

Senate Select Committee On Bilingual Education

Selected Articles From Print Media
On Bilingual Education

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THE TIMES POLL

Bilingual Education Gets Little Support

■ Latinos, even more than whites, favor dismantling the program. Californians also back assault weapons ban and don't want unions' political activity restricted.

By MARK Z. BARABAK
TIMES POLITICAL WRITER

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

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

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

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

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

Among its other findings:

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

- Californians evidently look

forward to their expanded choices under the state's new "open primary" law, which allows them to vote next June for whichever candidate they prefer, regardless of party. Only a minuscule percent-

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age said they intended to use the opportunity to make political mischief.

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

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

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

Much of the early attention surrounding the 1998 campaign has focused on the proposed bilingual education initiative. The measure, pushed by Silicon Valley businessman Ron Unz and Orange County schoolteacher Gloria Matta Tuchman, promotes English-only in-

struction for California's 1.3 million students with limited English skills.

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

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

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

As a case in point, she noted the polling history of Proposition

187, the 1994 anti-illegal immigration initiative. A Times poll conducted in September 1994 found that Latinos supported Proposition 187, 52% to 42%.

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

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

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

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

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

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

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

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

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

One of the ballot measures that voters approved last year will have its first tryout next June.

English-Only Support



Percentage of each group supporting a proposed initiative to have all public school instruction conducted in English, and to place students not fluent in English in a short-term English immersion program.

All voters	80%
Whites	80%
Latinos	84%

Source: Los Angeles Times Poll

Los Angeles Times

Under the so-called open primary system, California voters can cast their ballots for any candidate, regardless of party registration.

Proponents of the measure suggested that it would encourage voter participation and promote bipartisanship and problem-solving in government by boosting more moderate candidates.

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

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

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

Independents and voters who decline to state a party preference stand to gain the most from the new primary system because, for the first time in years, they can vote for candidates seeking office. Before, independents and decline-to-state registrants could vote only

for initiatives on the ballot. Seventy-one percent of those surveyed said they would take advantage of their new status to cast ballots in contested primaries.

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

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

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

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

An overwhelming majority, 71%, expressed support for legisla-

Key California Issues

Members of the California electorate say they would not vote for a proposed initiative to require union members to approve part of their dues for political purposes. On other issues, Californians would maintain the ban on the manufacture, sale and possession of semiautomatic weapons and would require girls under the age of 18 to get parental consent before they have an abortion.

Would you vote for or against an initiative that would require union members to approve part of their dues to be used for political purposes? (Asked of registered voters)

	All Voters	Union Members	Non-Union Members
Vote for	33%	33%	33%
Vote against	59	63	58
Don't know	8	4	9

Should girls under 18 be required to get their parents' consent before they may have an abortion?

	All	Favor Roe vs. Wade	Oppose Roe vs. Wade
Should be required	67%	56%	90%
Should not be required	28	38	5
Depends on family circumstances*	4	3	3
Don't know	3	3	2

Do you favor or oppose maintaining California's present ban on the manufacture, sale and possession of semiautomatic assault weapons?

	All	Gun Owners*	Non-Gun Owners
Favor	73	70	73
Oppose	24	34	20
Don't know	3	6	7

Has this ban been effective in reducing the use of semiautomatic weapons by criminals?

	All	Gun Owners	Non-Gun Owners
Effective	53%	70%	98%
Not effective	58	67	53
Don't know	9	7	11

Note: *volunteered Source: L.A. Times Poll Times Poll results are also available on the World Wide Web at <http://www.latimes.com/HOME/NEWS/POLLS>

Los Angeles Times

How the Poll Was Conducted

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

tion that would close the loopholes in the 1989 law and expand the definition of what constitutes an illegal weapon to include so-called copycat firearms.

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

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

Sixty-three percent of gun owners favored the initial legislation and 56% favored strengthening the ban. Twenty-eight percent of respondents said there was at least one gun in their household.

On the abortion issue, 59% of those surveyed expressed support for the landmark 1973 Roe vs. Wade decision that legalized abortion during the first trimester of pregnancy. At the same time, 67% of respondents said that girls under 18 should be required to obtain parental consent before they could have an abortion. Twenty-six percent said no such permission

should be required.

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

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

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Union Opposes Bilingual Measure

■ **Education:** Statewide group attacks initiative that would dismantle such instruction. But backer says it will be popular among teachers.

By NICK ANDERSON
TIMES STAFF WRITER

California's largest teachers organization came out Tuesday against an initiative proposed by a Silicon Valley businessman and an Orange County schoolteacher to dismantle bilingual education.

The announcement by the California Teachers Assn. was a significant counterpunch for opponents of the "English for the Children" initiative, who had been struggling in recent weeks.

The proposed initiative, targeted for the June ballot, would require virtually all public school instruction to be conducted in English, although it would offer a year of special "English-immersion" lessons to students who are not fluent in the language.

Now, such students are taught in a variety of ways, many in bilingual classes that use their native language, usually Spanish.

"This initiative arbitrarily limits the access of some

students to the curriculum by dictating a single method of language instruction," CTA President Lois Tinson said in a statement. "Students do not come in 'one size fits all' containers. They are individuals and they need instruction built around their individuality."

The union's actions on education issues are watched closely because the organization can call on 270,000 members to help raise money and volunteer for campaigns.

Initiative sponsor Ron K. Unz, a software entrepreneur and former Republican gubernatorial candidate, called the announcement "unfortunate."

"On the other hand," Unz said, "I do think our initiative will be very, very popular among rank-and-file teachers, including CTA members and presumably CTA activists up and down the state."

Unz, whose co-sponsor is Santa Ana elementary schoolteacher

Gloria Matta Tuchman, denied that the initiative would mandate one instructional approach, noting that parents who object to English-only teaching could seek a waiver. Opponents, however, say such waivers would be difficult to obtain.

Unz and Matta Tuchman have secured key endorsements of their own. In September, delegates to a Republican state convention gave the measure their blessing despite the efforts of party leaders to delay an endorsement vote. This month, Latino calculus teacher Jaime Escalante, made famous in the movie "Stand and Deliver," also endorsed the initiative.

A recent Los Angeles Times poll found that the proposed initiative enjoys overwhelming support among the state's voters, even among Latino voters. Foes of the initiative say that the poll numbers will turn around once the public learns more about it.

Unz said Tuesday that he has gathered 600,000 signatures to put the initiative on the ballot. He needs 433,269 verified signatures.

The deadline to turn them in is Dec. 1.

Unz is bankrolling part of the signature gathering. Campaign records show he has also received \$25,000 from each of two Florida businessmen, whom Unz said he met through conservative circles, and \$48,000 from Fieldstead & Co., an Irvine philanthropy group associated with Christian conservative banking heir Howard F. Ahmanson Jr.

The union's announcement follows one by the California Federation of Teachers, which came out against the proposed measure in September.

"We are in this to fight, and to fight it strong," said Dolores Sanchez, a spokeswoman for the federation of teachers, which has 45,000 members. The position of the two teachers unions, she said, "is a strong message that educators, people who actually have classroom experience, believe that this is a harmful proposal for the children."

The end of bilingual education?

By Jill Tucker
STAFF WRITER

After 25 years of bilingual education in California classrooms, educators, policy makers and parents can't agree on how to most effectively teach children the English language while ensuring they don't fall behind academically.

Critics of English immersion instruction — most notably Hispanic community groups — portray efforts to dismantle bilingual education as an attack against immigrant communities.

Not so, says Ron Unz, a Silicon Valley millionaire and founder of the controversial bilingual education state ballot initiative. The measure, English for the Children, proposes to dismantle bilingual education in California.



Unz

The initiative, in fact, would have little financial impact on the state's educational system.

Bilingual instruction accounts for about 0.4 percent of the state's \$27 billion education budget each year. In addition, California received about \$55 million in federal funds last year under the Bilingual Education Act.

But the initiative would not allow a cut in the special funding allocated for children learning English.

Unz and his supporters, however, say the bilingual education community is a self-serving group trying to sustain a program that fails to teach children English.

Last year, 24,163 teachers out of about 150,000 in California taught in bilingual classrooms, receiving up to \$5,000 more each in some districts for the bilingual certification.

"We have found that most people do enjoy having their children in bilingual education," he added. "It's not that (parents) don't want their children to learn English, it's that they don't want their children alienated from learning other things while they learn English."

Bilingual education supporters say the Unz movement is less about education than politics.

Unz, who received 34 percent of the Republican vote against Gov. Pete Wilson in 1994, has poured more than \$100,000 of his own money into the initiative.

Some say Unz is pushing another bid for governor. Others criticize the campaign as an attempt to disguise an English-only political movement.

"I think (the initiative) is very conservative," said Josefa Alvarado, director of the Centro Legal de la Raza educational empowerment program. "I think it's definitely an English-only kind of movement and I think it's disgraceful to base his movement on alleged Latino support."

Unz's co-sponsor, Gloria Matta-Tuchman, is a former board member of U.S. English, a group devoted to English-only legislation requiring gov-

ernment on all levels to use only the English language. Unz said he supports many aspects of the English-only movement.

In addition, U.S. English endorsed the initiative last week. "The English language is the most important thing a child needs to learn in school," said the group's chief executive officer, Mauro E. Mujica, in a letter sent out to the media Oct. 13.

Unz and his supporters argue the measure is not an anti-immigrant initiative, that it actually would give parents back their choice of programs.

"I like to make them attend to English," DeYoung says, explaining why the bilingual class is taught in both English and Spanish on alternate days. "I like to have it multicultural."

But not all bilingual classes use as much — if any — English, Unz said, adding that he backs his position with anecdotal information.

"Although bilingual education may mean many things in theory, in the overwhelming majority of California schools, bilingual education in actual practice means monolingual, native-language instruction with English being introduced to children only in later grades," Unz's campaign literature states.

While research varies on the point, opponents of bilingual education argue that the quickest way for children to learn English is to immerse themselves in the language as soon as they start school.

"I think when the child comes here, you need to learn English," said Leila Gonzalez, an Oakland teacher's aide who signed the English for the Children petition. "The only time I was allowed to speak

Spanish was after school."

In the cornerstone of his campaign, Unz has blasted bilingual education by saying it fails 95 percent of the time. He claims that only 5 percent of children who are learning English become fluent in the language each year.

"Things are 10 times worse than I ever realized," Unz said. "I had just been very misinformed of just how bad things were."

The 95 percent failure rate has been repeated by members of the California Republican Party, which voted to endorse the initiative at its Anaheim convention late last month.

While even bilingual education supporters acknowledge the program has not always been implemented effectively, the 95 percent failure rate is a misleading and outdated statistic, say program administrators and Hispanic community leaders.

In fact, 6.7 percent of the children learning English in California became fluent last year. In 1993, the figure was 5 percent.

"Under a well-implemented bilingual education program, it takes about five years to transfer into a mainstream class," said Joseph Jaramillo, staff attorney for the Mexican American Legal Defense and Educational Fund. "Yes, in some cases bilingual education has not worked as intended. It's due to things such as inadequate resources, untrained teachers, low parental involvement."

Unz's campaign slogan also fails to mention that only 30 percent of the children who aren't fluent in English are actually in bilingual classrooms.

According to the California Department of Education 1996 Language Census, the majority of English language learners were in English-based classes.

"When we look at California and compare what is going on in the state... then we find that less than a third of students (who aren't fluent in English) are in what minimally would be called bilingual education programs," said Reynaldo Macias, director of the Linguistic Minority Research Institute at the University of California, Santa Barbara.

In California, more than 100 languages are represented among residents.

Only about eight to 10 languages are used in bilingual education classes, according to the California Department of Education. Spanish is the language most often used in bilingual education.

But Unz's use of the redesignation rate as an indication of failure implies that a 100 percent success rate would mean every child learning English should become fluent each year.

That's not realistic, language experts say, whether the students are in bilingual or English-immersion classrooms.

"There's no country in the world and no language in the world where you can get a non-proficient language speaker proficient in a language in a year," said Norman Gold, manager of the state Department of Education bilingual compliance unit.

Concern over keeping pace

While children such as Omar do succeed in English immersion environments, many are unable to pick up enough of the language to academically keep up with their peers. La Escuelita principal Roberto Villa

said. Language experts say it takes five to seven years to become fluent in a second language. Unz argues that children in the primary grades can pick up English in a few months to a year.

Bilingual educators, however, say teaching a child to read the word "dog" is difficult if the child doesn't

know what the word means.

"You may claim it's not sink-or-swim, but the de facto reality is it is," Villa said. "The kids retreat. They're essentially excluded from learning because they can't understand."

Many Hispanic community activist groups have disputed Unz's claims that most Hispanic families don't want bilingual education.

Unz cites a recent Los Angeles Times poll of Latino residents in Orange County that indicated only 17 percent of those surveyed want children taught in their native language until they are ready to learn English.

But another question on the poll showed that 74 percent opposed English-only classrooms as soon as children enrolled in school.

The seemingly contradictory numbers indicate parents want their children taught English upon entering school but also want their children to keep up with other subjects, said Jose Arredondo, executive director of the Oakland-based Spanish Speaking Citizens Foundation.

The language of learning

While bilingual education has drawn fire, only one-third of California's students who don't speak English fluently take classes in their native languages. The percent varies widely from district to district across the state.

District	Total non-English fluent students	% of non-English fluent students in bilingual classes
Alameda	1,906	0%
Berkeley	959	26
Fremont	3,480	13
Fresno	25,566	6
Hayward	5,104	28
Jefferson Elem. (S.M.)	1,615	20
Livermore	760	25
Los Angeles	300,980	34
Manteca	929	4
New Haven (Union City)	2,942	7
Newark	833	17
Oakland	15,670	27
Pleasanton	182	0
Ravenswood	3,215	37
Redwood City Elem.	4,272	58
San Francisco	18,539	43
San Leandro	1,293	7
San Lorenzo	1,467	14
Alameda County	35,434	21
San Mateo County	18,591	28
Statewide	1.38 million	30

Source: California Department of Education

KORY W. HANSEN - Staff

The Oakland Tribune.

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Bilingualism: Si or no?

AERICAN English is an evolving, ever-fresh language. Words, phrases and rules change seemingly as often as the tides. A person time-transplanted from even 1930 would have trouble figuring out what some cool homeboy meant by surfing the Web. But the one constant of American English is that it remains a recognizable language of its own, understandable as much in California as in New England.

American English is also more than a mere means of communications. "A national language is a very large matter," Mark Twain wrote in 1880. "It reflects everything that happens to a people, the cultural forces that create ideas and words, the content and form of regional and social expression." In its peculiar adaptability to new locutions, in its acceptance of just about any regional dialect or accent and in its penchant for kleptomaniacal (a word we just made up meaning borrow any word from anywhere), American English also reflects how we think of ourselves as a people and a culture.

Our language is loaded with symbolism. That's one of the reasons why the continuing battle over bilingual education in schools is so contentious. To many, American English fluency is the rite of passage into being an American. To others, who generally agree that the ultimate goal is to be American English fluent, rigid timetables for learning the language create more harm than good. Wrapped around all this, of course, is what some see as the real fight over preserving a single American culture or fracturing into the kind of multiculturalism that leads to ethnic Balkanization.

Ballot measure

The debate over bilingual education will only get louder if the proposition to effectively ban it in California classrooms makes it to the ballot. The ballot initiative would turn current practice around and essentially put the burden on proponents to prove that bilingual teaching is necessary and effective.

To its supporters, the proposition merely mainstreams non-English speakers into the society they've chosen to enter. To its opponents, it smacks of anti-immigrant and anti-minority bias.

At this stage of the debate, most of us simply have not thought enough about the issues, or have enough information, to frame our opinion. In a state that is

seeing more and more immigration from all parts of the world, is it realistic to expect immediate English fluency? If bilingual instruction is necessary, how long is it necessary?

Kids in the first or second grade can likely pick up English in a year. How long will it take for a high-school teen-ager? Is it right to expect immigrants to mainstream into American life, but then not give them the help they need to do it? Is it equally right to separate language groups into their own little worlds and not challenge them to learn the most basic skill needed to succeed in America?

Which languages?

