

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	To Daniel E. Lungren from Ron K. Unz and Gloria Matta Tuchman (partial) (1 page)	05/06/97	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Michael Cohen (Subject Files)
OA/Box Number: 13362

FOLDER TITLE:

California [Ron K.] Unz Initiative - Bilingual Education [3]

2012-0160-S

ry1205

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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CALIFORNIA

Car alarm magnate Darrell Issa (R) officially announced on February 7th that he will challenge Senator Barbara Boxer (D).

Incoming Assembly Speaker Antonio Villaragosa (D) of Los Angeles and Assemblyman Bob Hertzberg (D) of Sherman Oaks endorsed millionaire businessman Al Checchi for governor.

Former Representative Robert Dornan (R) announced February 9th that he will seek a rematch with Representative Loretta Sanchez (D-46), who defeated Dornan in '96. Dornan's challengers in the Republican primary are Superior Court Judge James Gray (R) and divorce lawyer Lisa Hughes (R).

Education is shaping up as the top issue in the 1998 elections. California voters overwhelmingly want to end bilingual education classes and would approve a measure to control the amount of money school districts can spend on administration, according to a new Field Poll conducted on January 29-February 2. They also express overwhelming support for another controversial initiative which could affect education by requiring unions to seek permission from their individual members before withholding dues for political contribution, the poll showed. Results are from a telephone survey of 729 registered voters in California who were read a summary of each official ballot description.

Field Poll**Eliminate bilingual education**

December 1997	Yes	No	Undecided
	69%	27%	7%
February 1998	64%	27%	9%

Restrict withholding of union dues

December 1997	Yes	No	Undecided
	72%	22%	6%
February 1998	69%	24%	7%

Limit school administration spending

December 1997	Yes	No	Undecided
	51%	29%	17%
February 1998	48%	31%	21%

ILLINOIS

For the first time in its 25-year history, the State Board of Elections on February 11th knocked a high-profile major party candidate off the ballot when it ruled that Democratic secretary of state candidate Penny Severns submitted faulty candidacy petitions. Orland Park Police Chief Timothy McCarthy and Cook County Recorder of Deeds Jesse White are the remaining candidates for the Democratic nomination.

Former U.S. Attorney Jim Burns' press secretary said the campaign spent a little more than

\$100,000 for 10 days' worth of air time in the Chicago metro area and in Springfield, which is lower than the \$180,000 estimate fellow candidate John Schmidt has been spending in recent weeks. Schmidt, a former Justice Department chief, and Congressman Glenn Poshard have been airing TV ads for several weeks. A fourth major candidate, former attorney general Rolland Burris, has not yet been able to afford to purchase time for television advertising.

A Mason-Dixon/PMR poll, conducted February 6-8 found the following:

Democratic Primary Matchup

	All	Favored/Unfavored	ID
Burris	26%	39%/ 9%	89%
Poshard	20%	28%/ 5%	63%
Burns	11%	23%/ 3%	53%
Schmidt	3%	15%/ 2%	45%
Undecided	40%		

Republican Primary Matchup

	All	Favored/Unfavored	ID
Ryan	73%	61%/ 3%	95%
Koppie	4%	5%/ 1%	33%
Undecided	23%		

General Election Matchups

Ryan	48%	Ryan	50%	Ryan	54%	Ryan	52%
Burris	27%	Poshard	26%	Schmidt	17%	Burns	20%
Undecided	25%	Undecided	24%	Undecided	29%	Undecided	28%

TENNESSEE

Covington lawyer Mike Whitaker (D) announced on February 10th that he will run for the Democratic nomination for governor and take on incumbent Governor Don Sundquist (R). He is a former law partner of Lieutenant Governor John Wilder (D) and later of 1996 Democratic Senate candidate Houston Gordon. Whitaker is the first Democrat to formally announce for his party's nomination.

The Board of the Registry of Election Finance decided on February 9th that Tennessee politicians who spend more personal money on campaigns than state law allows will not be prosecuted. The law, part of a campaign finance reform act adopted in 1995, declares that a candidate for the state House and most local offices cannot spend more than \$20,000 of his or her own money in a campaign. The limit is \$40,000 for a state Senate and \$250,000 for governor.

