 03

a full description of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child."

Parents of LEP children with "special" educational can obtain a waiver under very limited circumstances. The Unz initiative provides:

The circumstances in which a parental exception waiver may be granted...are as follows:

(c) Children with special needs: the child already has been placed for a period of not less than thirty days during that school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local Board of Education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver....

But parents who do succeed in obtaining a waiver of the English-only mandate still are not guaranteed that their children will receive bilingual instruction. Schools are to provide bilingual instruction only when there are 20 or more students of the same grade whose parents have obtained waivers. In all other cases, parents of LEP children receiving waivers would have to find a school offering bilingual instruction, and then transfer and transport their child to it.

The Unz initiative would deny educators the opportunity to provide the most effective instructional services to LEP children, even after they find that English-only instruction is not working. Section 320 of the initiative states that "Any school board member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute...may be held personally liable for fees and actual damages by the child's parent or legal guardian."

Finally, the Unz initiative would deny the popularly-elected members of the California legislature the opportunity to amend the English-only instructional mandate through usual and normal procedures. Section 335 of the initiative elevates Ron Unz' English-only policy to constitutional status, providing that it can only be modified by a legislative supermajority "two-thirds vote of each house of the Legislature and signed by the Governor." If such a requirement had applied to California's 1872 English-only schooling

## What is the Unz Proposed Initiative ...

- Eliminates bilingual education programs
- English learners from different ages and grade levels, but similar degrees of English proficiency will be taught together in English for up to 1 year
- Schools will be encouraged to mix together in the same classroom different language groups with the same degree of English proficiency
- After 1 year of instruction in a so called "sheltered English immersion" students would be mainstreamed in English only classrooms
- Teachers need to have no other qualification than a good knowledge of the English language
- Parents would have to request a waiver if they want bilingual instruction for their children (only applies to children 10 years or older, unless parents can prove that there is a special need)
- Schools will only be required to offer bilingual instruction when parents request a waiver and the school has 20 or more students of a given grade level
- If the parents request a waiver and the school is not mandated to offer the program, the school will transfer the student to a public school where the program is offered
- There are specific restrictions for parents requesting a waiver for the child to receive bilingual instruction, and waivers for children under 10 years are restricted to special circumstances only
- \$50 million per year for a 9 year period would be appropriated from the General Fund to subsidize programs for adult English instruction
- Adults participating in these English classes must pledge to provide English tutoring to English learners
- School Board members, elected officials, teachers and administrators may be held personally liable for fees and actual damages for not implementing the terms of the proposed statute.

(This piece was developed by CABE to be duplicated for educational purposes)



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## ¿Qué es la Iniciativa propuesta por Unz?

- Elimina la educación bilingüe
- Los estudiantes que están aprendiendo inglés de edades diferentes pero del mismo nivel en inglés recibirían instrucción todos juntos en el mismo salón
- Se incentivaría a las escuelas a mezclar estudiantes de diferentes idiomas y del mismo nivel de inglés en un mismo salón
- Después de un año de instrucción en estos salones con lo que la propuesta llama "sheltered English immersion", los estudiantes pasarían a salones regulares de clase, totalmente en inglés
- Los maestros/as enseñando en estos salones sólo necesitarían tener conocimiento del idioma inglés como único requisito para enseñar a los estudiantes aprendiendo inglés
- Los padres tendrían que solicitar una petición si quisieran instrucción bilingüe para sus hijos, siempre y cuando los niños tengan por lo menos 10 años, y sólo se consideraría bajo circunstancias específicas
- Las escuelas sólo estarían obligadas a tener instrucción bilingüe si los padres solicitan una petición y la escuela tiene más de 20 estudiantes en cada grado cuyos padres han hecho el pedido especial
- Si los padres hacen un pedido y la escuela no está obligada a ofrecer el programa, la escuela podría transferir al estudiante a una escuela pública donde se ofrezca instrucción bilingüe
- Hay restricciones específicas para los padres que interesados en petitionar instrucción bilingüe, especialmente para niños menores de 10 años
- Se usarían 50 millones de dólares por año del Fondo General, durante un período de 9 años para subsidiar programas de instrucción en inglés para adultos
- Los adultos participando en esas clases de inglés deberían prometer que servirían como tutores en las escuelas para los niños que están aprendiendo inglés
- Miembros de las Mesas Directivas de Educación, oficiales electos, maestros y administradores podrían ser responsables por daños y perjuicios si no implementaran los términos del estatuto propuesto

(Esta información ha sido preparado por CABE para duplicarse con fines educativos)



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# Let Parents Choose

**“The English for Children”  
(The Unz Initiative)  
will take away your rights!!!**

- **Eliminates parent's right to choose**  
Every parent should have the right to decide the best way to educate their children
- **Undermines Local School Boards**  
Every community should have the right to determine education policy at a local level
- **Anti-business**  
More and more businesses require employees to speak several languages to compete in California's diverse & global market
- **Ron Unz has no background in education policy**  
Initiative adopts and mandates the most unproved method of effectively learning English
- **Criminalizes Teachers**  
Educators and administrators can be sued if they assist their students in their home language
- **Hurts Children**  
Segregates and warehouses English learners regardless of language, age or grade level.