On a more practical level, if you do keep bilingual education in its present form, how do you ensure that all language groups benefit? Almost 80 percent of non-English speakers in California are Latinos, and bilingual instruction is geared to them. But in total, there are about 100 language groups in California schools, so how do you get and pay for teachers in each of those languages? How fluent is fluent?

California has also embarked on an ambitious plan to implement tough statewide standards in its schools. How do you ensure they mean anything, or are contributing to overall excellence, unless tests based on the standards are given in the same way everywhere and in the same language? Conversely, will otherwise very bright kids who don't speak English be handicapped if they cannot understand the language of the tests?

As with almost every issue involving education, the bilingual debate also whirls around other political issues in California. We are becoming more a state of immigrants. What do we expect of the newcomers? What can they expect of those already here? What are the rules?

By our votes, we are against favoring any one group over another. Should this extend to schools? By our votes, we favor spending as much money as we can on making sure that every kid gets a good education — and should this extend to giving a non-English speaker a special break?

These are some of the questions that, we believe, will frame the debate over bilingual education. We should not allow it to devolve into demagoguery or kid-bashing. It's a serious issue; take it seriously.

Bilingual education goes back 150 years

By Jill Tucker
STAFF WRITER

In 1974, the U.S. Supreme Court unanimously determined that placing students who couldn't speak English in regular classrooms without some language help was a violation of their civil rights.

That decision gave bilingual education a national stamp of approval.

Subsequent court decisions concluded that bilingual education was only one of many acceptable ways to provide special assistance to non-English speakers, but teaching kids in their native language became a mainstay of public education.

While advocates of bilingual education 25 years ago fought to give non-English speakers equal academic footing in public schools, the program is now under attack for the same reason.

"It's not about education, it's about money," said Redwood City resident Fernando Vega, who believes Hispanic children aren't learning English in California public schools.

"We have failed to provide an education to those kids. All I ask is they level the field and give us a fair education."

Politically conservative Orange County has led the affront on bilingual education.

The 29,000-student district has sought a waiver from using bilingual education in their schools. A group of parents and civil rights groups challenged the decision in court and await trial.

This isn't the first time in U.S. history that bilingual education has gone through a full cycle of support and strong opposition.

For the last 150 years or so, the political and social environment has tended to have a strong impact on the languages allowed by law.

In the mid-1800s, for example, Pennsylvania law required school instruction in both English and German. Several other states taught bilingual education in French, German and Spanish.

During that time, the United States had an open-door immigration policy that brought 15.4 million new residents.

Also in the mid-1800s, California was officially a bilingual state — a status that lasted for 30 years. The state's first constitutional proceedings were conducted in both Spanish and English.

During the 1880s, in the aftermath of the Civil War, the Jim Crow laws imposed English literacy requirements for voting.

About 40 years later, during World War I, 20 Midwestern states barred schools from teaching German. In 1921, Nebraska made English the official language of the state.

The most recent attack on bilingual education in California follows closely on the heels of Proposition 187, a measure to eliminate public benefits to illegal immigrants; and Proposition 209, which sought to end affirmative action.

In addition, the English-only movement has been a consistent election-year issue in recent years.

Groups such as English First or U.S. English have spent the last two decades fighting to make English the official language of the country. English-only supporters believe all government or public business, including public education, should be conducted in English.

In 1981, the English Language Amendment was introduced in Congress, but has never reached a vote.

At least one politician who supports official English legislation has seen fit to recognize his bilingual constituency.

As of last week, House Speaker Newt Gingrich is distributing his official words and recorded actions in Spanish.

His press releases are also being translated so he can "reach out" to citizens who are native Spanish speakers "to show the good work being done in Congress," spokeswoman Christina Martin said.

Gingrich continues to be an "adamant supporter" of official English, but he has "voluntarily" decided to send out translations into Spanish, Martin said.

"He still believes that all government documents should be done in English first," she said.

The Associated Press contributed to this story.

Kids learn Chinese at Berkeley school

By Cecily Burt
STAFF WRITER

BERKELEY — Moses Hardin isn't Chinese. But when the Jefferson Elementary student asks to visit the restroom during class time, chances are his teacher will want his request in Cantonese.

Hardin, a kindergartener in Anna X.L. Wong's class, is enrolled in a special Chinese bicultural program in Berkeley public schools.

He didn't know one word of Chinese at the beginning of the school year, but after three weeks he could count to 10, say "clap your hands" and "wash your hands" in Cantonese and tell you what was wrong with Big Bear, the character in a book Wong read to the class in Cantonese.

"Big Bear is trying to get some sleep because it is too noisy," he translated as he busily put a puzzle together.

Starting as kindergarteners, kids immediately hear stories and lessons in both English and Cantonese. They learn to count in Cantonese and write the brush symbols for the different numbers. They learn several words and simple phrases.

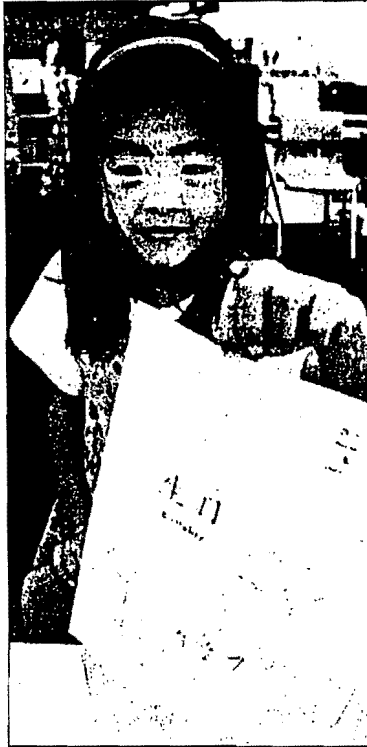
They celebrate Chinese cultural holidays as well as those celebrated by other cultures. They even learn the disciplined physical exercise of tai chi.

"Usually most love it, or at least play along," Wong said. "Only about four don't get it."

By the time they reach third grade, the students are learning about Chinese inventors, how to use an abacus for counting, and China's geography, history and famous landmarks.

In Berkeley, Limited English Proficiency students (LEP) are given special small-group instruction in English by a specially trained English as Second Language (ESL) teacher, but they spend most of their day in a regular classroom.

Last year there were 959 Berkeley school children classified as having limited English proficiency. Of those, 26 percent were in bilingual programs and more than 8 percent were reclassified as English fluent the same year.



Grace Nelson, a first-grader in Annie Tong's Chinese bicultural class at Jefferson Elementary school in Berkeley, shows off her writing exercise: writing the word "birthday" in Cantonese characters.

Jefferson has had a Chinese bicultural curriculum for 20 years, and Chinese-speaking students with limited English speaking skills go there.

Spanish-speaking students with limited English skills attend Columbus, Cragmont or Thousand Oaks elementary schools.

Each Chinese bicultural teacher pro-

vides language support services to ESL students. Starting this month, Wong and another teacher will be working with Jefferson kids who have lagged behind in their English skills.

Most of Wong's class speak fluent English, for those who don't, ESL teachers visit the schools and provide special tutoring.

Wong's class is about one-third Asian, one-third African American, and one-third white or other ethnic groups. The kids who are in her class this year will be enrolled together in the same first grade class next year, and the same second grade and third grade classes in subsequent years.

Each year, teachers Wong, Annie Tong, Wendy Fong and Gaye Ying build on what the students learned the year before.

In Tong's first-grade classroom, kids learn family names and the words for parts of the body. They learn more words and phrases and also start writing words in Chinese alphabet symbols.

In September they learned about the Moon Festival, and celebrated by eating sweet moon cakes.

"The festival is about a mean king," said Mariah Lapiroff, 6. "The people that owned China were mean so the people made moon cakes and put notes in them with plans to escape."

Compared to Oakland, Berkeley's Asian population is small, and Asians are not concentrated in any one neighborhood, such as Oakland's Chinatown.

Last year Wong had about 10 kids of Asian descent in her class; this year she has barely more than five.

Parents must approve their child's enrollment in the program. Sometimes kids have to be turned away because there isn't enough room. Rarely is it the other way around.

"I think it's great if he learns another language," said Jonathan Scott, whose son Kenji Scott, 5, is enrolled in Wong's class. Kenji's mom is Japanese, and the youngster has dual citizenship and speaks a little Japanese and Spanish.

Many bilingual students taking SAT in Alameda

By Leslie Mladinich
STAFF WRITER

ALAMEDA — A record number of Alameda students who have a bilingual background are taking the Scholastic Assessment Test, the gateway to four-year universities and colleges, although some of them are still grappling with language barriers.

Although the district does not have a traditional bilingual program — meaning that Alameda does not offer classes that are taught in languages other than English — it has a large percentage of students who are fluent or understand another language other than English.

While many of the Alameda students don't have full fluency in the English language, they are taking the college entrance exam in greater numbers than their statewide and national counterparts.

Twenty-two percent of Alameda students whose first language isn't English took the 1997 SAT compared to 8 percent nationally, according to the district's testing office. In California, 19 percent in the same category took the test.

At the same time, however, counselors underscore the difficulty that they say some bilingual students have in taking the test, especially its verbal section.

According to the Department of Education, Alameda has 1,906 LEP — or limited English proficient students. Of this number, 4.64 percent were redesignated last year as English proficient and mainstreamed into regular English from English Language Development, or ELD, classes. These classes contain more creative and non-traditional teaching methods to explain lessons instead of relying solely on reading and writing.

The program gives a lot of bilingual support to quickly move students into English, said Linda Cabral, head of the multi-lingual program.

High school counselors credit the high SAT participation rates to Alameda High School being an official test site, the district offering prep classes for the last two years and teachers recruiting actively long before the test is administered.

Still, bilingual students are encouraged to prepare outside of school.

"It is admittedly difficult for kids who don't speak English at home to do well sometimes on the verbal part of the SAT," said John Maters, a counselor at Alameda High School. "One thing I tell our kids is you have to read and write a lot of English. The more you do that, the better you get."

Alameda High School senior Laarni Obis is a highly motivated bilingual student who took the SAT despite trying to acquire more English skills.

The 18-year-old emigrated from the Philippines to the United States in 1993. She attended Lincoln Middle School in Alameda and briefly attended Mt. Eden High School in Hayward before settling at Alameda High School.

Although she has not been officially redesignated out of English Language Development classes, she has opted out of the program. Obis, 18, is fluent in Tagalog, a language she speaks at home.

"I was struggling when I was doing the verbal because I know a second language," Obis said.

Half of the six SAT test sections are verbal and involve reading comprehension, vocabulary and word analogies. Unlike six of her friends with similar English skills, it was never an option for Obis not to take the SAT.

"My friends don't plan to take the SAT because they have more of a familiarity in their first language and want to attend a university in their native country," she said. "For me, there is more opportunity here."

A student like Obis is rare, said Jennie Brook, a program coordinator for students acquiring English at Alameda High School. Most students who take the SAT are in the advanced level of ELD classes or have been redesignated, she said.

Out of all the students at Alameda High School, 30 are at the beginning or intermediate level of ELD classes, 70 students are in advanced level and 35 to 40 like Obis have opted out of the program but are eligible ELD classes.

Brook added that although the high school encourages all students to take the SAT no matter how proficient in English they are, she also warns students not to get discouraged if scores turn out low.

"It can be a good thing, but it can be traumatic if a student doesn't do very well. Sometimes we encourage students (still developing English skills) to go to a community college where they will get two more years of English to get up to the level (where they are completely English proficient)," Brook said.

"I don't think there was a time when I took the SAT and mixed the two languages," said West End High's Myle Phan, 16, who is fluent in Vietnamese and English. "Of course the test is challenging, but it is challenging because of the content, not because it is in English."

Immigrants' kids quick to adopt English

Education study finds goals differ among groups

By Elaine Woo
Los Angeles Times

A five-year study of the educational progress of 2,400 children of immigrants in San Diego has found that they quickly embrace English over their parents' native tongues — contrary to the fears of anti-immigration groups.

The study — part of the largest long-range survey of immigrant offspring in the United States — also found that these youths had better grades and lower dropout rates than fellow public school students whose parents were born in the United States.

But the study also found stark

disparities in ambition among various immigrant groups.

The research is part of a massive effort by researchers from Michigan State and Princeton universities to follow 5,000 children in San Diego and Miami, two centers of immigrant settlement.

"Some immigrant groups and their children are doing well and seem poised to join the middle-class mainstream — if they are not there already," said Michigan State sociologist Ruben G. Rumbaut, who coordinated the project in the San Diego schools.

But others risk "joining downtrodden native groups in the inner cities," he said, a possibility that lends urgency to efforts to understand the prospects of 8 million immigrant youths nationwide.

Anti-immigration groups, in attacking the study's hopeful findings, said there is plenty of evi-

dence that immigrants of the last two decades have not been good for America.

"What they have found is in direct contradiction to what other studies have found ... that children of less-educated immigrants tend not to do well in school," said Ira Mehlman of the Federation for American Immigration Reform in Los Angeles.

Yet even some of these critics agreed with one of the study's conclusions — that American culture may erode the work ethic of immigrants. The study found, for instance, that immigrant students spend less time on homework the longer they live here.

The San Diego Unified School District, with 133,000 students, is the eighth-largest in the nation. It was chosen for the study in part, because white students make up nearly a third of the enrollment,

Latinos another third, and African Americans and Asians most of the rest.

The youths in the study group seem to be making quick strides toward joining mainstream American culture. More than 90 percent of the immigrant students spoke a language other than English at home. Yet the proportion who preferred English grew from 66 percent in 1992 to 82 percent in 1995.

Analyzing district data on grade-point averages, Rumbaut found that the children of immigrants were not driving down achievement but outperforming the district as a whole. For example, 29 percent of all ninth-graders in the district had GPAs higher than 3.0, compared with 44 percent of immigrant children. In the 12th grade, 46 percent of all students had a 3.0 or better, while

50 percent of immigrant kids performed that well.

Across the board, Rumbaut found that the immigrant youths placed a high value on schooling, with more than 90 percent agreeing that a good education is essential to upward mobility. Forty-six percent aspired to occupations such as doctor and lawyer, with Filipinos, Vietnamese and other Asians having the loftiest goals.

But far fewer students of Mexican, Cambodian, Laotian and Hmong heritages set goals that high. Only 22 percent of Laotian and Cambodian Americans and 24 percent of Mexican Americans said they would like to earn an advanced degree, contrasted with 63 percent of Asian Americans, 52 percent of non-Mexican Latinos and 47 percent of Vietnamese Americans.

Firms are sold on being bilingual

By Vanessa Hua
Bee Staff Writer

Jose Ruiz, a surgical assistant, offers a healing touch to patients at Sutter Memorial Hospital. He interprets.

"Patients, especially before surgery, may be a little scared. They'll have a lot of questions," said Ruiz, 46, a Spanish interpreter for two decades. "I try to give them confidence. Tell them to think positive."

Ruiz is among a growing number of bilingual employees playing an important role in the Sacramento workplace.

It isn't just a courtesy, it's smart business.

The Central Valley is home to several hundred thousand people who hail from the former

Soviet Union, Laos, Cambodia, Vietnam, and Mexico. By some estimates, more than a third of the population in Sacramento County speaks a language other than English. That's a large customer base, with sizable buying power.

Statewide, more than 8 million people speak languages other than English, according to the 1990 U.S. Census. By hiring employees able to communicate with those immigrants, companies are beefing up their bottom lines.

"Customers appreciate having a language option," said Harvey Radin, Bank of America spokesman. "We're addressing their needs."

It's not just large, international businesses that are catering to non-English speakers, either. Josie Steelman Interpreting Services and Roseville Toyota are among the local businesses

making efforts to reach a diverse clientele.

Reflecting the population demographics, Spanish is the language most often offered, with a nod to Russian and some Asian languages.

Since last year, Roseville Toyota has aggressively advertised its bilingual sales staff—in print, radio, and television spots. About a quarter of its sales people speak foreign languages, including Arabic, Lithuanian and Vietnamese.

"Everyone drives cars, but not everyone speaks English," said Tony Harb, a new car sales manager at Roseville Toyota who helped kick off the campaign. "We want to reach those customers."

Patrons have flocked in seeking bilingual ser-

Continued from page D1

vice, resulting in about 15 percent more traffic, Harb said.