What we've been hearing about Unz and bilingual education

1. Opposition to Unz:

- sink or swim approach is extreme and harmful to kids - *can't address indiv. need*
 - no evidence to support approach in initiative
 - anti-immigrant *unintended*
 - eliminates local control *- elim. parent choice*
- teacher liability
-

2. Bilingual Ed

- Only a fraction of kids who need it get any kind of services in CA--much of the "ineffectiveness of bilingual ed" is due to the fact that kids don't get any services at all
 - no one defended bilingual ed--what needs to be done to fix it?
-

3. CA situation

- not yet getting much attention
- split on odds of Unz passing--some think it will definitely pass, others think there is a fighting chance of defeating it

legislative may move -

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STATE CAPITOL
SACRAMENTO, CA 95814
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2650 MARIPOSA, ROOM 5008
FRESNO, CA 93721
PHONE: (209) 445-5632
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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.

Withdrawal/Redaction Marker

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NOV. -25'97 (TUE) 12:17

MRI DEF

TEL: 916 443 1541

TEL: 916 324 7129

P.003

May 19'97 11:52 No. 019 P.02

SA 97 RF 0009

Ron K. Unz

P6(b)(6)

rkunz@earthlink.net

Gloria Matta Tuchman

P6(b)(6)

[001]

May 6, 1997

RECEIVED

MAY - 8 1997

Daniel E. Lungren
Attorney General, State of California
Attn: Rosemary Calderon
Office of the Attorney General
1300 I Street, Suite 1700
Sacramento, CA 95814

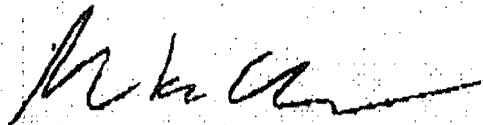
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Mr. Lungren:

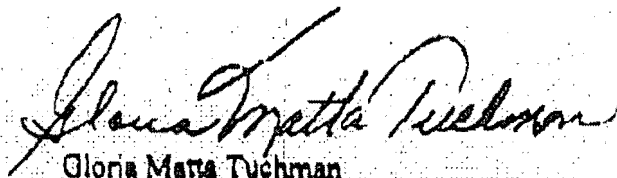
We, the undersigned, are filing the attached initiative, with the proposed title "English Language Education for Immigrant Children Initiative," and are requesting your office to prepare the appropriate title and summary for our signature-gathering efforts, in accordance with standard procedures.

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

SA 97RF 0009

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 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.

DELAINE EASTIN

State Superintendent of Public Instruction

July 7, 1997

Honorable Kerry Mazzoni, Chair
Assembly Education Committee
State Capitol, Room 3123
Sacramento, CA 95814

**RE: SB 6 (ALPERT)
SUPPORT IF AMENDED**

Dear Assembly Member Mazzoni:

As State Superintendent of Public Instruction (SSPI), I have reviewed Senate Bill 6, as amended on June 30, 1997, and have taken a "Support If Amended" position. This bill is scheduled to be heard in committee on July 9, 1997.

Given the complexity of the issues in this bill, we will provide a brief overview of current law and the California Department of Education's (CDE's) administrative practices, review the major changes in SB 6 as they affect current law, and then explain our reasons for taking a "support if amended" position.

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 state law requires school districts to provide services to Limited-English-Proficient (LEP) pupils according to eight general principles of the sunsetted law in Education Code sections 52161 and 62002. These principles require school districts to implement programs that: 1) provide inservice 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 crosscultural understanding; 5) provide equal opportunity for academic achievement, including, when necessary, academic instruction using the primary language; 6) offer bilingual learning opportunities to each LEP pupil; 7) provide adequate supplemental financial support to achieve the previous goals; and 8) ensure that participation in bilingual education is voluntary.

CDE's administrative practices provide school districts with six options to comply with state and federal law:

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

Honorable Kerry Mazzone
SB 6 (Alpert)
July 7, 1997
Page Two

- 3) Option 3--Local Designation of Teachers. Districts may develop procedures and criteria as an alternative training to CCTC credentials (in Option 2), and upon approval by CDE, issue local certifications to teachers who meet the competencies to teach LEP pupils.
- 4) 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.
- 5) 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 a two-year general waiver, during which time the districts continue to implement their staff plan, and other alternative programs.
- 6) Option 6--Small or Scattered Distributions. School districts that have less than 50 students districtwide, or 20 students at any one school, may choose to provide an alternative program that serves their LEP pupils.