California Bilingual Education (English for the Children) Initiative Meeting

Key Issues to consider:

1. What services are now required under federal law and Supreme Court decisions (the "Lau" guidelines)? What are the civil rights issues here?

↳ "comprehensible ed"  
identification procedures/curriculum/  
process for exit.

2. What does the Education Department's bilingual education program require with respect to the particular type of instruction local school districts provide to LEP kids. *Note to Elena: It basically provides flexibility to local districts/schools in choosing the approach that they think will work best for their kids--but I don't think you can presume everybody at the meeting will know this.*

how does prog. work -  
what needed to qualify/  
what incentives

(what happens to funds if regulation passes?)

3. What is the research and evidence on the impact of bilingual education programs? Are the initiative advocates basically on the mark or off the mark in claiming that only 5% of LEP kids in bilingual education programs gain English proficiency each year?

4. What are the California politics on this issue?

5. How are the Hispanic groups responding to this initiative--is there a unified position? How does this intersect with national test politics?

Also - Asians

Facts - how many kids  
in what kinds of  
classes, etc.

Facts

1.3 m LEP children in CA

70% Spanish  
Chinese  
Vietnamese  
100 other languages

30% in bilingual

30% in structured eng. - includes english immersion

rest - no services

Very few in them classes for longer than 3 yrs -  
bec of change of numbers.

KS: What is cost of bilingual ed??

Initiative says costs annually of BBE - 700 m.

Oct 15, 1997 — Study #400

# LOS ANGELES TIMES® POLL ALERT

## English-Only Education Initiative Would Garner Widespread Support

■ Initiative would virtually end bilingual education in California public schools. Californians are against legislative meddling in political use of union membership dues.

The latest Times poll measured early public perception of the issues behind a handful of initiatives aimed at the June 1998 primary ballot. The poll found widespread support for ending bilingual education in the public schools, opposition to legislative meddling in the political life of the Democrat-leaning unions, approval of the state's assault weapons ban and a wish to strengthen it further, as well as support for the notion of requiring minor girls to get permission from their parents before having an abortion.

### Bilingual Education in California Public Schools

California voters ranked education as one of the top three problems facing the state in the latest Times poll and bilingual education is a hot-button issue in the debate over what changes will bring the most improvement to the state's public school system. An initiative that will in effect nearly dismantle the program is currently in the process of getting signatures to qualify for the June primary vote.

The poll found that opponents of bilingual education and the "English for Children" initiative have widespread backing from the state's voters. Eighty percent of California voters agree with those who say that students are better served by learning English in an intensive program designed to bring them up to proficiency in one year. Proponents of this system claim that students in bilingual programs are pushed into a "separate and unequal" track which leaves them less than proficient in the English skills they require, and segregated from their English-speaking peers. Supporters of bilingual education say that many children from non-English speaking households need school instruction in their first language in order not to fall behind in other subjects while they are learning English.

Sponsored by Republicans—former gubernatorial candidate Ron Unz and Latina public school teacher Gloria Matta Tuchman are co-sponsors—the measure has been characterized by opponents as the latest embodiment of the sort of anti-immigrant and anti-Latino prejudice found in Propositions 187 and 209 and by its supporters as the true path to English language proficiency for

non-native speakers. However, support for the fledgling initiative is actually slightly stronger among Latino (84% to 16%) than among white voters who favor the measure 80% to 18%.

Early support for the measure is broad as well as deep. The hypothetical vote does not significantly divide along age or socioeconomic lines. Strongest support was found among women in the Republican Party at 93%. Eighty-eight percent of the elderly and 89% of all Republicans along with 73% of Democrats and 73% of the youngest voters also support the initiative. Even 2 out of every 3 liberals support the initiative. A pocket of possible opposition can be found only among 35% of self-identified liberal Democrats at this time.

It is worth noting that a Times poll measured majority Latino support for the much more Draconian measures of Proposition 187 at 52% to 42% as late as the first week of September, 1994. One month later, Latino voters were split 46% to 48% on the issue and by late October, a solid 65% majority of Latino voters were arrayed against the initiative. Opposition to Prop 187 continued to grow in the Latino community—our

exit poll measured 77% of Latinos who cast opposing ballots on election day. It is possible that we may see changes of this kind over time in the support for the English-only initiative, as well. Much depends on how Latino community leaders respond to the measure, and how divided the community is over this complex issue.