After the commercials, salesman Linh Ngyuen, 26, estimated that he sold twice as many cars to Vietnamese customers:

"Customers will come in asking for me by name," Ngyuen said.

Clients who speak languages other than English are now more likely to call with questions, Ngyuen said. Bilingual sales representatives also provide reassurance.

During negotiations with sales managers, Vietnamese customers turn to Ngyuen for a second opinion, he said.

In contrast to the auto dealership's mainstream advertising, Pacific Bell focuses its marketing efforts on ethnic media outlets, said Emeli Gomez, the company's diversity advertising team member.

Those efforts promote the fact the company has opened nine customer service centers staffed with employees speaking Spanish and Asian languages, up from just one in 1987. The company is considering opening a center to target the estimated 20,000 people who speak Russian in the area.

Due to consumer demand, Pacific Bell also began printing utility bills in Spanish earlier this year.

Like Pacific Bell, some banks advertise through multicultural media outlets. Wells Fargo, United Savings Bank and U.S. Bank also offer a variety of bilingual services, including seminars conducted in different languages and ATMs that cue readers in Spanish and Chinese as well as English.

At Bank of America, more than a third of the new customers are Latino, and a growing number are Asian Americans, said spokeswoman Linda Mueller.

Not all customers speak languages other than English, of course, but enough do to spur the creation of bilingual services. Bank of America was the first commercial bank to offer Spanish services in 1990.

The bank's Asian bilingual services are particularly popular, despite little advertising, said Mueller. Last year, Bank of America publicized Asian services in 15 branches. Service requests soon mushroomed beyond these areas.

Hospitals also have been moving quickly to offer bilingual services.

In 1994, the state Department of Health Services required Medi-Cal managed care providers to offer interpretation services. Now Sutter and other area hospitals employ bilingual staff members and contract interpretation firms. Many patients still bring along a family member or friend to interpret, but now hospitals are better prepared.

The services are well-received. Sarah Serrato, 28, recently was able to use an interpreter to answer her questions at Sutter's maternity ward.

"The service is good," Serrato said. "I've had three daughters here."

Many firms see the value of language skills, but make no formal effort to attract bilingual employees. Safeway hires people from the surrounding community, said Deborah Lambert, the store's spokeswoman. These employees may be fluent in languages other than English.

Likewise, The Sacramento Bee draws upon its bilingual staff members, from the pressroom to the newsroom. It also maintains a directory that lists employees who are fluent in other languages, including Indonesian, Punjabi, Chichewa and Urdu.

Catering to diversity pays off, in terms of the work force and company clientele, said Bill Sonnenschein, a professor at UC Berkeley's Haas School of Business and author of "Workforce Diversity."

Employees from varying ethnic backgrounds may better understand cultural customs. In turn, patrons are more comfortable speaking in their native language—and more likely to buy.

"It's a two-way street," Sonnenschein said.

Article Date: OCT 22 1987

Bilingual education

A wake-up call for the Legislature

Stark and mounting evidence that the state's bilingual education policies have failed to help enough limited-English-speaking children master this country's common language has not yet succeeded in moving the Legislature to reform a broken system. Will public opinion finally crack the whip?

Last week, the Los Angeles Times published a poll that showed an overwhelming majority of 1,100 voters randomly sampled statewide support a budding ballot initiative to teach the vast majority of public schoolchildren in English. Some 80 percent of all voters surveyed — and a striking 84 percent of Latino voters — want bilingual education policies, which now favor instruction in a child's native language, to be radically changed. If the Legislature was deaf to this call before, it should be hard to ignore now.

The legislative process has always been the proper venue for reform. It would allow the important policy questions affecting 1.3 million children to be hammered out by a committee with some level of expertise. Though hardly perfect, that process would be far preferable to having a key piece of education policy set by a voting public that has scarcely glanced at the fine print of a ballot initiative.

The Legislature had the chance to act this summer when state Sen. Deirdre Alpert and Assemblyman Brooks Firestone offered a promising bill to give local districts more flexi-

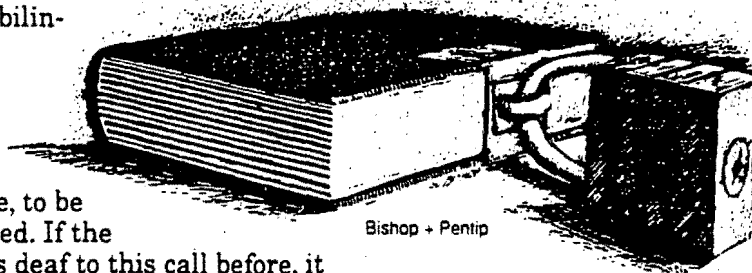
bility in how they educate limited-English-proficient students and hold them accountable for results. The bill was approved on a bipartisan vote in the Senate, but Democrats in the Assembly Appropriations Committee quashed it before it could reach the Assembly floor.

Now stuck with a number of initiative-imposed, and virtually unamendable, constraints that hamper its ability to govern in many other areas, the Legislature should recognize all too well why allowing bilingual education to be reformed via the statewide ballot is a clumsy remedy to a complex problem. If enacted, the English for the Children initia-

tive, which appears likely to qualify for the June ballot, could only be amended by another initiative or a two-thirds vote of the Legislature, meaning that a dramatically different educational approach

would be instituted with practically no capacity to fine-tune it if it didn't work.

The Times poll announces that increasing and diverse numbers of Californians recognize a major problem and want it fixed. They seem willing, at least initially, to endorse a radical solution in the form of the English for the Children initiative. Legislators still have a chance to enact a more moderate reform in the Alpert-Firestone bill, though even that may not slow the momentum gathering behind the initiative. But at least then they'd show a capacity for addressing a problem of concern to many constituents, not just ignoring it.



Bishop + Pentip

BILINGUAL EDUCATION OVERVIEW

California State Senate Select Committee on Bilingual Education
Hilda L. Solis, Chair

February 1998

Summary

Californians are poised to make a critical decision on bilingual education policy with only anecdotal information and common misconceptions to rely on. Should we end it, defend it, or mend it? The claims that bilingual education doesn't work should be considered in the context of effective program implementation, resource allocation and long-term economic benefit for California.

Limited implementation is a key factor in the failure of existing bilingual education programs. Bilingual education opponents regularly cite low rates of English language acquisition by limited English proficient (LEP) students. However, these reports fail to qualify the data in the context of limited implementation of bilingual education programs throughout the state. According to the State Department of Education, only thirty percent of all LEP students are enrolled in bilingual classrooms. The majority of LEP students are already in English-only classrooms.

In addition, the lack of teaching resources available to LEP students plays a major role in a failing bilingual education program. There are currently 1.3 million LEP students with varying degrees of English and native language proficiency in California's schools. If you apply the class size reduction ratio of twenty students to one teacher, our schools would need 65,000 bilingual education teachers to adequately meet the needs of LEP students. California falls dreadfully short of this requirement with only 24,000 qualified bilingual education teachers. California would need 41,000 more bilingual education teachers in order to provide adequate instruction for LEP students.

Bilingual education should be given a chance to work as a fully implemented program in all of our schools that have LEP students. School districts must commit to strong financial support and adequate teaching staff before we even consider dismantling bilingual education.

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Demographic Data

Limited English Proficient (LEP) students make up 25% of California's total student population. In K-3, LEP students make up 33% of the population.

Enrollment	1993	1994	1995	1996	1997
Total K-12	5,195,777	5,267,277	5,341,025	5,467,224	5,612,965
LEP	1,151,819	1,215,218	1,262,982	1,323,767	1,381,393

Pupil Characteristics

The top ten languages make up 94.3% of the total LEP population. The actual breakdown is as follows:

Spanish	80%	Vietnamese	3.3%
Hmong	2.3%	Cantonese	1.9%
Pilipino	1.5%	Khmer	1.4%
Korean	1.2%	Armenian	1.0%
Mandarin	0.8%	Lao	0.7%
Others	5.4%		

Existing Programs

Program Description	% of LEP Students Enrolled
English Language Development (ELD) Classes (Does not include specialized services in core curriculum)	11.5%
ELD and core subjects in Specially Designed Academic Instruction in English (SDAIE)	19.9%
ELD and core subjects in Specially Designed Academic Instruction in English (SDAIE) with primary language support (PLS)	21.6%
ELD and core subjects in their primary language through a bilingual teacher	30.0%
No specialized services (1.4% of these students were withdrawn from specialized programs by their parents)	17.4%

Teaching Credentials

- **Bicultural Language Acquisition Development (BCLAD)**
BCLAD allows a teacher to teach English Language Development and teach core subjects (math, science, etc.) in the primary language.
- **Cross Cultural Language Acquisition Development (CLAD)**
CLAD allows a teacher to teach English Language Development and teach core subjects (math, science, etc.) in English through Specially Designed Academic Instruction in English (SDAIE)
- **SB 1969**
SB 1969 certificate allows teachers who are permanent teachers in the district before 01/01/95 to be qualified to teach LEP students after receiving training for English Language Development and core subjects through SDAIE.

Methodology and Research

Ruben G. Rumbaut Study

A five-year study of educational progress of 2,400 children of immigrants in San Diego by a researchers from Michigan State and Princeton found that they rapidly embraced English over their parents native language. The study also found that these students had better grades and lower drop-out rates than their peers with parent born in the United States. More than 90% of the students studied spoke a language other than English at home with 82% preferring to speak in English.

University of California Language Minority Research Institute (LMRI) Findings

LMRI concluded that primary language instruction does not impede acquisition of English. In fact, they found that students with a strong background in their home language are more likely to develop high levels of English proficiency than those who do not have the same background.

National Academy of Sciences Study on Second Language Acquisition

- Older children, because of advanced cognitive skills, are able to acquire a second language faster than younger children because
- The extent of a child native language proficiency is a strong predictor of their English language proficiency.
- Evidence from a limited number off pre-school studies indicate that use of native language instruction does not limit English language acquisition.
- Research has not been able to identify the most effective program for English language learners. Therefore, claims that immersion is more effective than native language instruction are invalid.

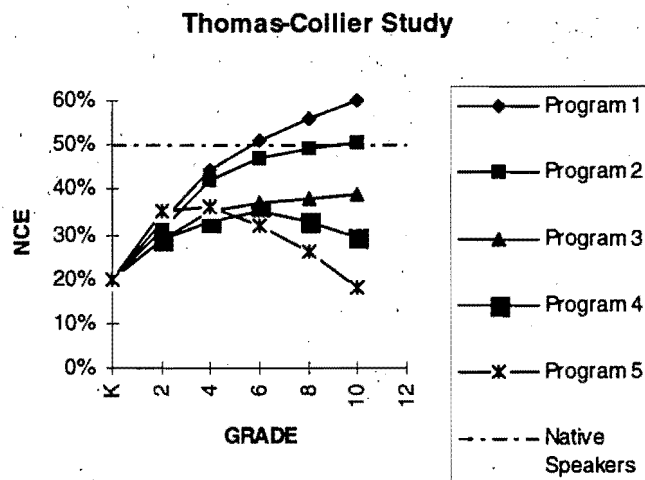
LAUSD Study

Student taught by BCLAD or BCC teachers outperform* LEP peers who are taught by non-certified teachers or bilingual paraeducators (teaching assistants).

* According to Aprenda test (the Spanish counterpart the English CTBS test) in areas of reading, math and language.

Thomas-Collier Study

In this longitudinal study of LEP achievement in English reading ability, LEP students in Dual Language and Late-exit bilingual with content ESL significantly outperformed LEP students in ESL stand-alone programs. In addition, LEP students in Dual Language and Late-exit bilingual with content ESL outperformed native English language speaking students.



(1) 2-way developmental bilingual education, (2) Late-exit bilingual ed.+ESL through academic content, (3) Early-exit bilingual ed.+ESL through academic content, (4) Early-exit bilingual ed.+traditional ESL, (5) ESL pull-out-taught traditionally.

Proposition 227

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.

Proposition 227 (CONTINUED)

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

Proposition 227 (CONTINUED)

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

ARTICLE 9. Interpretation

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

(END)

Public Opinion Polling**LA Times Poll (10/97)**

1,396 adults, of which 1,092 were registered voters (+/- 3% error)

	Reg. Voters	Dem	Ind	GOP
Yes on Unz Initiative	80%	73%	80%	89%
No on Unz Initiative	18%	23%	17%	10%
Undecided	2%	4%	3%	1%

Field Poll (2/98)

729 registered voters (+/- 5% error)

Yes on Unz Initiative	66%
No on Unz Initiative	27%
Undecided	7%

La Opinion Poll (2/98)

503 Latino parents who have children attending LAUSD (+/- 4% error)

Do you think that it (Bilingual Education) is good for your child or that it is bad for your child?

Good	88%
Bad	10%
Don't Know	2%

In June voters will be asked to vote on a proposition that would eliminate bilingual education. It establishes that children in public schools should be taught only in English and also that children that do not speak English should attend an intensive English course for no longer than a year. Do you favor this proposition or do you oppose this proposition?

Favor	43%
Oppose	49%
Don't Know	8%

This Document Courtesy Of The

California State Senate Select Committee on Bilingual Education

Senator Hilda L. Solis**Chair**

State Capitol, Room 4039, Sacramento, CA 95814

For more information on this document, please call Bill Wong at 916-445-1418



Delia_Pompa @ ed.gov
11/10/97 11:22:00 AM

Record Type: Record

To: Michael Cohen

cc:

Subject: Re: California Initiative on Sheltered English Immersion

Thanks, Norma. I haven't heard about this week's meeting, but someone should be calling us soon.

Delia

Reply Separator

Subject: California Initiative on Sheltered English Immersion

Author: Norma V. Cantu at WDCF01

Date: 11/6/97 11:25 AM

Delia,

Thanks for the heads-up on the discussion with Mike Cohen, et al., on the proposal to amend the California Constitution to restrict programs for LEPs to sheltered English immersion as the only option. I've not discussed that meeting outside my immediate staff, but I did tell them you were interested in the question about OCR's involvement on that issue. The short answer is that OCR has not become involved in the amendment fight, but has been very active in investigating and negotiating plans concerning LEPs in California.

Cathy Lewis gave me an excellent briefing on the status of OCR's cases involving LEPs in California. She made 3 great points. First, OCR does not come to the discussion with a preference for a particular pedagogical approach, but since we follow the Castaneda case, we have no choice but to reject approaches that only do half the job--teach English but not the other academic content courses. Her critical point is that the discussion is not framed as a choice between bilingual education vs. everything else, but as making the most appropriate selection from a continuum of educationally sound programs.

The second point is that we need some research to inform us about the educational impact of the sheltered English immersion option. Delia, do you have any studies from California? I've asked Cathy to ask the SF OCR office whether it investigated a district for using the Sheltered English immersion model, then required it to use another model because the SEI did not adequately meet the needs of LEPs? If so, did we find in our monitoring of that district improved academic performance as a result of modifying or dropping the SEI

approach?

The third point is that we need to be aware of the legal frameworks in which we operate. The META lawyers sued the Orange Unified school district in state court. In August 1997, META won a temporary restraining order, halting the request for a waiver of the State minimum requirements for LEPs. The TRO ruling determined that "the record raises significant questions as to whether the proposed program meets the (Castaneda) test, particularly as to the second and third prongs of that test (program/resources and evaluation plan.) The district removed the case to federal court. There, the federal judge allowed the temporary restraining order to expire and refused to grant a preliminary injunction. Judge William B. Shubb favored the District's educational experts; specifically, he noted that "both stated that the academic research demonstrated that children taught primarily in comprehensible English demonstrate greater English achievement than (sic) students taught in two languages." The court, however, in a footnote, discredited Christine Rossell's testimony that putting students in a regular classroom without even ESL was fine, saying that "the argument goes too far." Nonetheless, the Court concluded that sheltered English immersion was within the mainstream of educational thought and met prong 1 of Castaneda. As for prong 2 (implementation and resources), the Court denied the injunction because the district intended to implement the changes and would have already implemented, but for the TRO. Finally, prong 3 was not violated because the waiver from the State's requirements would be in effect for only one year and the District is working with a consultant to develop an evaluation plan. The Court was very mindful of the fact that the school year had already started, and that granting an injunction would be disruptive, possibly causing more harm than benefit to the students. Plaintiffs did not appeal this order. No schedule has been set, to my knowledge, for a trial on the merits.