As outlined above, currently school districts have *broad flexibility* to select one or more program options (see Attachment 1) that best meets the needs of their pupil. Through our 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 LEP pupils with an equal opportunity for academic achievement in the core curriculum?

SB 6 would repeal existing state requirements, and enact the "Firestone-Alpert Bilingual Education Reform Act of 1997." Specifically, its major provisions would:

- 1) Give school districts complete flexibility to choose and design the most appropriate methodology to teach LEP pupils as long as they meet federal requirements, and allow LEP pupils to receive primary language instruction when their assessment indicates that they cannot benefit from English-only instruction.
- 2) Develop tests to assess LEP pupils in their English language skills and other academic skills. The bill would require CDE to contract out for the development of a single English language test that would be used to identify LEP pupils and assess their progress in learning the English language.
- 3) Require CDE to develop model pupil performance standards for LEP pupils. 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 LEP pupils. 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, SB 6 would provide school districts with more flexibility to develop their own programs, and it would develop an assessment system, while requiring school districts to self-regulate for program effectiveness.

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Page Three

I agree with the general goal of the author to move from a rules-based to a standards-based content and performance system in which schools are held accountable for student achievement rather than process. However, I recommend amending the bill to narrow its focus to the development of a standards and assessment system, for the following reasons:

First, the accountability system established by this bill must be stronger. The bill would allow school districts to *self-monitor* the effectiveness of their programs for up to *four years*. Specifically, the bill requires school districts to implement changes to their programs if LEP pupils fail to make progress toward meeting the district's adopted standards after June 30, 2000. If the district continues to fail for another two years, the district must come before the State Board to explain its proposed additional changes, after June 30, 2002.

The accountability system for LEP pupils should be part of an overall accountability system for all pupils. Such a system is currently being developed pursuant to existing law enacted last year by SB 1570 (Greene), which requires the State Board of Education and CDE to develop a system of accountability to reward or sanction school districts for student results. A committee appointed by the SSPI is developing this proposal to put forth to the Legislature by December 1997. In light of this forthcoming report, it is premature to create a separate accountability system for LEP pupils.

Second, given the considerable program flexibility in existing laws, there is not an urgent need to provide school districts with more flexibility, especially when a strong accountability system is not yet in place. Once a strong accountability system is in place, it would be appropriate to consider providing school districts with even more program flexibility.

For the above reasons, I recommend that the bill be amended to focus solely on creating a standards and assessment system. The author may also want to consider amending in provisions that help to expand the number of teachers qualified to teach LEP pupils. This is another important area that requires attention. If you have any questions, please contact me or have your staff contact Jai Sookprasert of the Governmental Affairs Office in the California Department of Education at (916) 657-2280.

Sincerely,



DELAINE EASTIN
State Superintendent of Public Instruction

DE:js

cc: Members, Assembly Education Committee
Senator Dede Alpert

SB 6 Bilingual education: English learners.

BILL NUMBER: SB 6 AMENDED 07/21/97

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

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 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

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 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.

SECTION 1. Article 3 (commencing with Section 52160) of Chapter 7 of Part 28 of the Education Code is repealed.

SEC. 2. Article 3 (commencing with Section 52160) is added to Chapter 7 of Part 28 of the Education Code, to read:

Article 3. Instructional Services for English Learners

52160. This article shall be known and may be referred to as the Firestone-Alpert English Learners Education Reform Act of 1998.

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

52160.2. Notwithstanding any other provisions of law, the policies expressed in this article regarding

programs for English learners are the exclusive policies for programs for English learners. These policies are based on federal laws and on court decisions that interpret those laws.

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

52161. As used in this article:

(a) "Double immersion" means 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) "English immersion" means a program in which pupils who are English learners receive instruction in English with the necessary support services in the core academic curriculum.