### Union Dues and Soft Money

Another Republican-backed initiative aimed at the June 1998 ballot is a bill which would require unions to get written advance permission from each member before adding the portion of their dues to the pot that is used by union leaders to make donations to—usually Democratic—political campaigns. This is a state version of the "Paycheck Protection Act" amendment that effectively killed the campaign finance reform bill recently in the U.S. Senate.

Californians don't much like the idea of legislative meddling in union affairs. When asked whether they would vote for or against such a measure, 59% of California voters told the Times

*“ Much depends on how Latino community leaders respond to the English-only initiative, and how divided the community is over this complex issue. ”*

Poll that they would vote against it. A third of all voters would vote for it and 8% aren't sure at this time. The measure finds only slightly stronger opposition among union members than among non-members. Sixty three percent of union members who are registered to vote oppose the bill, 33% are for it and 4% aren't sure while among non-members the vote is 58% to 33% with 9% not sure.

Opposition to the measure is found across political party lines. Support is slightly stronger among Republicans, but falls well short of a majority at 37% while 54% would vote against it. Even self-identified conservatives can only muster 39% support while 55% would vote no. Men are a bit more positive about the measure, voting 42% to 53% while Republican men split evenly at 47% to 48%.

### **Assault Weapons Ban**

California voters not only approve of the assault weapons ban, but they also want to see it strengthened, the poll found. Nearly three out of every four California voters are in favor of the 1989 legislation banning the manufacture, sale or possession of certain types of semiautomatic weapons. Even a majority of the 3 out of every 5 of voters who feel that the law has been ineffective in reducing the use of automatic weapons by criminals in California are in favor of it—by 63% to 35% opposed.

Fifty-eight percent of all Californians and 60% of registered voters feel that the 1989 law has been "not too effective", or "not effective at all" in reducing the use of semiautomatic weapons by criminals in California. When asked if they would be in favor of the bill intended to close the loopholes in the original law, 71% of all Californians and registered voters said they were.

The Times poll found that 28% of all California households keep at least one gun in their home or garage. Protection was the top mention at 14% when respondents were asked to give up to two reasons why guns are kept in the home. Nine percent of responses cited gun-collecting or hunting as the main or secondary reason. Among Californians who keep a gun in their home, 63% favor the 1989 ban while 34% oppose, 67% feel that the ban has not been effective while 34% say effective and 56% are in favor of strengthening the ban while 38% oppose.

### **Parental Consent**

A large majority of Californians continue to support a women's right to obtain an abortion in the first trimester—59% of all residents and 62% of registered voters expressed support for the 1973 U.S. Supreme Court Roe vs. Wade decision. Abortion is both a political issue and one of personal ideology for most voters and the widest disagreement lies between liberal Democrats—who support the Roe vs. Wade decision 79% to 12%—and conservative Republicans who are the main opposition to abortion rights at 41% to 46%. One way to measure the broad support that women's choice enjoys in California is to note that Roe vs. Wade is supported by all Republicans at 49% to 40% and even among self-identified conservatives at 45% to 41%.

When it comes to minors, however, 67% of Californians feel that girls should be required to obtain permission from their parents before having an abortion, while 26% feel that minor girls should be allowed to make that decision for themselves. Registered voters reflect the state at large at 65% for, 28% against.

The California Supreme Court recently overturned a never-enforced state law requiring girls under 18 to seek parental con-

sent, citing privacy protections written into the state Constitution. Opponents of the court's decision have vowed to campaign for the ouster of two of the state Supreme Court justices who voted to overturn the law. In addition, they have said they will place an initiative on the ballot to amend the privacy protection in the Constitution to exclude minor girls. Such an amendment would likely prove popular with the state's voters, based on the poll's findings, and if passed would allow enforcement of the legislation passed by voters in 1987 which has been tied up in the courts ever since.

Support for requiring girls to consult their parents in this matter is widespread, but is most popular among the state's black residents, at 79% for, 18% against. Latinos, despite being overwhelmingly (81%) Roman Catholic, are nearly split on the issue of abortion rights in general at 43% opposed to 39% in favor and support the requirement of parental consent by 76% to 15%. White residents weigh in at 64% to 29% on this issue.

### **California's New Open Primary**

Under the new California "open primary" rules, registered voters may cast their ballot for the candidate of their choice regardless of party. Registered voters who decline to state a party—voters commonly referred to as "Independents"—will be able to cast ballots for a primary candidate for the first time under the new rule. California's open primary plan is currently under scrutiny by the court, but is likely to still be in effect for the 1998 primary season.

The poll found that 77% of voters who are registered in a political party—registered as Democrats, Republicans, etc.—can think of a circumstance where they might cast their primary ballot for a candidate of another party. The vast majority (86%) of those who said that they might vote for another party's candidate said that they would do so because they favor the candidate as an alternative choice in the general election while only 5% said that they might be more inclined to vote to help insure a weaker opponent for the candidate of their choice in the general election. This is a much talked-about concern among opponents of the open primary system, but the real impact of rogue voters making trouble in this way seems to be minimal at this time.