Finally, there is the matter of settlement agreements that OCR has the responsibility to monitor to ensure compliance with the federal laws. On July 8, 1997, OCR did submit a letter relating to the petition by Orange Unified School District to seek exemption from the minimum State requirements covering LEPs. I am having someone walk a copy of that letter down to you, Delia

In brief, for everyone else on e:mail, the letter states that "OCR has serious concerns that such a dramatic shift in the educational program for LEP students will interfere with the full implementation of the Plan commitments. In addition, the District may be jeopardizing its ability to remain in compliance with Title VI, Section 504, and Section II. While the Board (of Education) may waive its own requirements, the District, as a recipient of federal funds, is of course, still obliged to comply with these federal laws." We also stated that we had received two separate complaints regarding services for LEPs in Orange Unified. We closed the letter by offering to continue to make ongoing efforts to work cooperatively with Orange Unified to help them correct the violations identified in 1984.

One piece of research we will try to pull together is how many

districts have OCR plans for LEP students. It may be useful to know the number of students affected by those plans to make the point that districts are confused now in following the federal laws and that the Unz proposal will confuse them even more.

Delia, we are trying to get you more information for your meeting with Mike Cohen next week. If you would like for me to go with you to the meeting, let me know and I'll make arrangements.

Norma

The Bilingualism Debate Remakes California Politics

By Gregory Rodriguez

Over the past two decades, there has been no more potent symbol of the tension over immigrants and how they assimilate than bilingual education. We have come to think of it in ideological rather than instructional terms, to approve or disapprove according to our political affiliations. Since federal law first required that public schools provide special language instruction to English learners, liberals have generally rallied in support, citing the benefits of maintaining immigrant children's ethnic and linguistic heritage. Conservatives and anti-immigrant activists, meanwhile, have tended to react against such measures, arguing that today's immigrants are not as eager to "Americanize" as their predecessors were. The racial implications are clear.

But in California, where socially divisive ballot measures have recently sparked national debate, this characteristic political split is becoming a thing of the past. Beyond the state's rapid demographic shifts, what is striking to observe here today is how both liberals and conservatives are refraining from rushing into potentially racially charged issues. And there's no clearer example of that than in their responses to a recent ballot measure that would all but abolish bilingual education in California's public schools.

When "English for the Children" first surfaced last May, it looked like the logical political descendant of the state's recent campaigns against illegal immigration and affirmative action—the newest target for the state's disproportionately large Anglo electorate. Presumably, much of the white electorate, led by conservatives and anti-immigrant activists, would line up to support the initiative, while liberals and Latinos would reject it.

But with Election Day only four months away, an entirely different political dynamic has emerged. Surprisingly, polls show that the majority of Latino voters favor the initiative. And neither the state's Republican Party nor the ascendant Latino political leadership has stepped forward to spearhead campaigns for or against the ballot initiative. This new detente is a marked shift from the contentious racial battlefield of California's past few elections.

Gregory Rodriguez, an associate editor at Pacific News Service, is a research fellow at the Brookings Institution for Public Policy.

The new educational initiative would reduce an uneven, controversial and widely misunderstood program to a single year of transitional classes for children who speak English as a second language. Despite its name, bilingual education has nothing to do with bilingualism—and never has. The language of the current policy is both simple and vague in stating its primary goal: "as effectively and efficiently as possible, to develop in each child fluency in English." The vast majority of bilingual programs already expect children to move into mainstream English classes after three or four years of instruction in their primary language. They are designed to teach children how to read and write in their native language in the belief that they will then be better able to learn English.

The implementation of these programs varies widely from district to district. In fact, only 36 percent of California's 1.4 million limited-English students are now in bilingual programs. And the jury is still out as to whether bilingual education can be effective on a wide scale. A year ago, the National Research Council released a report claiming that politicization of the issue was hampering reliable research.

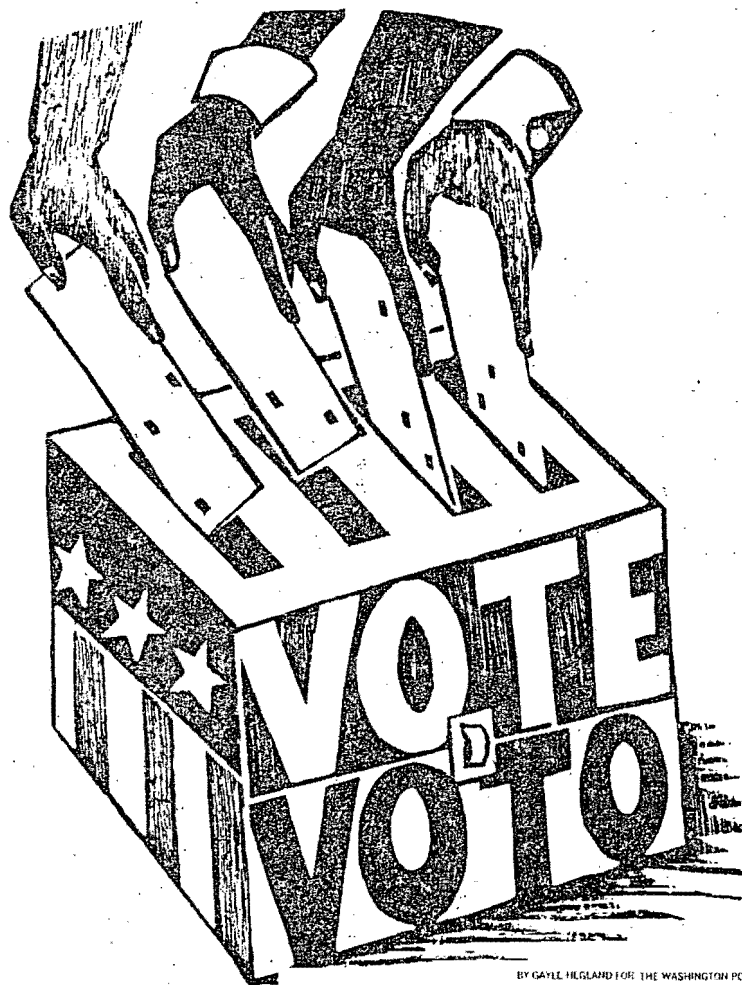
Add all that uncertainty to California's current political scene and you come up with some surprising results.

Until recently, the state's Republican Party could back a potentially racially divisive campaign like "English for the Children" without tempting electoral fate. Whatever else it may have been, Proposition 187—the measure on the 1994 ballot that denied educational and medical benefits to illegal immigrants—was

an attempt to turn back the Latinization of the Golden State. And Proposition 209, the initiative against affirmative action that passed in 1996, was a soon-to-be minority group (whites) attempting to level a playing field many felt had turned against them. Within the next four years, according to the state Department of Finance, non-Hispanic whites will become a minority group in the largest state in the union.

But whites are still the majority at the voting booth, comprising 74 percent of California's voters in 1996. And while Latinos make up nearly one-third of the state population, they have been proportionately underrepresented in the state's electorate. For decades, both major parties have routinely factored Latinos out of their voting calculus.

But, beyond demographics, the state GOP has reason to fear the fast-growing Latino



BY GAYLE HURLAND FOR THE WASHINGTON POST

electorate. Anger engendered by Proposition 187 and the partial denial of government benefits to legal immigrants have pushed Latino civic and political participation rates to all-time highs. Mexican immigrants are applying for citizenship at historically unprecedented levels. In the 1996 presidential election, Latino voters cast ballots at a higher rate than the state's voters as a whole, and they also punished the GOP by voting more heavily Democratic than they had before.

As a result, California's Republican leadership is wary of attaching the party to any initiative that could open them up to new charges of being anti-Latino or anti-immigrant. Indeed, state GOP chairman Michael Schroeder, who personally opposes bilingual education, has publicly distanced the party from the "English for the Children" ballot measure.

The State Republican Caucus, which most likely would have championed this measure a year ago, is split over how to deal with the initiative. Rod Pacheco, who in 1996 became the first Latino Republican elected to the Assembly

in 115 years, says that among Republican lawmakers "there's a reticence to plunge headlong into a political issue until we've surveyed the whole scene to see what impact it would have on other populations." Three months ago, Republican strategist Stuart Spencer warned that the party was committing "political suicide" by alienating Latinos.

Yet the early polls have shown that Latino registered voters support the initiative by as big a margin as 66 percent to 30 percent—though the numbers may not remain as lopsided once the media campaign begins in earnest. Those figures are forcing the state's Latino activists and lawmakers to rethink their strategy on bilingual education (not long ago, they would have gone down fighting any attempt to overhaul it). And while most caucus members oppose the ballot initiative, they are reluctant to resort to calls of racism to fight it.

The growing political power and maturity of the 17-member State Latino Caucus has also made Latino lawmakers far less parochial than they once were. For the past year and a half, the

Latino leadership has adopted the slogan "Latino Issues Are California Issues," showing its determination to better straddle the hyphen between its ethnicity and its Americanness.

At the same time, civil rights-era issues that once would have garnered unanimous support have been declining in importance. According to a survey conducted last year by Fernando Guerra, a political scientist at Loyola Marymount University, Latino officials don't consider bilingual education among their top five cutting-edge issues. So, while the Latino political elite will fight "English for the Children," they will not gamble large amounts of money or political capital to do so.

The coordinator of the campaign to fight the initiative has vowed not to inject "challenges of racism" into the debate. Arturo Vargas, executive director of the National Association of Latino Elected and Appointed Officials, thinks this non-racialized strategy is a lesson learned from the ill-fated campaigns to defeat the anti-illegal immigration and affirmative action initiatives. "The leadership was using race in 1994 and 1996. That rhetoric may have driven up the yes vote," he says. "If you get up to say it's racist, you tend to lose credibility."

The political no-man's land into which this initiative has descended is strangely reflective of its sponsor, Ron Unz, the software entrepreneur who challenged Gov. Pete Wilson in the 1994 Republican primary. Unz does not include immigrant bashing in his portfolio. Indeed, while Wilson was riding the anti-immigrant wave of Proposition 187 to an electoral landslide, Unz was a featured speaker at a 70,000-strong pro-immigrant rally in October 1994.

Unz is acutely aware that his victory will be morally hollow if a substantial portion of the Latino electorate does not support it. He has framed the measure as a civil-rights cause undertaken on the behalf of Latino immigrants and their children, and chosen a Latina bilingual teacher for his co-chair.

Even if some opponents of the initiative racialize the campaign in the next few months, their attempts may backfire. "It takes two to tango," says Allan Hoffenblum, a Republican strategist who has lamented the party's treatment of Latinos. "If the Unz campaign has no tinge of racism, then the other side won't be able to use it either." Unz has worked hard to keep race out. After all, it wouldn't take much for wary Latino voters—no matter how they feel about bilingual education—to feel browbeaten if the debate takes on the slightest racial tone.

Shifting demographics and recent bruising political battles have created an environment in which nobody wants to fire a racial shot. And while there's no guarantee that the newfound civility will survive this or future campaigns, there is no doubt that the past few years have made California's political establishment more aware of the need to better negotiate the state's racial and ethnic diversity. "It almost makes one think that we're turning in the right direction," says Pacheco. Of course, none of this actually means that Californians have suddenly learned how to love one another—just that playing the race card no longer ensures a winning hand.

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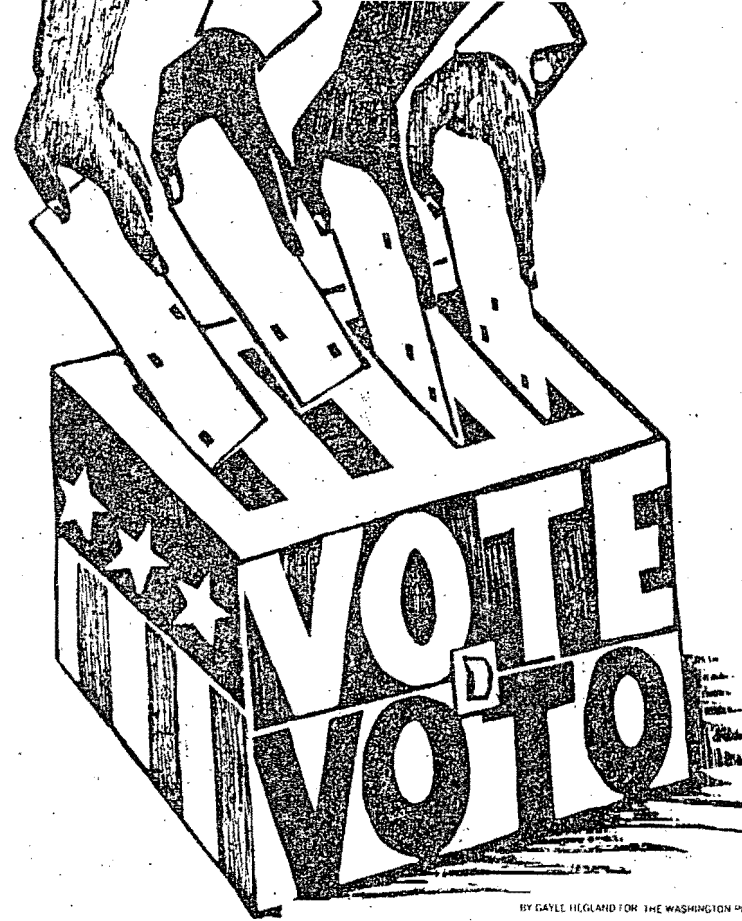
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"English As Required Language of Instruction Initiative"

CSBA Staff Analysis

November 6, 1997

Initiative Background

Sponsors of a ballot initiative entitled the "English As Required Language of Instruction Initiative" are now gathering signatures to qualify for inclusion on the June 1998 ballot. The initiative prescribes a single, statewide approach to teaching English-Language learners in California's public schools. Under the provisions of the initiative, primary language instruction is barred except under very limited circumstances and new liability is imposed on board members whose district programs fail to comply with the initiative's provisions.

Ron Unz and Gloria Matta Tuchman have joined forces to promote this statewide ballot initiative designed to ensure that all English-language learners in California are transitioned into regular English language classrooms within one year. Both Unz and Tuchman have experience in political campaigns and have run for statewide offices. Mr. Unz, a software developer, unsuccessfully ran in the California Republican gubernatorial primary in 1994. Ms. Tuchman, an ex-school board member from Tustin, was an unsuccessful candidate for state superintendent of public instruction in 1994. In the hopes of broadening support, Unz and Tuchman have formed the non-profit organization *One Nation/ One California* (www.onenation.org) to take the lead in financing and promoting this initiative.

The initiative was prompted by concern that bilingual education has failed and that children are not being taught English. Unz and Tuchman frequently cite the state's 5 percent annual transition rate for English-language learners as proof that current programs for English-learners are "dismal practical failures."

The Initiative was received by the Attorney General's office on May 6 and approval for circulation was granted at the end of May. The initiative requires 433,263 valid signatures to be included on the June 1998 ballot. As of October 1997 the proponents claim to have gathered 600,000 signatures. Unz is confident that they will have sufficient valid signatures by the December 1, 1997 deadline. The initiative will then be assigned a number in February or March of 1998 and appear on the June 2, 1998 ballot.

It is important to recognize that at the same time the initiative was being developed and introduced for signature gathering, the legislature was struggling with the same issue - reforming programs for English Language Learners. After some movement, the legislature failed to act on SB 6, which



was placed on the suspense file by the Assembly Appropriations Committee. The legislature appeared to reach an impasse on the passage of any bilingual education proposal prior to the end of the 1997 - 98 legislative session, however, Senator Alpert and a key representative of the Assembly are meeting to review areas of contention and options. Legislators, both Democrat and Republican, continue to discuss a compromise on this issue prior to the June primary election.

Initiative Content

Specifically, the initiative declares that: (1) immigrant parents are eager to have their children acquire English, (2) one of the most important obligations of the school is to teach children English, (3) schools are currently doing a poor job of educating immigrant children and are wasting financial resources on experimental language programs, and (4) young children can easily acquire full fluency in a new language if they are heavily exposed to it in the classroom.