(c) "English learner" means 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. An English learner is determined by the English language development test that is provided by the State Department of Education pursuant to subdivision (c) of Section 52166 and administered by the school district in which the English learner is a pupil.

(d) "Instructional services" means any method of, or approach to, instructing English learners that is recognized as a legitimate educational strategy for facilitating English language acquisition and access to the core academic curriculum.

Nothing in this subdivision shall be construed to require that a school district adopt a specific program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52164. (a) Each school district shall determine the type of instructional services to best accomplish the goals of English language development and academic achievement in order to meet the needs of the pupil population of each school district. In choosing, designing, and implementing its program for English learners, a school district shall consult with the district advisory committee established pursuant to Section 52168 to ensure all of the following:

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

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

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

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

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

(1) The number of languages spoken in the district.

(2) The percentage of pupils who speak each language.

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

(4) The educational preferences of the parents.

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

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

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

(b) The census shall be taken by an individual, actual count, and not by estimates or by sample. All English learners, including migrant and special education pupils, shall be counted. Special language assessment instruments designated by the Superintendent of Public Instruction, and in compliance with the requirements of subdivision (j) of Section 56001, may be used for special education pupils. The results of this census shall be reported to the State Department of Education not later than April 30 of each year. The census for the previous year shall be updated to include new enrollees and to eliminate pupils who no longer attend school in the school district, and shall be reported pursuant to Section 52166.

52165.1. Each school district in which English learners are enrolled shall establish procedures and criteria for the reclassification of English learners as English-proficient pupils, under regulations adopted by the State Board of Education pursuant to Section 52163.

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

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

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<http://www.senate.ca.gov/htdocs/ca.html?GO...SB.FROM0000.SB0006|CURRVER.TXT;1/6/97/SB6>

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

(3) Parental opinion and consultation.

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

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

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

52166. (a) The Superintendent of Public Instruction, with the approval of the State Board of Education, shall prescribe census-taking methods applicable to all school districts in the state, which shall include, but need not be limited to, all of the following:

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

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

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

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

(C) The Superintendent of Public Instruction shall review tests that determine an English learner's primary language proficiency and shall recommend tests for approval by the State Board of Education. The State Board of Education shall approve tests for use by school districts. The assessment to determine an

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<http://www.senate.ca.gov/ctb/cb.html?GO...SB.FROM0000.SB0006.CURRVER.TXT.1/6#/SB6>

English learner's primary language proficiency shall be readministered as necessary to provide a curriculum meeting the individual needs of each English learner.

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

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

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

(c) (1) The Superintendent of Public Instruction shall review tests that determine the English language skills of pupils whose primary language is other than English. Following consideration of recommendations made by the Superintendent of Public Instruction, the State Board of Education shall award a contract to modify an existing test or, if necessary, develop a test to assess English language development to be used for the purposes of this article. The instrument shall assess the English language skills of English learners, including, but not limited to, speaking, comprehension, reading, and written expression. The contract shall be awarded in accordance with competitive bidding procedures.

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

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

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

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

52167. (a) After a pupil has been determined to have a primary language other than English, within 30 days from the date the results of the English language development test administered pursuant to

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

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

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.

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

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

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

52161. As used in this article:

(a) "Double immersion" means 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) "English immersion" means a program in which pupils who are English learners receive instruction in

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

(c) "English learner" means 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. An English learner is determined by the English language development test that is provided by the State Department of Education pursuant to subdivision (c) of Section 52166 and administered by the school district in which the English learner is a pupil.

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

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

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

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

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

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.

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 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

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 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 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.

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

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*
5 *conduct a compliance review of those school districts*
6 *were reviewed pursuant to subdivision (a). This on*
7 *review shall include school districts with exemp*
8 *programs and school districts that have failed*
9 *demonstrate progress in language acquisition*
10 *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 l
21 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
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 tha
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.

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 gra
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.