Independent voters—those who are registered but have declined to state a party—look forward to voting for the first time in the open primary. Seventy-one percent of Independents say they will now vote for candidates for elected office as well as the primary initiatives, while 12% say they will continue to vote only for initiatives. The large majority of these voters—87%—plan to vote for the candidate they like while a tiny number—2% say they are likely to use their vote to help insure a weaker opponent for the candidate of their choice.

Analysis by JILL DARLING RICHARDSON

Oct 15, 1997 — Study #400

# LOS ANGELES TIMES® POLL ALERT

## HOW THE POLL WAS CONDUCTED

The Times Poll contacted 1,396 adults, including 1,092 registered voters, statewide by telephone October 4 through October 7. Telephone numbers were chosen from a list of all exchanges in the state. Random-digit dialing techniques were used so that listed and non-listed numbers could be contacted. The sample was weighted slightly to conform with census figures for sex, race, age, education, region and registration. The margin of sampling error for all adults and registered voters is plus or minus 3 percentage points; for certain subgroups the error margin may be somewhat higher. Poll results can also be affected by other factors such as question wording and the order in which questions are presented.

## NOTES

All answer frequencies are given in percentages.  
 “\_” indicates less than 0.5%.  
 Totals may exceed 100% where more than one reply was accepted.  
 The wording of some questions has been abridged.

## SELECTED RESULTS FROM THE TIMES POLL CALIFORNIA SURVEY

Oct 4-7, 1997

(A full summary of results will be available at a later date through the Los Angeles Times Poll)

## GUIDE TO COLUMN HEADINGS

ALL	All California adults
RV	Registered voters
DEM	Registered Democrats
IND	Registered independents
REP	Registered Republicans

### (ASKED OF VOTERS REGISTERED IN A PARTY)

Will you continue to vote only for candidates of your own party in the new “open” primaries, or can you think of circumstances where you might vote for candidates from other parties?

	<u>RV</u>	<u>DEM</u>	<u>REP</u>
Vote only for my own party	15	17	14
Might vote for other party candidates	77	75	78
Depends on candidate (Vol.)	7	8	6
Don't know	1	-	2

(ASKED OF REGISTERED VOTERS IN A PARTY WHO SAY THEY MIGHT VOTE FOR OTHER PARTY'S CANDIDATE)  
 Would you be more likely to vote for another party's candidate in the primary because you favor that candidate as an alternative choice in the general election, or because you think they would be a weaker opponent for your own party's candidate in the general election, or is there some other reason you would vote for a candidate from another party?

	<u>RV</u>	<u>DEM</u>	<u>REP</u>
Favor as alternative choice	86	90	82
Weaker opponent for own candidate	5	3	7
Other	4	3	4
Don't know	5	4	7

### (ASKED OF VOTERS REGISTERED AS AN INDEPENDENT/DECLINE TO STATE)

Will you continue to vote just for the initiatives in the primaries, or will you now vote for candidates running for elected office?

	<u>IND</u>
Continue to vote just for initiatives	12
Now vote for candidates	71
Depends on who runs (Vol.)	7
Don't know	10

### (ASKED OF INDEPENDENTS/DECLINE TO STATE VOTERS WHO SAY THEY WILL NOW VOTE FOR CANDIDATES)

Now that you are able to vote for candidates running for elected office in the June primary, will you vote for a candidate because you like what he or she stands for, or will you vote for a weaker opponent to help insure that the candidate you want wins in the general election in November?

	<u>IND</u>
Vote for candidate you like	87
Vote for weaker opponent	2
Depends (Vol.)	9
Don't know	2

**(ASKED OF ALL REGISTERED VOTERS)**

There is a new initiative trying to qualify for the June primary ballot that would require all public school instruction to be conducted in English and for students not fluent in English to be placed in a short-term English immersion program. If the June 1998 primary election were being held today, would you vote for or against this measure? (INCLUDES LEANERS)

	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Vote for	80	73	80	89
Vote against	18	23	17	10
Don't know	2	4	3	1

	<u>WHITES</u>	<u>LATINOS</u>
Vote for	80	84
Vote against	18	16
Don't know	2	-

**FOR COMPARISON**

How the prospective Latino vote on Proposition 187 changed as the Nov. 8, 1994 election approached:

If the November 1994 general election were held today, would you vote for or against Proposition 187? (ASKED OF REGISTERED VOTERS)

	<u>Oct 22-25, 1994</u>	<u>Oct 8-11, 1994</u>	<u>Sept 8-11, 1994</u>
	<u>LATINOS</u>	<u>LATINOS</u>	<u>LATINOS</u>
Vote for	22	46	52
Vote against	65	48	42
Don't know	13	6	6

Election results, from the Times' exit poll:

	<u>Nov 8, 1994</u>
	<u>LATINOS</u>
Vote for	23
Vote against	77

There is another initiative trying to qualify for the June primary ballot that would require union members to approve part of their membership dues to be used for political candidates or initiatives. If the June 1998 primary election were being held today, would you vote for or against this measure? (INCLUDES LEANERS)

	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Vote for	33	31	29	37
Vote against	59	62	64	54
Don't know	8	7	7	9

	<u>UNION MEMBERS</u>	<u>NON-UNION MEMBERS</u>
Vote for	33	33
Vote against	63	58
Don't know	4	9

**(ASKED OF EVERYONE)**

As you may know, in 1973, the United States Supreme Court handed down a landmark decision, called *Roe vs. Wade*, which essentially accepted abortion in principle.