Based on those declarations, the initiative requires that all children be taught in English. The initiative allows schools to place English-learners of different ages together in a classroom for one year of sheltered immersion instruction. All students would then transition to the regular classroom after a maximum of one year, except under limited circumstances.

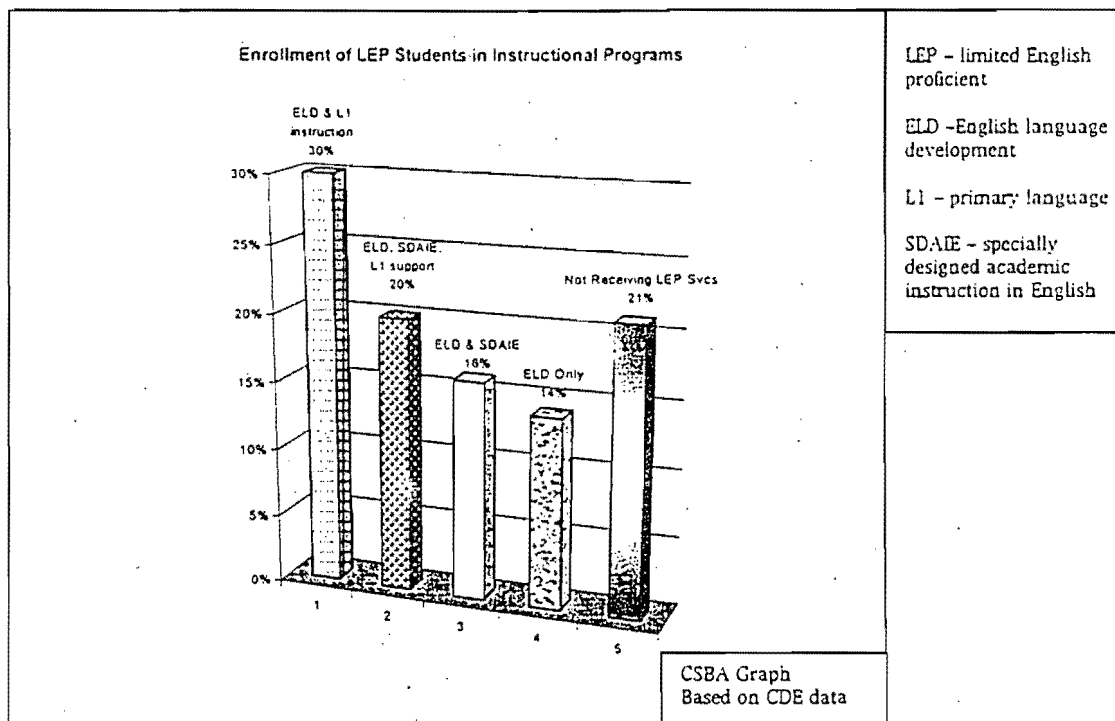
Parents may request a waiver to the immersion approach and request an alternative approach but only if the child meets one of the following specific criteria: (1) the child is already fluent in English, (2) the child is ten years or older and the principal and teachers have the "informed belief" that an alternative approach is better suited to the child's rapid acquisition of English, or (3) that after at least thirty days in an immersion classroom it is the "informed belief" of the school principal and the educational staff that the child has such special physical, emotional, psychological, or educational needs and that an alternative course of educational study would better suit the child's overall educational development. This individual written request must be submitted and approved by the local superintendent, the local Board of Education and the State Board of Education.

The initiative provides \$50 million per year (for ten years) for free or subsidized adult English language instruction to parents and other members of the community who pledge to provide personal English language tutoring to school children.

Finally, the initiative gives parents and guardians legal standing to sue districts and individual board members, other elected officials, teachers or administrators, if a child has been denied the option of an English language instructional curriculum in a public school (Article 5).

Current Programs for ELL Students

The 1996 California Department of Education language census counted over 1.3 million public school students who were not proficient in English. These students account for over 23 percent of the state's public school population. School districts throughout California are currently operating a myriad of programs to meet the needs of ELL's (English-Language Learners, also referred to as Limited English Proficient or LEP) due to the flexibility available in the state programs. Through a combination of waivers and the use of one of the four options described in the Department of Education's compliance materials, districts have provided programs that run the full range from English immersion to bilingual, based on local priorities and resources. Although it is often perceived that all of the 1.3 million students are receiving specialized instruction, this is not the case. More than half of all children who are not proficient in English are in programs in which their primary language is not used. The chart below highlights the local programs currently in operation.



It is estimated that approximately \$400 million is spent on the education of English-learners. This funding comes from a combination of state Economic Impact Aid, Federal Title VII dollars and immigrant assistance funds. The exact figures and the specific programs funded by these dollars are difficult to detail due to the flexible nature of the allocations.

Analysis of the Initiative

Board member liability

The initiative gives parents legal standing to sue individual board members, not just the board as a whole, for perceived weaknesses in the implementation of the educational program. It is unclear if this provision will open other avenues to create individual board member liability on other issues.

Flexibility and local control

Districts currently use a wide variety of approaches to teach English and the core curriculum to students whose primary language is one other than English. Districts choose the program for English-language learners based on student needs, community preferences, and available resources.

The Unz initiative mandates a single instructional strategy – one year in a sheltered English immersion classroom then transition to a regular classroom -- for all English-language learners. There are no exemptions based on successful outcomes for ELL programs in operation that have documented positive student outcomes.

This mandate for a single strategy would simultaneously occur during the introduction of a standards-based system to hold districts accountable for student achievement. This shift toward a standards-based system emphasizes that all children will be required to have access to a standards-based curriculum and achieve at high levels in order for districts to avoid possible state-imposed sanctions. It is unclear how a district could ensure full access to the core curriculum to all students if they are not allowed the flexibility to tailor programs to meet the needs of their students.

Currently, schools use multiple approaches ranging from a dual-language, primary program to a rapid transition program similar to what the Unz initiative would mandate. Allowing districts to continue to tailor their education program, in a way that allows for maximum student achievement, seems essential to accomplishing the education goals the state and local districts have set.

Appeals

The initiative provides an appeal process and allows parents the option of choosing an alternative approach if their child is not succeeding within the mandated program.

In order for a parent to be eligible to request a waiver, the student must meet one of the following criteria:

- (1) The student is proficient in English
- (2) The student is ten years or older and the principal and educational staff believe an alternative program would better suit the child's rapid acquisition of basic English language skills

- (3) The child has been in an English language classroom for at least thirty days of the current school year and the principal and educational staff believe 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."

Qualification for a waiver under this last criteria requires multiple steps. First, a written description of the child's special needs must be provided to the local school superintendent for his/her examination and approval. The superintendent's decision must be based on guidelines established by the local board. These local guidelines would be subject to review and approval by the State Board of Education. The initiative also states that "the existence of such special needs shall not compel issuance of a waiver". Therefore, even if this condition is met, there is no assurance that the child would receive an alternative program.

Parents must also provide "written informed consent" on an annual basis in order to request an alternative program be provided to the student. In order to provide this "informed consent," a parent or legal guardian must visit the school and be provided a full description of the educational materials to be used in each option and all the educational opportunities available to the child. Following the site visit, the parent may apply at the school site for the waiver. The mandatory parental site visit requirement is unprecedented and exceeds the parental requirements for placement in any other program, including special education. It is unclear in the initiative who would grant a waiver for a child who meets one of the first two criteria. However, since the State Board of Education is the only body with the authority to grant waivers under the requirements of the Education Code, one could infer that all waiver requests would need to be submitted to the State Board of Education (SBE).

If, in fact, the student's petition would need to be approved by the State Board of Education, it is unlikely they can be approved in a timely manner, given the size of the ELL population in California. The SBE meets for two days every month. As it now stands, the board's agendas are full and meetings are often extended. Requiring the SBE to look at and either approve or deny petitions would add a tremendous burden to the SBE workload. The role created within this initiative for the SBE is also a significant expansion of the board's responsibilities in current practice. The SBE has traditionally limited its scope to broad state education policy issues and district-level waivers of state law. The board has not been involved in determining appropriate education placements for individual students and probably lacks the staff to pursue such a role effectively. In addition, the SBE would likely be at a disadvantage in determining individual student placements because it is removed from the priorities of the community and resources of the district.

CSBA Policy Platform

The following CSBA Policy Platform items are relevant to the discussion of this initiative.

Curriculum and Instruction

- #46 Supports the maintenance of local governing board authority to protect academic freedom and represent the community in curriculum decisions.
- #51 Supports effective instructional programs and regular assessment for non-English speaking students and English-language learners.
- #52 Supports the expansion of second-language programs for English-speaking students.
- #57 Supports the extension of sunset provisions for educational programs which have demonstrated effectiveness in meeting the diverse needs of all students.
- #64 Supports the use of a variety of instructional methodologies in the classroom to meet the needs of individual students.

Governance and Structure

- #142 Supports the maintenance of governing board decision-making authority regarding school governance to meet the educational priorities and needs of the community. This responsibility includes working with the superintendent to set the vision and direction for the district, establish structures to support that vision, hold the system accountable, and engage in advocacy on behalf of children and schools.
- #143 Supports a concise, permissive and less prescriptive education code which allows school boards maximum flexibility for the education programs.

Program and Fiscal Accountability

Introduction to Student Assessment

It is vital that assessment instruments be age appropriate and also appropriate for the culturally, ethnically and linguistically diverse student population of California.

Student Diversity

- #209 Supports effective programs that develop fluency in English in each student. At the same time, these programs should promote positive self-concept, cross-cultural understanding, and equal opportunity for academic achievement, including academic instruction through the primary language when necessary.



MALDEF

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Hand-Delivered

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Re: Ballot Pamphlet Analysis of Unz Initiative

Dear Ms. Hill:

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The Mexican American Legal Defense and Educational Fund (MALDEF) thanks you for the opportunity to provide information to assist your office in its statutorily-mandated preparation of the ballot pamphlet analysis of the "English for the Children" initiative proposed by Ron Unz ("the Unz initiative"), to be on the ballot in June 1998. Below, we set forth the elements that we believe must be included in any ballot pamphlet analysis of the initiative. The elements are grouped under the headings of "Background," "Proposal," and "Fiscal Effect."

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Background

- Currently, California school districts have the option to adopt any English language development (ELD) program that satisfies broad state guidelines.

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Currently, under California law, there is no single state-mandated English language development (ELD) program. Local school districts must address the needs of limited-English-proficient English learners, but in doing so, they need not adopt or follow a specific model. This is an important aspect of current educational law.

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Under Cal. Educ. Code § 62000.2, the more specific "bilingual education" mandates in state law "sunsetting" in 1987. Since the sunsetting, the

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state has followed only the "general purposes" of the prior program as required by Cal. Educ. Code § 62002. The State Board of Education has concluded that those general purposes are those expressed in Cal. Educ. Code § 52161. *See Cal. St. Bd. of Educ., Policy Statement on Educational Programs and Services for Limited-English Proficient Students* (Revised July 14, 1995) (attached as Exh. A), at 2-3. The Board has also adopted advisory, non-binding goals and principles. These guidelines include maximum local flexibility and parent involvement. *See id.* at 3-4.

The flexibility granted to local school districts in serving English learners is one of the most important elements of California law that the Unz initiative would alter. Therefore, the ballot pamphlet analysis must include this key element in the "background" to the Unz initiative.

- School districts may also petition for a waiver from state guidelines to adopt other English language development programs.

Where school districts want to adopt an English language development program that may not satisfy even the limited guidelines set by state law, current law allows the districts to seek a waiver from the State Board of Education under Cal. Educ. Code § 33050. In recent years, several school districts have successfully sought waivers in order to pursue experimental English language development programs. The availability of waivers from state guidelines and their recent granting to several districts are relevant and important background facts for the Unz initiative because the ballot proposal would impose a single state-mandated English language development program with no provision to retain local district flexibility or the right to seek a district waiver.

- At present, school districts throughout California operate a broad range of English language development programs.

Consistent with this premium placed upon district flexibility, California school districts currently serve their English learners through many different English language development program models. Researchers and educators have identified a number of different English language development models, including two-way developmental bilingual education, late-exit bilingual

While section 33050(a)(8) provides that waivers are not available from certain bilingual education mandates, the referenced sections sunsetted under Cal. Educ. Code § 66000.2, and waivers are now available in this area. *See SBE Policy Statement* (Exh. A), at 4.

education, early-exit/transitional bilingual education, structured immersion, ESL (English as a Second Language) self-contained, and ESL pull-out programs. The state Department of Education tracks English language development programs in several broad categories, and has catalogued programs in each category throughout the state. *See* Cal. Dep't of Educ., *Census, LEP Students Receiving Instructional Services, By Type of Service, By County, 1996-97* (attached as Exh. B) (students in categories by county).

This broad variety of English language development program models being used throughout the state would change dramatically under the Unz initiative's adoption of a single statewide model (albeit an undeveloped model). Moreover, many Californians with no more than a passing knowledge of the educational system may believe that a single model of bilingual education currently prevails in the state. Thus, a sense of the variety of models currently being followed by local districts must be an important piece of the background to the Unz initiative in the ballot pamphlet.

- Currently, seventy percent of English learners in California public schools are enrolled in English language development programs that provide no primary language instruction.

The misperception that most or all of the English learners in California's public schools are enrolled in bilingual education is widespread among the electorate. The proponents of the Unz initiative have perpetuated this misperception by attributing single-digit limited-English-proficient (LEP) redesignation rates as resulting from bilingual education programs that include primary language instruction. In fact, less than one-third of California English learners are enrolled in programs that teach academic subjects through primary language instruction -- programs that conform to the popular understanding of "bilingual education." *See* Cal. Dep't of Educ., *Language Census Report for California Public Schools, 1996* (attached as Exh. C), at Table 12a (30.2% of LEP students in such programs). Thus, seventy percent of English learners are enrolled in programs that do not provide academic instruction in an English learner's primary language.

The ballot pamphlet analysis should include these facts regarding the programs in which California English learners currently are enrolled. Specifically, accurate background information must counter the misperception that all or most English learners are enrolled in classes with instruction provided in a language other than English.

- Under current law, parents have an absolute right to withdraw their child from any English language development program.

Under California law, participation in English language development programs, including specifically bilingual education programs, is wholly voluntary. Cal. Educ. Code § 52173(a) and 5 Cal. Code Regs. §4308(b) require that parents be provided written, bilingual notice of their child's enrollment in a specific English language development program, of the content of the program, of the opportunity to visit the school to observe the program, and of their "right, if they so wish, not to have their child or ward enrolled in such an education program." Section 52173(b) and 5 Cal. Code Regs. § 4308(c) and (d) establish the right of parents or guardian to withdraw their child or ward from an English language development program. This absolute right to withdrawal is a key component of existing California law on English language development programs.²

The ballot pamphlet analysis of the Unz initiative must include an explanation of this right because the initiative, if enacted, would eliminate it. The initiative would substitute a stricter waiver procedure, under which parents have no equivalent rights of notice or absolute right of withdrawal. While the proponents of this initiative have argued that the absolute right of withdrawal under California law has been denied by certain school districts in some circumstances, these assertions are political arguments not appropriate for the ballot pamphlet analysis. (Neither, of course, is it clear that any protections provided in the initiative would not similarly be subject to occasional violation by school districts.) In contrast, the objective elimination of an absolute statutory right of withdrawal must be identified in describing the initiative's effects.

- The primary goal of every English language development program, including those that employ primary language instruction, is to develop academic English proficiency as quickly as possible.

² As described above, Cal. Educ. Code § 62000.2 sunsetted California's "bilingual education" provisions in 1987, and section 52173 is a part of the sunsetted Moscone-Chacon Bilingual-Bicultural Education Act of 1976. However, the State Board of Education has interpreted the "general purposes" of the sunsetted program -- which are to be maintained under Cal. Educ. Code § 62002 -- as including the statement in Cal. Educ. Code § 52161 that "[i]nsofar as the individual pupil is concerned, participation in bilingual programs is voluntary on the part of parent or guardian." See *SBE Policy Statement* (Exh. A), at 3. Thus, continuation of the absolute right in Cal. Educ. Code § 52173 merely protects and implements the surviving general purposes of California's bilingual education program. Continuation of this absolute right is also reflected in the cited regulations.