CRUZ M. BUSTAMANTE
SPEAKER *of the* ASSEMBLY

PLEASE DELIVER THE FOLLOWING _____ PAGE FAX

DATE ► Nov. 25, 1997

TO ► Karen Skelton

FAX ► 202-453-7163

FROM ► Don Eaton

ATTN: SUZANNE

NOTES ►

☐ ► CAPITOL OFFICE
STATE CAPITOL, ROOM 219 • SACRAMENTO, CALIFORNIA 95814
PHONE (916) 445-8514 • FAX (916) 324-7129

☐ ► DISTRICT OFFICE
2550 MARIPOSA, ROOM 5006 • FRESNO, CALIFORNIA 95721
PHONE (209) 445-5532 • FAX (209) 445-6006

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



CRUZ M. BUSTAMANTE
SPEAKER *of the* ASSEMBLY

PLEASE DELIVER THE FOLLOWING _____ PAGE FAX

DATE ► Nov. 25, 1997

TO ► Karen Skelton

FAX ► 202-456-7163

FROM ► Don Eaton

ATTN: SUZANNE

NOTES ►

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SENATE RULES COMMITTEE

SB 6

Office of Senate Floor Analyses

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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 "sunset" 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.

- 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

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

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

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

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.

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	
\$440General			
Test Development	\$800*	--	--General
LEA Mandate			
Pupil Assessment	--	\$15,000	
\$15,000General*			
Parent Notification	--	\$1,000	
\$1,000General*			
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:sl 6/5/97 Senate Floor Analyses

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



CRUZ M. BUSTAMANTE
SPEAKER *of the* ASSEMBLY

PLEASE DELIVER THE FOLLOWING _____ PAGE FAX

DATE ►

Nov. 25, 1997

TO ►

Karen Skelton

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*ATTN:
SUZANNE*

FROM ►

Don Eaton

NOTES ►



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SB 6
Page 1

Date of Hearing: July 9, 1997

ASSEMBLY COMMITTEE ON EDUCATION
Kerry Mazzoni, 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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Page 2

- 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.

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Page 3

- 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

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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-Mascone 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;

- e) Provide equal opportunity for academic achievement, including academic instruction in the primary language, when necessary;
 - f) Offer bilingual opportunities to each English learner;
 - g) Provide adequate supplemental financial support to achieve the program's goals; and
 - h) Ensure that participation in bilingual education is voluntary.
- 2) Federal law and court ruling require schools to provide supplemental services to English learners, and require school districts to develop programs that a) are based on sound educational theory, b) provide adequate financial and personnel support, and c) achieve results after a reasonable period so that pupils are not left with substantive academic deficits.
- 3) SBE has issued advisories regarding general principles for districts to follow in designing programs for English learners.
- 4) SDE allows districts six administrative options in designing programs for English learners:
- a) Option #1 -- Results-Based Assessment Program. Allows districts to design their own program as long as it provides evidence that it is effective in developing English learners' English proficiency, provides them with equal opportunity for academic achievement, and does not result in substantive academic deficits for English learners.
 - b) Option #2 -- CTC Authorized Teachers. Allows districts to comply by having teachers who hold credentials authorized by the Commission on Teacher Credentialing provide services to English learners.
 - c) Option #3 -- Local Designation of Teachers. Allows districts to issue locally developed certifications to teachers to serve English learners, as long as SDE has approved the certification program.
 - d) Option #4 -- Staffing Plan and Annual Report. Allows districts with a shortage of BCLAD or CLAD certified teachers to comply by working to remedy that shortage and annually reporting to SDE on its progress.

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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

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BACKGROUND

Reason for gap in services is unclear. Some argue that the process-related restrictions established by SDE are partly to blame for the gap in services to English learners. Others argue that there is a lack of appropriately-trained teachers and resources to sufficiently serve English learners. And others argue that the gap in services represents a lack of concern by some school districts over the language development needs of English learners and these pupils' long-term achievement prospects. Yet others argue that part of the gap is due to some over-zealous districts and teachers that are convinced that pupils are better off in English-only, submersion-type programs that provide little or no support services.

Debate over effectiveness of different instructional methods. There is much debate among researchers and practitioners as to whether some instructional methods provide better long-term results for English learners than others. Two issues are central to the debate: a) the use of primary language and b) the length of time over which children are transitioned to English. Some research shows that students in high-quality programs that provide primary language support and transition pupils over a number of years to English, academically outperform students who are quickly transitioned into regular English-only classrooms with little or no primary language assistance. However, some question whether bilingual programs that do not meet the staffing and programmatic

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

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