Generally speaking, are you in favor of the Supreme Court decision which permits a woman to get an abortion from a doctor at any time within the first three months of her pregnancy, or are you opposed to that, or are you indifferent on the subject or haven't you heard enough about that yet to say?

	<u>ALL</u>	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Haven't heard enough	1	1	1	-	1
Favor	59	62	69	67	49
Indifferent	10	9	9	11	8
Oppose	28	26	18	19	40
Don't know	2	2	3	3	2

The California Supreme Court recently overturned a state law requiring girls under 18 to obtain parental consent before having an abortion, saying it violated privacy protection guaranteed by the Constitution.

Should girls under 18 be required to obtain their parent's consent before they may have an abortion, or not?

	<u>ALL</u>	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Should be required	67	65	59	68	74
Should not be required	26	28	34	21	19
Depends on family circumstances (Vol.)	4	4	3	10	5
Don't know	3	3	4	1	2

	<u>FAVOR ROE V. WADE</u>	<u>OPPOSE ROE V. WADE</u>
Should be required	56	90
Should not be required	38	5
Depends on family circumstances (Vol.)	3	3
Don't know	3	2

In 1989 a California law was passed banning the manufacture, sale or possession of semi-automatic assault weapons. The measure exempts many types of guns used by hunters and other sports enthusiasts. Do you favor or oppose maintaining this ban on the manufacture, sale and possession of semi-automatic assault weapons?

	<u>ALL</u>	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Favor	73	74	81	67	67
Oppose	24	24	17	28	31
Don't know	3	2	2	5	2

	<u>GUN OWNERS</u>	<u>NON-GUN OWNERS</u>
Favor	63	78
Oppose	34	20
Don't know	3	2

Do you feel that this law has been effective in reducing the use of semiautomatic weapons by criminals in California?

	<u>ALL</u>	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Effective	33	31	36	31	24
Not effective	58	60	53	59	69
Don't know	9	9	11	10	7

	<u>GUN OWNERS</u>	<u>NON-GUN OWNERS</u>
Effective	26	36
Not effective	67	53
Don't know	7	11

A bill to strengthen the 1989 assault weapons ban is pending in the state Legislature. This new assault weapons bill would close the loopholes of the 1989 law by expanding the definition of what constitutes an illegal assault weapon and would also include copycat weapons that are cosmetically different from the restricted firearms. Are you in favor of the Legislature passing a bill to strengthen the assault weapons ban or are you opposed to this?

	<u>ALL</u>	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
Favor	71	71	80	77	58
Oppose	23	24	15	22	34
Don't know	6	5	5	1	8

	<u>GUN OWNERS</u>	<u>NON-GUN OWNERS</u>
Favor	56	78
Oppose	38	16
Don't know	6	6

Are there any guns or revolvers in your home or garage? (IF YES) What's the main reason why guns are kept in your home? Is it part of a collection, or is it kept for hunting, or is it needed for your job, or is it kept for protection, or target practice, or why are guns kept in your home? Is there another reason why guns are kept in your home, or not? (ACCEPTED UP TO TWO REPLIES)

	<u>ALL</u>	<u>RV</u>	<u>DEM</u>	<u>IND</u>	<u>REP</u>
No guns	69	65	73	63	55
Guns (Net)	28	32	25	31	41
Protection	14	16	10	12	24
Collection	9	11	11	9	12
Hunting	9	11	8	14	13
Target practice	5	5	2	7	7
Needed for job	1	1	1	-	2
Some other reason	1	1	1	3	1
Don't know	3	3	2	6	4

Tables compiled by RAY ENSLOW



GO GO

Los Angeles Times **POLLS**

HELP?



What happens to an idea that  
wins a NOBEL PRIZE?

Wednesday, October 15, 1997

## THE TIMES POLL

**Bilingual Education Gets Little Support**

By MARK Z. BARABAK, TIMES POLITICAL WRITER



MAIN PAGE

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Proponents of bilingual education enjoy overwhelming support in a brewing ballot fight that has sparked early skirmishing in the 1998 campaign, with strong backing among California voters of all races, ethnicities and political persuasions.