Many Californians wrongly believe that bilingual education programs that employ primary language instruction are designed to serve some goal other than acquisition of fluency in English. However, the primary purpose of bilingual education, as with all English language development programs, has always been to enable students to achieve English proficiency. In enacting the now-sunsetted Moscone-Chacon Bilingual-Bicultural Education Act of 1976, the state legislature declared that the "primary goal of all programs under this article is, as effectively and efficiently as possible, to develop in each child fluency in English." Cal. Educ. Code § 52161. Under Cal. Educ. Code § 62002, the state continues to pursue this general purpose after the law sunsetted. And, the State Board of Education has identified the rapid development of English language proficiency and literacy as one of the two main goals of educational programs for English learners. *SBE Policy Statement* (Exh. A), at 3.

This consistent pursuit of English fluency as the primary goal of all English language development programs, including bilingual education programs that employ primary language instruction, is a major theme of existing law and practice in this area. Because of widespread misperceptions of this important background, it must be part of the ballot pamphlet analysis.

- In California, English language development programs that employ primary language instruction are provided in a number of different languages, including Armenian, Cantonese, Russian, Spanish, and Vietnamese.

In our view, the media and proponents have portrayed the Uniz initiative as affecting only Spanish-speaking children enrolled in bilingual education programs. Thus, the ballot pamphlet analysis should make clear that, while the majority of English learners in California are Spanish-speaking, there are hundreds of thousands of speakers of other languages enrolled in California schools. These English learners are enrolled in a variety of English language development programs, including bilingual education programs providing primary language instruction. According to the 1996 CDE *Language Census Report*, California teachers provide primary language instruction in 21 different languages. See Exh. C, at Table 13. This includes each of the top twenty languages represented by limited-English-proficient students in California: Spanish, Vietnamese, Hmong, Cantonese, Pilipino/Tagalog, Khmer/Cambodian, Korean, Armenian, Lao, Mandarin, Russian, Punjabi, Farsi, Arabic, and Mien. See Exh. B, Table 5 (identifying top twenty languages).

The ballot pamphlet analysis must recognize that English language development programs, including those with primary language instruction, currently are provided in more languages than simply Spanish. Identifying each of the languages with more than 100 bilingual staff and with more than 20 teachers providing primary language instruction -- Armenian, Cantonese, Hmong, Khmer/Cambodian, Korean, Mandarin, Pilipino/Tagalog, Russian, Spanish, and Vietnamese -- would provide a suitably comprehensive description of the current state of affairs. See Exh. C, at Table 13 (numbers of staff providing primary language instruction).

- In programs employing primary language instruction, the amount of daily instruction in English increases as a child progresses in acquisition of English proficiency.

Because they are not aware that the primary goal of all English language development programs, including bilingual education programs that employ primary language instruction, is to develop English proficiency, many California voters likely do not understand that the amount of English instruction in bilingual education models increases over time as students develop familiarity and proficiency with the language. All such programs begin with some amount of English instruction, and that amount increases significantly as time passes. Even in late-exit bilingual education programs, English instruction increases steadily. See, e.g., J. David Ramirez, *Final Report: Longitudinal Study of Structured English Immersion Strategy, Early-Exit and Late-Exit Transitional Bilingual Education Programs for Language-Minority Children* (February 1991), Executive Summary, (attached as Exh. D), at 198.

A sense of the extent of instruction in the English language within programs employing primary language instruction is essential to understanding the current status of English language development education in California. Thus, the ballot pamphlet analysis of the Unz initiative must include this background information.

Proposal

- The initiative mandates one English language development program for all school districts in the state.

In contrast to the current system, under which school districts have adopted a broad range of English language development programs, the initiative mandates a single model -- "sheltered English immersion," as specifically defined in the initiative. Under proposed sections 305 and 306 of the Education Code, this is the only English language development program

permitted in the absence of parental waivers. This adoption of a single, statewide, mandatory program model is the most salient effect of the Unz initiative. The broad range of programs operated under current law would be wiped out in favor of the single mandated model. The ballot pamphlet analysis of the Unz initiative must identify prominently this most conspicuous effect of the proposed law.

- While the language of the initiative is self-contradictory, the mandated English language development program requires that instruction be at least "overwhelmingly," and perhaps entirely, in English.

The Unz initiative is self-contradictory with regard to the extent of non-English language use permitted in English learners' classrooms. Thus, it is impossible to determine whether *any* use of primary language would be permitted under the initiative. In identifying the major effects of the Unz initiative, the ballot pamphlet analysis must identify this contradiction and note the possibility that no non-English instruction would be permitted for English learners.

Proposed section 305 of the Education Code states that students "shall be taught English by being taught in English." It further requires that "*all* children be placed in English language classrooms" (emphasis added). These initial mandates

strongly suggest that the use of languages other than English would not be permitted in any classroom, including those for English learners. Moreover, section 305 also encourages the mixing in the same classroom of English learners from different primary language groups, which, as a practical matter, may make the provision of any non-English instruction impossible. However, section 306 of the initiative defines "English language classroom" as being where the language of instruction is "overwhelmingly" English. The section further defines "sheltered English immersion" as involving instruction that is "nearly all" in English. These definitions seem to leave room for some minimal amount of non-English instruction.

These definitional contradictions will have to be sorted out by the courts if the initiative is enacted. The voters should be made aware of the contradiction, but plainly informed that the range of possible, permitted non-English instruction in the mandated program is small -- either none at all or some minimal amount.

- The initiative places a presumptive one-year limit on enrollment in an English language development program while all programs currently in use generally require enrollment for at least three years before school

districts have concluded that a child is sufficiently proficient to compete in a mainstream classroom.

The initiative's proposed Education Code section 305 provides that English learners should be educated through the mandated English immersion program "during a temporary transition period not normally intended to exceed one year." This presumptive transfer to mainstream classes after only a single year is a major element of the Unz initiative. However, presenting this element without placing it in context would be misleading. Voters may well interpret this aspiration, if decontextualized, as a guarantee of success for the vast majority of English learners after only one year of specialized English language development.

To be understood, the proposal must be coupled with the important recognition that no current English language development program, including those most like that mandated by the initiative, successfully transfers English learners to mainstream classrooms after a single year. While the length of enrollment varies, most programs require at least three years to develop adequate proficiency to permit successful transfer to mainstream classes. That the Unz initiative proposes a presumptive single-year ELD program when no program model has demonstrated the ability to produce transitions after only one year is an important element of the ballot proposal. Accordingly, this context must appear in the ballot pamphlet analysis.

- The initiative's definition of "sheltered English immersion" does not correspond to the current use of that term as a description of an English language development program.

The Unz initiative's adoption of an undeveloped, untested model of English language development is another major element of the ballot proposal. While it employs a term, "sheltered English immersion," that has precursors in current educational practice, the initiative's restrictive provisions define a model with no *practical* precursor whatsoever. First, while instruction in current immersion programs is usually nearly entirely in English, the teacher is bilingual so that he or she may speak the students' primary language when necessary to clarify or supplement instruction in English. See, e.g., J. David Ramirez, *Final Report*, Executive Summary (Exh. D), at 195 (immersion employs teachers with bilingual credentials and with "strong receptive skills in the students' primary language"). The Unz initiative eschews any such requirement for teachers, and, by encouraging the mixing of students from different native language groups (proposed section 305), plainly aims to prevent teachers' secondary language skills from matching the primary language of some or all of the English learners in a classroom.

Second, the Unz initiative also intends to provide no academic content in its transitional one-year immersion course other than instruction in the English language. This is the most severe departure from current practice, in which access to curriculum other than language is a component of all English language development programs. The initiative, however, intends no such access. Indications of this intention lie in the very brief one-year enrollment expectation for the program (see discussion below) and in the permission for school districts to "place in the same classroom English learners of different ages but whose degree of English proficiency is similar." See proposed Cal. Educ. Code § 305. If access to academic content other than English were to be provided under the initiative's immersion model, then such mixing (at least without some requirement of similar academic level in addition to similar English proficiency) would not be possible.

This departure from any existing English language development model must be included in the ballot pamphlet analysis of the Unz initiative. It is particularly important in light of the proposal's use of a term with a current meaning far different from that intended by the initiative's drafters.

- The initiative permits the mixing of children of different ages and grade levels in a single classroom while current practice separates children by age in nearly all circumstances.

Education Code section 305, as proposed by the Unz initiative, provides that local schools "be permitted to place in the same classroom English learners of different ages but whose degree of English proficiency is similar." The provision places no limit on this permission, thus protecting districts' mixing of students of any age, even children of vastly different ages and age-based development and maturity levels, in a single classroom. Plainly, this open-ended permission would allow dramatic departures from prevailing practice throughout California. Virtually all districts and local schools separate children by grade level, corresponding roughly to age. State law recognizes distinctions between kindergarten, elementary school, junior high school, and high school. See Cal. Educ. Code § 48000 et seq. Yet the Unz initiative would permit mixing between all levels of education and age. This serious departure from current practice is a major effect of the initiative, and the ballot pamphlet analysis must include this element.

- The initiative permits parents to waive their child out of the mandated program only where the parents and child satisfy specific criteria.

Education Code section 311, as proposed by the initiative, only permits waivers from the single mandated English immersion program in three

specified circumstances. One of these, in subsection 311(a), is for English-fluent children. A second, in subsection 311(b), is restricted to "older children" over the age of ten. Thus, only one of the three circumstances, in subsection 311(c), is available to the vast majority of parents of English learners, most of whom are in the primary grades. See *CDE Language Census Report* (Exh. C), at Tables 3a/3b. Parents of these English-learner students will have only one option if they want to withdraw their child from the initiative's mandated immersion program -- they must wait thirty days each school year and then establish to the satisfaction of the school principal and staff, subject to approval of the district superintendent, that their child has "special needs."

The limited criteria for waivers from the mandated English immersion approach is one of the most significant features of the Unz initiative. It contrasts with current law providing an absolute parental right to withdraw a child from an ELD program. Therefore, the ballot pamphlet analysis must include a discussion of this initiative feature, including recognizing that only one of the circumstances under which waivers may be granted would apply to the vast majority of English learners.

- Under the initiative, even where waiver criteria are satisfied, a school district has the discretion to deny a waiver for any reason.

As important as the limited criteria for waivers is the discretion implicitly granted to school districts to deny such waivers, even where the criteria in proposed Education Code section 311 are met, for any reason. Proposed section 311 states that waivers "may" be granted when the specified circumstances are satisfied. The permissive "may," instead of "must," means that satisfaction of the circumstances is a necessary, but not sufficient, condition for waiver. Thus, a district could deny waiver even when a child's parents satisfy the conditions in section 311. Moreover, the waiver circumstances described in subsections 311(b) and 311(c) specifically require the concurrence of district staff that the conditions have been met. With no process of appeal nor mandatory guidelines for districts to follow in making such determinations or in otherwise deciding whether to grant a waiver, school districts enjoy unreviewable discretion to deny waivers for any reason.

In addition, the wording in proposed Education Code section 310 seems to permit waivers, in some circumstances, to have *no* effect even when granted by the district. Section 310, as proposed by the Unz initiative, provides that when a child satisfies waiver conditions, he or she "may" be transferred to a class employing an instructional model other than the immersion model mandated by the initiative. The permissive "may" only becomes a "must" under section 310 when twenty or more students in a given grade level receive

waivers at a particular school.³ Thus, up to this threshold, schools apparently have the legal ability to refuse transfer to another program even for those children who receive waivers. The possibility of granting ineffective and useless waivers further indicates the broad discretion of school officials.

This absolute and unreviewable discretion on the part of school officials to deny parental choice of an alternative program is another important effect of the Unz initiative, particularly as compared to the absolute parental right of withdrawal under current law. Thus, the ballot pamphlet analysis must identify and explain this absolute district discretion.

- The waiver criterion for "children with special needs" may create confusion with respect to existing district obligations for children entitled to "special education" services.

Another likely effect of the specific wording of the Unz initiative may restrict the availability of waivers under proposed subsection 311(c) even further. The use of the term "special needs" may create confusion or concerns about confusion among school districts. It seems unlikely that the drafters of the Unz initiative intended to invoke all of the procedural and substantive protections that apply to "individuals with exceptional needs" who are entitled to receive "special education" services under current California law. See generally Cal. Educ. Code § 56000 et seq.; see also Cal. Educ. Code §§ 56026 (defining "individuals with exceptional needs"); 56031 (defining "special education"). However, the use of the term "children with special needs" in subsection 311(c) creates a strong likelihood of confusion.

To the extent school districts perceive waivers under proposed subsection 311(c) as triggering the procedural safeguards surrounding special educational assessments or requiring the development of the individualized education program to which pupils with exceptional needs are entitled, the districts may be reluctant to grant or even consider waivers under subsection 311(c). Or, such districts might require students to qualify as "individuals with exceptional needs" to receive such a waiver; yet, under Cal. Educ. Code §

³ We believe the June 16, 1997 pre-petition description of the Unz initiative to be incorrect in reading proposed section 310 as *requiring* that schools permit transfer to *any* child with a waiver and requiring that alternative English language development classes be provided when the threshold of twenty waivers in a grade is reached. By its own terms, the section states that schools *may* transfer students with waivers, and only *must* allow transfer or provide alternative classes when the twenty-waiver threshold is reached. Any other interpretation would ignore the use of "may" and "must" in the proposed statute's two separate mentions of transfer.

56026(c), unfamiliarity with the English language does not satisfy this definition unless the child is disabled. At its most extreme, this confusion could effectively limit waivers under proposed subsection 311(c) to disabled students.

The possibility of confusion with special education provisions of the current Education Code must form a part of the ballot pamphlet analysis of the waiver provisions in the Unz initiative. The analysis should recognize the possibility that such confusion could severely restrict the availability of waivers.

- By its terms, the initiative would require that a parent obtain and a district grant a waiver in order to permit any child between kindergarten and the twelfth grade to study a foreign language.

The mandates of the Unz initiative are general; they are not limited to English learners or English language development programs. Thus, the requirement in proposed section 305 that "all children be placed in English language classrooms" applies to all classrooms except where a waiver is granted. Thus, even English-fluent students must obtain a parental waiver in order to receive instruction that is provided in a language other than English. Indeed, proposed section 311(a) provides a waiver specifically designed for students who already know English at grade level.

While English-fluent students who have achieved the requisite standardized test scores would qualify for a waiver, their parents must still follow the mandated procedures in proposed section 310 to apply for one, including making a personal visit to the school. And, the child's school district would still have to exercise its discretion to grant a waiver. These requirements will particularly affect instruction in foreign languages at all levels, with a pronounced impact at the high school level, where such courses are prevalent and where completion of foreign language courses is a university (including University of California) prerequisite to admission. This new requirement of a parental waiver to enroll in such foreign language courses is one of the most important changes that would be effected by the Unz initiative.

The proponents of the Unz initiative have argued that the initiative would not require a waiver for foreign language classrooms. These belated arguments contradict the plain language of the initiative and ignore the specific waiver for English-fluent students. While the drafters of the initiative may not have fully intended this effect, the courts would follow the plain language of the proposition itself in interpreting it. *See Delaney v. Superior Ct.*, 50 Cal. 3d 785, 798 (1990); *Lungren v. Deukmejian*, 45 Cal. 3d 727, 735 (1988).

Thus, the ballot pamphlet analysis must identify this new waiver requirement for foreign language classes in describing the main effects of the Unz initiative.

- By creating personal liability for teachers, the initiative may override current law requiring indemnification of teachers in most circumstances.

Section 320 of the Education Code, as proposed by the Unz initiative, provides that any school board member, public school teacher, or public school administrator who willfully and repeatedly refuses to follow the initiative "may be held personally liable for fees and actual damages" by a parent or guardian. Cal. Gov't Code § 825 currently requires public entities to defend and to pay judgments or settlements against an employee for acts "occurring within the scope of his or her employment." It is unclear whether the provision in proposed section 320 that employees be held "personally liable" would override the more general requirement in Gov't Code § 825. But, the danger that it would be so interpreted -- perhaps as implicitly defining violations of the Unz initiative as outside the scope of employment -- is sufficiently serious as to warrant mention among the major effects of the initiative. The ballot pamphlet should describe both current law on employee indemnification, as well as the possible effect of section 320.