A proposed measure to virtually dismantle California's system of bilingual public education garnered huge support among the state's electorate, with 80% in favor and 18% against, according to a new Los Angeles Times poll.

Support was in the 75% to 80% range virtually across the board, among all races, income levels and age groups. Latinos voters surveyed favored the initiative by a slightly higher margin--84% to 16%--than whites, at 80% to 18%.

Even two-thirds of self-described liberals supported the proposed initiative, aimed at the June 1998 ballot.

The Times survey offered the first independent sounding of public opinions on a wide range of social and public policy issues that could face California voters when they go to the polls next year.

Among its other findings:

\* A proposed measure aimed at curbing the influence of organized labor by restricting the political use of union dues was opposed by nearly 2 to 1. Those not in unions were only slightly less opposed than union members.

\* Californians evidently look forward to their expanded choices under the state's new "open primary" law, which allows them to vote next June for whichever candidate they prefer, regardless of party. Only a minuscule percentage said they intended to use the opportunity to make political mischief.

\* Californians strongly support the state's ban on assault weapons, though most question its effectiveness. Such doubts notwithstanding, an overwhelming majority would like to see the ban strengthened.

\* Californians strongly support legalized abortion during the first three months of pregnancy. At the same time, however, a large majority believe parental consent should be required for girls under 18.

The poll surveyed 1,396 adults statewide Oct. 4-7. The margin of sampling error is plus or minus 3 percentage points.

Much of the early attention surrounding the 1998 campaign has focused on the proposed bilingual education initiative. The measure, pushed by Silicon Valley businessman Ron Unz and

Orange County schoolteacher Gloria Matta Tuchman, promotes English-only instruction for California's 1.3 million students with limited English skills.

Some Latino political activists have criticized the proposal and the negative reaction has, in turn, made some Republican leaders skittish about associating the party with the so-called Unz initiative, for fear of a backlash.

But the GOP rank and file was solidly behind the measure, with 89% support. Seventy-three percent of Democrats backed the initiative.

"The immigrant community has long viewed education as a way up the socioeconomic ladder," said Susan Pinkus, director of the Times Poll. But, she continued, "a lot will depend on how the campaign for the Unz initiative is waged and how the Latino community responds."

As a case in point, she noted the polling history of Proposition 187, the 1994 anti-illegal immigration initiative. A Times poll conducted in September 1994 found that Latinos supported Proposition 187, 52% to 42%.

However, sentiment toward the initiative had turned decidedly negative by election day, after a campaign that many Latinos perceived as scapegoating their community. Although Proposition 187 won statewide approval by a handy margin, exit interviews conducted at polling places found that 77% of Latinos ended up voting against the measure.

"The Unz initiative starts out a lot less controversial," Pinkus said. "The campaign to follow will determine if it stays that way."

A second proposed ballot initiative fraught with potential political undertones aims to inhibit the use of union dues for campaign activities.

The measure, also intended for the June ballot, would require union members to expressly approve part of their membership dues to be used for political candidates or initiatives.

Republicans have seized upon the issue as a way to undercut the influence of Democratic-leaning labor unions. In Washington, the controversy over a similar provision sidetracked campaign finance reform legislation.

In California, Gov. Pete Wilson has enthusiastically embraced the initiative, sponsored by conservative activists, and has indicated that he may use the issue to help him realize his presidential ambitions.

But the Times Poll found little initial support among voters for the concept of a crackdown on unions' political activities, with opposition to the proposed ballot measure running 59% to 33%. Sixty-three percent of union members were opposed, only slightly more than the 58% among those not in unions.

Democrats were strongly opposed, 62% to 31%, with Republicans less so, 54% to 37%.

"That finding is counterintuitive," said Pinkus, noting the political import that leading Republicans have staked on the issue.

One of the ballot measures that voters approved last year will have its first tryout next June. Under the so-called open primary system, California voters can cast their ballots for any candidate, regardless of party registration.

Proponents of the measure suggested that it would

encourage voter participation and promote bipartisanship and problem-solving in government by boosting more moderate candidates.

Opponents--including the two major political parties--have gone to court seeking to overturn the measure. Among their objections, Democratic and Republican leaders have asserted that the law impinges on the rights of their members to choose their own parties' nominees, and invites mischief by cross-over voters.

But the Times poll suggests that voters are enticed by the notion of greater choice and not terribly interested in causing trouble.

Seventy-seven percent of voters said they could think of circumstances in which they might vote for a candidate from a party other than their own. Seventy-eight percent of Republicans said so, along with 75% of Democrats.

Independents and voters who decline to state a party preference stand to gain the most from the new primary system because, for the first time in years, they can vote for candidates seeking office. Before, independents and decline-to-state registrants could vote only for initiatives on the ballot. Seventy-one percent of those surveyed said they would take advantage of their new status to cast ballots in contested primaries.

As for mischief-making, most voters said they would mix and match their ballots with benign intent. Eighty-six percent of those registered in a party said they would vote for a candidate of a different party because they supported that individual. A mere 5% said they would support an opposing party's candidate in hopes of sabotaging that party by nominating the weakest possible general-election candidate.

On the assault weapons issue, 59% of respondents strongly favored the 1989 California law banning possession, sale or manufacture of 75 specific semiautomatic firearms, with an additional 14% somewhat favorably disposed. Sixteen percent were strongly opposed to the legislation, with an additional 8% somewhat opposed.

Eighty-one percent of Democrats viewed the ban favorably, compared with 67% of Republicans and a like percentage of independents.

Despite the strong support for the 1989 legislation, 58% of respondents felt the ban had done little or nothing to take such weapons out of the hands of criminals. Thirty-three percent felt the ban had been somewhat or very effective.

An overwhelming majority, 71%, expressed support for legislation that would close the loopholes in the 1989 law and expand the definition of what constitutes an illegal weapon to include so-called copycat firearms.

Even 63% of those who felt the 1989 ban was ineffective favored strengthening the law.

Democrats, at 80%, and independents, at 77%, were the most favorably disposed to follow-up legislation, compared to 58% of Republicans.

Sixty-three percent of gun owners favored the initial legislation and 56% favored strengthening the ban.

Twenty-eight percent of respondents said there was at least one gun in their household.

On the abortion issue, 59% of those surveyed expressed

support for the landmark 1973 Roe vs. Wade decision that legalized abortion during the first trimester of pregnancy. At the same time, 67% of respondents said that girls under 18 should be required to obtain parental consent before they could have an abortion. Twenty-six percent said no such permission should be required.

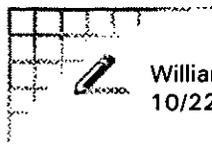
Pinkus said: "People feel that you need parental consent for body piercing, to get a driver's license, to get a tattoo. This is an event that is far more serious in a child's life and people feel that the parents should be involved."

The California Supreme Court overturned the state's parental consent law in August. Proponents of the requirement hope to qualify a ballot measure in 1998 reinstating the law.

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GO GO



William R. Kincaid  
10/22/97 03:38:06 PM

Record Type: Record

To: Sylvia M. Mathews/WHO/EOP  
cc: Elena Kagan/OPD/EOP, Michael Cohen/OPD/EOP  
Subject: Bilingual Education



BILINg1.09

Elena Kagan asked me to send you the attached, which is our most recent Q&A on bilingual education. One piece of information I would add is that last week the LA Times published a poll which found 80% support for the anti-bilingual education initiative in California, and even higher support among Hispanics (84% to 16%). The Times article notes, however, that a smaller majority of Hispanics (52% to 42%) also supported Prop 187 in early polling, but ultimately 77% voted against it.

**Questions and Answers on Bilingual Education  
October 10, 1997**

**Background**

The Administration has strongly supported the federal bilingual education program, which permits a variety of different approaches to helping students master English, including both bilingual and English immersion instruction. We proposed a 27% increase in bilingual education for FY 98, protected it in the balanced budget agreement, and secured it in the House and Senate-passed appropriations bills.

In June 1998, Californians may face a new ballot initiative to abolish bilingual instruction for public school children in the state, requiring that most instruction be conducted only in English. The idea has support from many conservatives and some in the Latino community, as well as other minority groups, who are frustrated with what they see as an ineffective approach to learning English. However, the ballot initiative is vehemently opposed by many other Latinos, who strongly support bilingual instruction and see the initiative as an attack cut from the same cloth as Propositions 187 and 209. The California GOP endorsed the initiative at the end of September. The measure has until October to gain sufficient signatures.

**Q.** What is your Administration's view of bilingual education?

**A.** My Administration strongly supports the federal bilingual education program, which funds programs in local school districts that are designed to help kids become proficient in English. The program permits a variety of different approaches to helping students master English, including both bilingual and English immersion instruction. To help ensure that resources are available to assist children to learn English well, we proposed a 27% increase in the program and successfully protected bilingual education in the budget and spending bill before the U.S. Congress.

**Q.** Will the national tests be made available in bilingual versions?

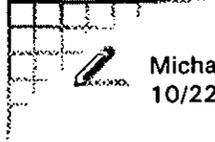
**A.** The voluntary national tests consists of a 4th grade test of reading in English and an 8th grade test of mathematics. There will be a bilingual (Spanish and English) version of the 8th grade math test -- because that test is destined to measure mathematics, not language skills. However, the purpose of the 4th grade test is to test student proficiency in reading *in English*, not general reading comprehension. Therefore, the national reading test will not be developed in other languages, although we will be making appropriate accommodations for students whose native language is not English.