Fiscal Effect

- By its own terms, the initiative would result in no savings through reduced spending on English language development programs.

Education Code section 305, as proposed by the Unz initiative, provides that "current supplemental funding for English learners shall be maintained." The initiative does provide that this rule may be modified, but only "under Article 8 (commencing with Section 335)" -- in other words by a statute separately approved by the voters or a statute passed by two-thirds of the legislature and signed by the governor. Absent such further -- and speculative -- legislative action, the full amount of additional funding for English learners must be maintained. The section refers to preserving such supplemental funding in toto, not on a per-pupil basis. Thus, even if the number of students enrolled in English language development programs decreases (as a result of the initiative's pushing English learners into mainstream classes after only one year), the full amount of funding would be maintained, albeit spent on a

smaller number of students.⁴ While the per-pupil spending on English learners may rise, perhaps even significantly, the initiative's own terms preclude decreasing the amount of supplemental funding for English language development.

This major feature of the Unz initiative prevents any diminution in state spending on English language development programs in public schools. The ballot pamphlet analysis must incorporate this feature and recognize that no fiscal savings could result absent speculative future legislative action.

- The initiative would impose additional local district costs to administer the waiver program.

One aspect of the Unz initiative is likely to result in substantial increases in administrative costs to school districts. The provisions in proposed sections 310 and 311 depart significantly from existing practice in the area of parental waivers. These differences will entail much-increased administrative responsibilities even if the number of parental waiver requests stays constant or even decreases under the initiative. The cost increase will be even more pronounced if -- as seems quite likely when a single English language development model is imposed statewide -- the number of waiver requests increases dramatically.

First, waivers will require parental visits and in-person descriptions of educational options by district staff. Such visits are permitted but not required for parental waivers under current law. Second, the initiative requires that parents satisfy one of the circumstances set forth in proposed section 311: under current law, parental waivers must be granted in all circumstances. Thus, the initiative will require district personnel to make a determination whether criteria are satisfied, a time-consuming task not presently undertaken. Third, these determinations will consume a fair amount of certificated, rather than classified, staff time. Proposed subsections 311(b) and (c) require specific determinations by educational staff as to educational and other needs. Moreover, subsection (c) requires a written description of these determinations. Finally, and most significantly, because waivers would be

⁴ In this respect, we believe that the June 16, 1997 pre-petition analysis of the Unz initiative is incorrect in suggesting that reduced numbers of students in English language development programs could decrease spending on the programs. The plain language of the initiative precludes any such effect. Any spending on basic elements of education -- classroom, teacher, materials, etc. -- would simply be transferred to the mainstream classes to which English learners are transferred, and any supplemental ELD funding must be maintained under proposed section 305.

required for all foreign language courses, a huge number of parents (of English-fluent students) who do not currently have to seek waivers would have to do so under the Unz initiative.

These changes in the parental waiver process would significantly increase administrative costs. This increase must be a part of the ballot pamphlet analysis. Estimates from representative school districts as to these costs can quantify their probable magnitude.

- Depending upon its administration and judicial interpretation, the additional \$50 million per year appropriated to finance adult instruction in English may not fall within the Proposition 98 spending floor and would thus require a shift in resources from other state services.

Article 4 of the Unz initiative provides an annual General Fund appropriation of \$50 million to fund "free or subsidized programs of adult English language instruction" (emphasis added). While proposed Education Code section 316 states that the funding shall be administered by the Superintendent of Public Instruction and disbursed at the discretion of local school boards, it is far from clear that the described programs would place the \$50 million within the Proposition 98 funding floor "for support of the public school system and public institutions of higher education." Cal. Const., Art. XVI, § 8. Indeed, there is a reasonable possibility that these funds will not be interpreted as coming from the Proposition 98 funding pool.

First, while proposed Education Code section 315 states that recipients of the funded adult English language instruction should "pledge to provide personal English language tutoring to California school children," the initiative provides no mechanism to ensure that such tutoring is provided, to structure how it is provided, or to ensure that any children tutored are public school enrollees. Second, without such mechanisms, this funding for adult education has no necessary connection to public schooling. Indeed, the initiative specifically permits funded programs to be operated through "community organizations." See Proposed Cal. Educ. Code § 316. Such organizations may have no affiliation with public schools.

Thus, if the bulk (or even any significant amount) of this appropriation goes toward adult language instruction provided by community organizations, with no means to ensure that recipients tutor public school children, it seems very likely that the funding would not qualify as Proposition 98 spending. Because the initiative does not ensure that the funds will so qualify, the ballot pamphlet analysis should recognize and acknowledge the possibility that the

\$50 million appropriation would not qualify as Proposition 98 spending and thus would result in an increase in state spending.

- Even if the \$50 million per year for adult language instruction falls within the Proposition 98 spending requirement, it would require a shift in funds from other educational programs.

In addition, the ballot pamphlet analysis should make clear that even if the \$50 million annual appropriation does qualify as Proposition 98 spending, these funds would be shifted from other educational spending provided that the Legislature funds education only to the Proposition 98 floor. Of course, if the Legislature changes its practice of funding to the floor in order to prevent this appropriation from reducing other educational spending, then the effect is precisely as if the Unz initiative's appropriation did not qualify as Proposition 98 funding. Thus, the ballot pamphlet analysis must make clear that this appropriation will affect either the funding available for other educational programs or the funding available for other non-educational state programs.

- The initiative places at risk of loss all federal funding for education in California.

Title VI of the 1964 Civil Rights Act, as implemented by the regulations of the United States Department of Education, requires the states to adopt educational practices without discriminatory intent or effect. In *Lau v. Nichols*, 414 U.S. 563 (1974), the U.S. Supreme Court held that this means providing limited-English proficient students with a meaningful opportunity to participate in the educational programs offered by the public schools. While *Lau* itself does not provide specific guidance as to what this requires public schools to provide, the *Lau* decision raises the possibility that the Unz initiative may be subject to successful challenge under Title VI as failing to provide the requisite services and academic access. The remedy for a Title VI violation, if conciliation efforts fail, is the withdrawal of all federal funding from the violating recipient. Thus, if the Unz initiative might violate Title VI, then it places at risk of loss all federal funding to elementary and secondary education in the state of California.

The proponents of the Unz initiative have relied upon a decision by the Ninth Circuit Court of Appeals, *Guadalupe Org. v. Tempe Elementary Sch. Dist.* No. 3, 587 F.2d 1022 (9th Cir. 1975), as insulating the initiative from Title VI challenge. It provides no such protection. That decision only holds that maintenance bilingual education programs are not required by Title VI; it does not protect more extreme models from challenge. Moreover, the agency that enforces Title VI -- the federal Department of Education Office for Civil

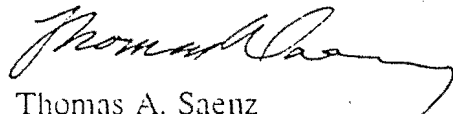
Rights -- has adopted the broader standards in the Fifth Circuit decision in *Castaneda v. Pickard*, 648 F.2d 989 (5th Cir. 1981), as guiding its enforcement of the rights of English learners. See U.S. Dep't of Educ., *Policy Update on Schools' Obligations Toward National Origin Minority Students With Limited-English Proficiency* (attached as Exh. E).

Several elements of the Unz initiative are suspect under the *Castaneda* criteria, yielding a serious possibility of successful Title VI challenge. These problematic elements include, at a minimum, the failure to provide access to academic curriculum during the temporary immersion program, the failure to establish adequate training standards for teachers in the transitional programs, the establishment of an arbitrary one-year standard for transfer to mainstream classes, the experimental nature of the English language development program mandated statewide, and the failure to provide for district adoption of alternative models other than through individual parental waivers obtained through a difficult procedure.

Without fully discussing the bases for challenge to the Unz initiative, should it be enacted, we believe that there are plainly a number of possibilities for successful Title VI claims against the proposal on its face and as applied. In light of these significant possibilities, the ballot pamphlet analysis must recognize the potential loss of federal funds as a major fiscal effect of the Unz initiative.

We believe that the above represent the essential elements of a succinct, yet comprehensive, ballot pamphlet analysis of the Unz initiative and its effects. We may supplement the information provided here through additional correspondence in the next few days. If we can be of further assistance, please do not hesitate to contact us.

Sincerely yours,



Thomas A. Saenz
Maribel Medina
Mexican American Legal Defense
and Educational Fund

REAL NUMBERS.



California Latino Voting
I N T H E I 9 9 0 s

(By)

RICHARD ROSS

Ross Communications • 1700 L Street, Sacramento, California 95814

Participating in California politics for 25 years, I've seen up close the impacts of Watergate, Proposition 13, the Willie Brown Speakership, and term limits.

Today's growth in Latino political power is just as significant as any of those events. The effects of Prop. 187 on Latino voter behavior and level of participation are reshaping California's political landscape:

- Latino loyalty has shifted to the Democrats,
- The number of new citizens has tripled,
- And in 1996 those new citizens voted at rates higher than Californians as a whole.

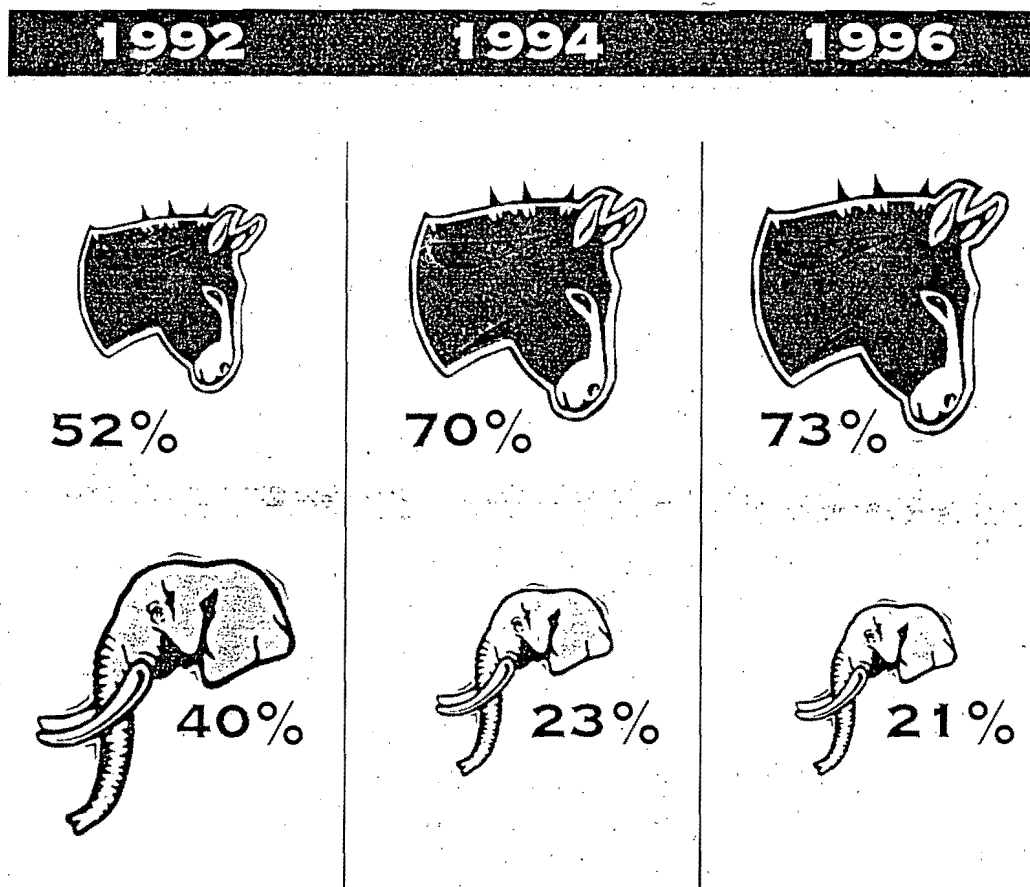
My research projects a 600,000 net real vote "Latino bump" for Democrats in California in 1998.

And those are "Real Numbers."

Richard Ross

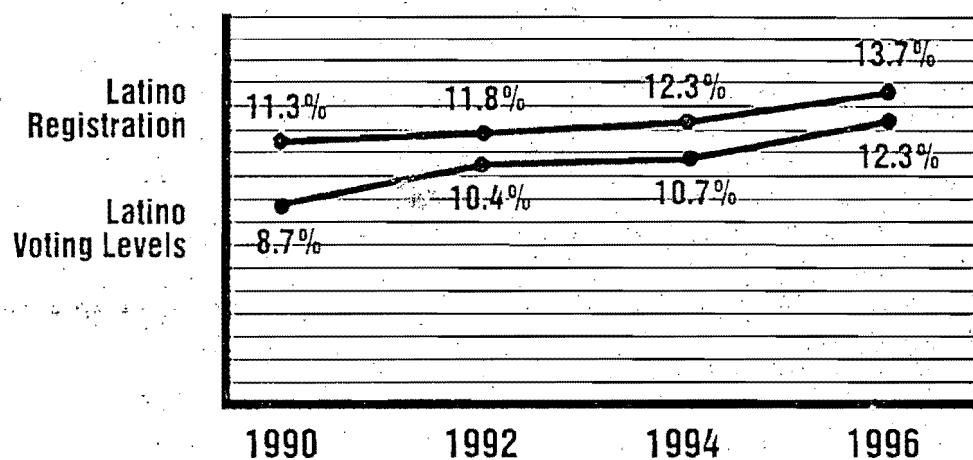
Latino Voter Loyalties Shifted in 1994 with Proposition 187.

Los Angeles Times and *Field Institute*
exit polls document a shift in
Latino voter loyalties in the
top of the ticket races:



*Percentages are averages between the exit polls:
1992 Clinton/Bush, Boxer/Herschensohn, Feinstein/Seymour.
1994 Brown/Wilson, Feinstein/Huffington. 1996 Clinton/Dole.

Latino Voter Registration is Growing. But Latino Voter Participation is Growing Faster.

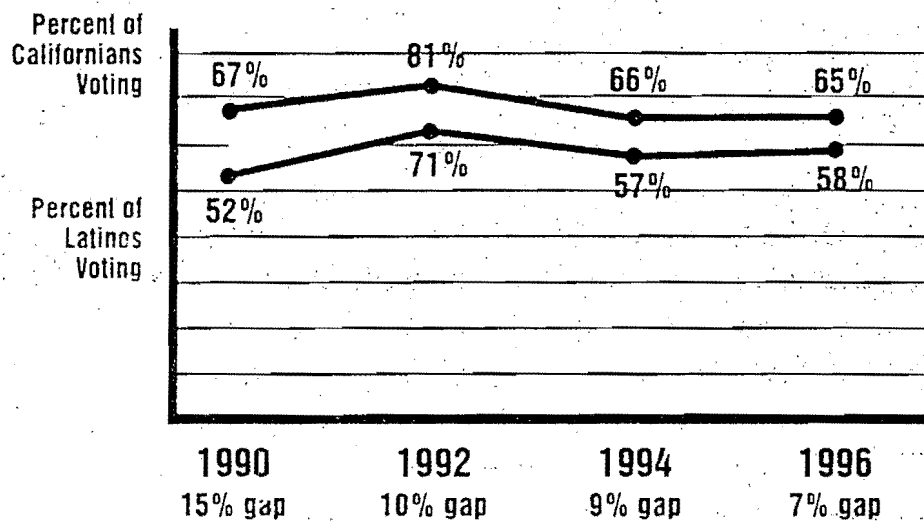


*Latino percentages of all California voters.

A 15% Gap Narrows to 7%

Voter turnout for all
Californians fluctuates.

But the gap between levels of
Latino Voter participation and
California as a whole has
narrowed steadily.



The Newest Latino registrants voted at higher levels than new Latino registrants did before.

1992

81% of Registered Californians Voted

71% of Registered Latinos Voted

53% of Newly Registered Latinos Voted

1994

66% of Registered Californians Voted

57% of Registered Latinos Voted

42% of Newly Registered Latinos Voted

1996

65% of Registered Californians Voted

58% of Registered Latinos Voted

57% of Newly Registered Latinos Voted

Numbers of California's New Citizens

The 1996 jump in voting participation by newly registered Latino voters may correlate to the 1996 jump in new citizens.