By 4th grade, U.S. students need to have mastered basic English reading skills in order to begin to learn other subjects. I realize that there are students who have developed strong reading skills in their native language -- and that's great because those strong reading skills will transfer over to another language. However, the purpose of the voluntary national tests is to encourage all students to meet the same high standards of reading in English -- so that is the skill that these tests will be designed to measure.

- Q.** Does the Administration plan to intervene in California or campaign on behalf of bilingual education?

The initiative measure has not yet qualified for the ballot so this question is premature. We will be getting more information on the initiative as events develop. However, the Administration supports the approach of the federal program, which permits a variety of different strategies for English language instruction.

Education - Bilingual



Michael Cohen  
10/22/97 03:51:20 PM

Record Type: Record

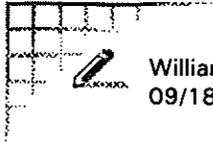
To: Elena Kagan/OPD/EOP  
cc: Bruce N. Reed/OPD/EOP  
Subject: Re: bilingual ed

I've been thinking about this since you raised in Monday. Here's what I think the group has too look like

From Education:  
Dalia Pompa, Director of Bilingual Education  
Mike Smith  
Terry Peterson

From WH:  
Me, you, Tanya and anyone else you want  
Sperling/Shireman  
Mickey Ibarra  
Janet Murgia  
Maria Echeveste  
Karen Skelton or whoever watches California politics for us

I don't think we need OMB in this, and I presume that COS office and Rahm weigh in later, or whenever they want to.



William R. Kincaid  
09/18/97 05:09:33 PM

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP, Michael Cohen/OPD/EOP  
Subject: More CA Q&A



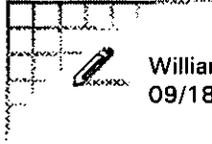
BILINGUL.9



RIGGSQ&A.9

Elena--

Attached, for your review, are two more Q's and A's on hot issues in CA. Though it doesn't use identical language, the Riggs/IDEA Q&A is consistent with our SAP on the issue. The bilingual Q&A is largely unchanged from this summer, except for background on a dispute in Orange County and a reference in the response to "the latest research". Note that the Office of Bilingual Education at ED would encourage a more aggressive stance against the ballot initiative, arguing that it imposes an arbitrary time limit for students to learn English (one year) and that it segregates what the initiative calls "English learners." In light of where we are on the national test, this could be one place to reach out to the Hispanic community, although it could also just stir up the 4th grade reading issue. On balance, I suggest that we use this approach at least until we see whether this makes the ballot (likely, I am told).



William R. Kincaid  
09/18/97 06:37:23 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

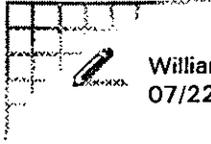
cc:

Subject: Bilingual approps

Wonder of wonders, according to ED, the H. and S. approps bills actually contain bilingual at the requested levels. I have made edits to the Q&A accordingly and passed along to Christa/Tanya.

Thanks.

Education -bilingual



William R. Kincaid  
07/22/97 03:21:55 PM

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: Bilingual



BILINGUL.R

Revised per your instructions. Note that I made one additional change--it now says the measure "has not yet qualified for the ballot", rather than "has not yet even been introduced," which originated with the press office. I made this change because the initiative has been filed with the California AG and the signature drive got underway this month. It is still reasonable for us to say that questions about our plans are premature.

I have forwarded this on to the press office.

## **BILINGUAL EDUCATION**

### **Background**

In June, Californians may face a new ballot initiative to abolish bilingual instruction for public school children in the state, requiring that most instruction be conducted only in English. The idea has support from many conservatives and some in the Latino community, as well as other minority groups, who are frustrated with what they see as an ineffective approach to learning English. However, the ballot initiative is vehemently opposed by many other Latinos, who strongly support bilingual instruction and see the initiative as an attack cut from the same cloth as Propositions 187 and 209.

The Administration has strongly supported the federal bilingual education program, which funds local programs designed to provide help to kids so they can become proficient in English. The program permits a variety of different approaches to helping students master English, including both bilingual and English immersion instruction. To help ensure that resources are available to help children learn English well, we proposed a 27% increase in bilingual education, and succeeded in including it as one of the areas protected in the balanced budget agreement.

### **Q's and A's**

#### ***Does the Administration support bilingual education?***

The Administration strongly supports the federal bilingual education program, which funds local programs designed to help kids become proficient in English. The program permits a variety of different approaches to helping students master English, including both bilingual and English immersion instruction. To help ensure that resources are available to assist children to learn English well, we proposed a 27% increase in the program, and worked successfully to include bilingual education as one of the protected areas in the balanced budget agreement.

#### ***Does the Administration plan to intervene in California or campaign on behalf of bilingual education?***

The measure has not yet qualified for the ballot so this question is premature. We will be getting more information on the initiative as events develop. However, the Administration supports the approach of the federal program, which permits a variety of different strategies for English language instruction, and thinks that a range of options for meeting the needs of children should continue to be available to local communities.