52,411 New citizens in California in 1992

68,100 New citizens in California in 1993

90,279 New citizens in California in 1994

136,727 New citizens in California in 1995

New citizens
in California
in 1996

***1997**

569,000 new citizenship applications being processed.
Additional 47,000 new applications being received per month.

**Numbers include all countries of origin.*

Counting ballots is what counts.

1992	1994	1996
<i>Latino Votes Cast</i>	<i>Latino Votes Cast</i>	<i>Latino Votes Cast</i>
494,822 (52% Dem)	619,285 (70% Dem)	913,805 (73% Dem)
-380,632 (40% Rep)	-203,479 (23% Rep)	-262,875 (21% Rep)
114,190	415,806	650,930
Net Democrat Advantage	Net Democrat Advantage	Net Democrat Advantage

*Los Angeles Times and Field Institute exit poll averages
multiplied by number of actual Latino votes cast.

1998 Projections

There are 3 logical steps to making a thoughtful guess...

STEP 1

It is logical to project that 300,000 more Latino votes will be cast in 1998 than there were in the 1994 Gubernatorial Election.

Gubernatorial Elections

1990 **517,254** (Latino Votes)

1994 **884,694** (Latino Votes)

300,000+

Vote Increase

Presidential Elections

1992 **951,581** (Latino Votes)

1996 **1,251,789** (Latino Votes)

300,000+

Vote Increase

STEP 2

Adding 300,000 to the 1994 Latino total (the last Gubernatorial election) suggests 1,184,694 Latino votes will be cast in 1998.

STEP 3

Applying the exit poll numbers to the projected number of Latino votes for 1998 yields a projected net Democratic advantage:

864,826 (73% Dem)

-248,785 (21% Rep)

616,041

Net Democrat
Advantage for 1998

**Los Angeles Times and Field Institute exit poll averages multiplied by number of actual Latino votes cast.*

Putting a 600,000 vote "Latino bump" for Democrats into a historical context...

IN 1982 George Deukmejian defeated Tom Bradley for Governor by 93,345 votes.

.....

IN 1986 Alan Cranston defeated Ed Zschau for U.S. Senate by 104,868 votes.

.....

IN 1988 George Bush defeated Michael Dukakis in California for President by 352,705 votes.

.....

IN 1990 Pete Wilson defeated Dianne Feinstein for Governor by 266,707 votes.
Kathleen Brown defeated Tom Hayes for State Treasurer by 231,775 votes.
And Dan Lungren defeated Arlo Smith for Attorney General by 28,906 votes.

.....

IN 1994 Dianne Feinstein defeated Michael Huffington for U.S. Senate by 165,562 votes.
Kathleen Connell defeated Tom McClintock for State Controller by 187,734 votes.

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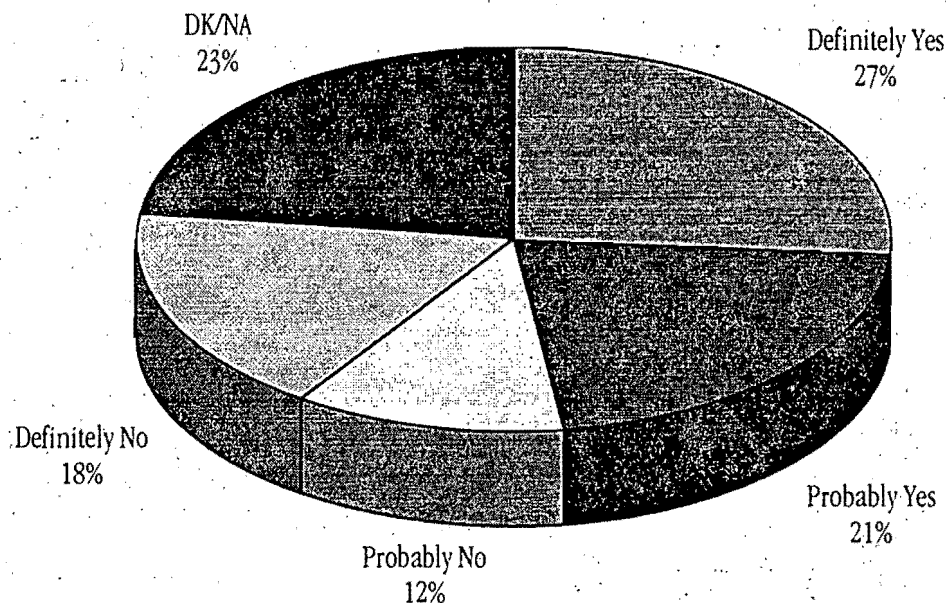
Godbe Research & Analysis

Statewide Survey of Latino Voters Conducted for Jim Gonzalez & Associates, LLC

Ballot Test: School District 95-5 Requirement

Another initiative termed '95-5' may appear on the June statewide ballot. This initiative prohibits school districts from spending more than five percent of their funds for costs of general administration, instructional resource supervision and supervision of instruction beginning in fiscal year 1999. If the election were held today, would you vote yes or no on this initiative?

Ballot Test: 95-5 Initiative

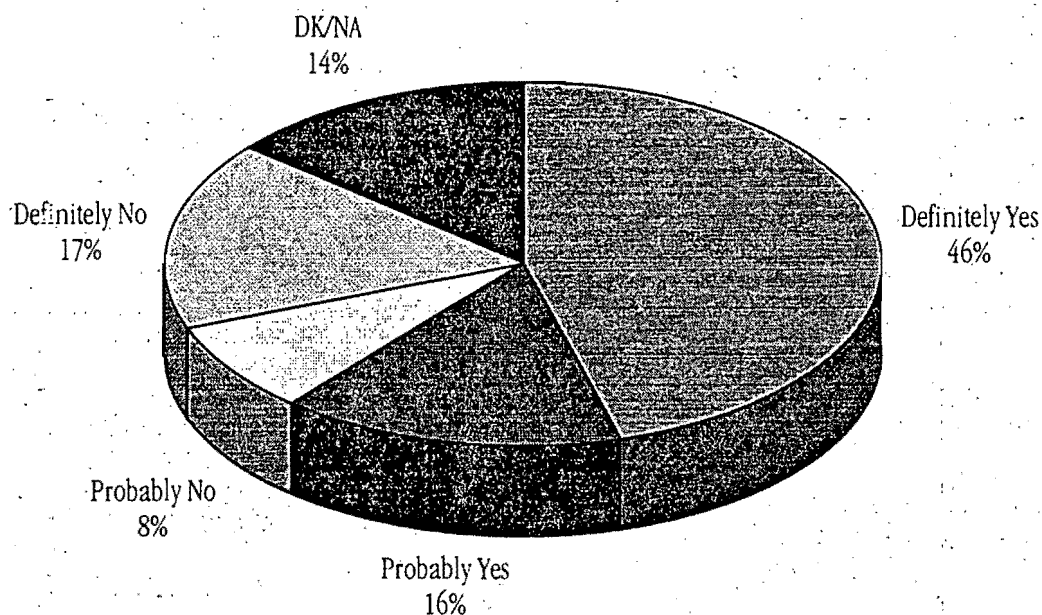


	Overall	Party		
		Dem	Rep	Other
Def Yes	27%	26%	27%	36%
Prob Yes	21%	22%	19%	18%
Total Yes	48%	48%	46%	55%
Prob No	12%	11%	13%	9%
Def No	18%	18%	13%	27%
Total No	29%	29%	26%	36%
Don't Know	23%	23%	28%	9%

Ballot Test: Use of Union Dues for Political Contributions

An initiative on the June ballot would require employers and labor unions to obtain permission from employees and union members before withholding pay or using union dues for political contributions. If the election were held today, would you vote yes or no on this initiative?

Ballot Test: Union Dues



	Overall	Dem	Party Rep	Other
Def Yes	46%	45%	49%	33%
Prob Yes	16%	15%	15%	27%
Total Yes	61%	60%	64%	61%
Prob No	8%	8%	7%	3%
Def No	17%	18%	18%	12%
Total No	25%	26%	25%	15%
Don't Know	14%	14%	11%	24%



UTLA Initiative: Summary and Analysis

The United Teachers of Los Angeles (UTLA) has qualified an initiative for the June 1998 ballot that is intended to cap the dollars used for school district administration. In its broadest sense, this initiative seeks to limit administrative costs to 5 percent of the school district's budget commencing in the 1999-2000 fiscal year. The details of how those allocations are defined and how the initiative would be implemented follow.

Summary of the Key Provisions of the Initiative

1. **Identify administrative expenditures.** Each district would be required to report total "administrative" expenditures and calculate its percentage relative to all district funds received from state, federal, or local sources.

For the first phase of expenditure reporting -- between the fiscal years of 1996-97 and 1999-2000 -- the J380 would be utilized. Expenditures would be reported in the following J380 categories:

- District administration
- Instructional administration
- Special projects administration and direct support costs
- Centralized data processing
- Maintenance and operations administration

In subsequent years, administrative costs would be calculated independently of the J380, using instead the following categories defined by the initiative:

- General administration
- Supervision of instruction
- Instructional resources supervision

It is unclear if the J380 would be modified to correspond with the new administrative categories defined in this initiative or if the initiative would add an additional reporting requirement.

2. **Connect expenditures to student achievement.** Commencing in the 1998-99 fiscal year, every district would be required to develop, as part of its yearly budget, a system that would indicate how each projected expenditure is intended to result in a specific performance outcome in order to improve student achievement. Both administrative and non-administrative expenditures would be included in this requirement.

3. **Limit administrative spending to 5 percent of total funds received by the district.** Commencing in the 1999-2000 fiscal year, school districts would be required to limit all administrative costs to five percent of all funds received by the district. This includes funds received from state, federal and local sources, including categorical programs, special education funding, school construction moneys, etc. As defined by the initiative, administrative functions fall under the following categories: (1) General administration; (2) Instructional resources supervision; and (3) Supervision of instruction. These categories are defined in detail below.
4. **Conduct independent audit of district compliance.** An independent audit, paid for by the school district as part of its 5 percent administrative costs, would be required for every district. The audit determines the extent to which the district has complied with the provisions of the initiative, including those portions of the initiative linked to student achievement. This audit is required once every five years beginning in fiscal year 2004-5.
5. **Impose financial sanctions for failure to comply.** The State Board of Education must fine a school district that is out of compliance with the initiative the greater of 25 dollars per ADA, or five percent of basic district revenue limit times total ADA. The initiative does not specify how the moneys collected from the fines would be utilized. Districts found to be out of compliance would be required to make public notice of the violation at a regular board meeting. For a district of 10,000 students, the fine would be roughly \$1.75 million.
6. **2/3 vote of legislature required for additional changes.** The initiative requires a 2/3 vote of the legislature and a governor's signature to provide a change to any provision. Moreover, legislative action would be limited to amendments intended to "further" the purpose of the initiative.

Summary of Administrative vs. Non-administrative Costs

Since this initiative attempts to cap administrative costs to 5 percent of a district's expenditures, it is essential to determine which functions are considered "administrative." The initiative defines administrative costs in three categories: (1) General administration; (2) Instructional resources supervision; and (3) Supervision of instruction. The initiative provides broad guidelines to define each of these three categories:

- (1) *General Administration:* Includes those activities involving the governing board of the district (including services related to property tax assessment and collection, and services related to employee relations and negotiations), activities related to the

executive responsibility of the district, activities associated with central data processing, central support, and fiscal services, and other general administrative services not specifically defined in the initiative. Central support is broadly defined to include virtually all district planning, research, development, public information, publishing, purchasing and distribution services. Fiscal services include budgeting, receiving and distributing funds, accounting, payroll and auditing.

(2) *Instructional resources supervision*: Refers to overall management and maintenance of the resources to instruct pupils and activities and materials used by pupils to enhance learning, including libraries.

(3) *Supervision of instruction*: Involves activities primarily undertaken to assist instructional staff in planning, developing, and evaluating the process of providing the learning experience for pupils. These activities include curriculum development, instruction research, instructional staff development, instructional supervision, and the organizing and coordinating of training staff in techniques for instruction, child development and understanding.

Non-administrative costs are considered direct services to pupils, school site employees, and school facilities that are *not* included in the administrative costs categories. Specifically, non-administrative costs are defined as follows:

(1) *Direct services to pupils*: Includes professional services rendered directly to pupils by certificated or licensed personnel, and also instances where pupils are the direct beneficiaries of immediate and unbrokered services provided to them, for example, transportation, cafeteria services, safety and security services, and services of a school supervisor or principal.

(2) *Direct services to school site employees*: Immediate and unbrokered services to school site employees, including actual training or professional development sessions or classes, police services, school-assigned personnel providing management functions, and support to the school supervisor or principal.

(3) *Direct services to school facilities*: Includes labor and material costs of the actual physical cleaning, maintenance, and improvement of school facilities exclusive of any central district handling, administration, or overhead costs.

The initiative does not indicate whether or not these three categories of "direct services" are intended to be considered the only types of expenditures that are non-administrative. Further, CSBA believes that there are provisions in this initiative that are contrary to the above definitions of "non-administrative," thus rendering

many aspects of those expenditures to fall under the five percent cap. For example, the initiative describes "transportation" as a non-administrative cost. However, it seems evident that only those aspects of the transportation service that have a direct, immediate and unbrokered delivery to the student could be construed as non-administrative. The bus driver provides an immediate and unbrokered service to the student. However, the mechanic of the bus does not. The food service worker who orders the luncheon food from the distributor would be administrative. However, the cafeteria worker who prepares the food would be considered non-administrative.

Analysis of Policy and Implementation Issues

The initiative raises significant policy and implementation issues.

1. The appropriateness of imposing an arbitrary 5 percent cap on administrative costs for all of California's school districts

The initiative mandates the same administrative ratio for all of California's districts regardless of their size, characteristics or need. According to data from the California Department of Education, district administrative costs average roughly 7.7 percent of a district's budget, with 93.3 percent of all education dollars directed towards school sites. On average, the costs can be broken down accordingly:

District Administration	4.4 percent
Instruction Administration	1.4 percent
Special Projects Administration	0.9 percent
Centralized Data Processing	0.5 percent
Maintenance and Operations	0.5 percent
Total	7.7 percent

While this data represents state averages, individual districts vary considerably due to factors such as size of district and types of programs provided by the district. Smaller, rural districts could be impacted the most severely since they have the least amount of resources to distribute.

School districts that provide extensive staff development programs will have higher instructional administration costs. School districts that utilize teacher mentors extensively, who are not providing direct classroom instruction, will also have an increase in instructional administrative costs. Programs such as teaching internships and collaboratives with the universities for teacher preparation require district administration to develop and implement. A district involved in litigation, including those cases involving the dismissal of an unsatisfactory teacher, will experience increased administrative costs. Districts that provide coordinated health and

social services through city, county and school collaboratives will utilize administrative functions to implement such programs.

While the proponents state that the intent of the initiative is to improve education efficiency and to ensure that education dollars "be contributed in an accountable manner to the academic value of the actual in-school educational experience of pupils," there is no empirical data or research that suggests a 5 percent administrative cost cap results in improved student achievement. In fact, there is no assurance or accountability mechanism contained in the initiative to ensure that there is an improvement in student achievement. Initiative proponents offer that the cap was chosen to more closely reflect administrative costs in foreign countries. However, the proponents have not identified the foreign countries on which this initiative is based. Therefore, it is impossible to determine if those countries have locally governed school districts or similar programs to administer, or if their definition of administrative costs is consistent with the definitions in this initiative

In fact, imposing such a cap would probably result in a shifting of responsibilities from the district office to the school site -- further burdening school facilities and site personnel. This will also result in greater overall expenses because services would not be provided at the lowest cost, given the economies of scale.

Local communities need to determine what type and level of district support is necessary to ensure high student achievement. Moreover, districts must have the flexibility to respond to critical emerging priorities, including litigation and implementation of effective and innovative programs. Ironically, this initiative has been proposed after districts have made concerted efforts to streamline administrative functions and increase the dollars that go to the classroom.

2. Defining the 5 percent of expenditures

The initiative's definition of administrative costs would have some significant consequences. The initiative clearly states that expenditures relative to employee relations and negotiations are considered administrative. Therefore, all legal fees incurred by the district for employee relations or negotiations, including dismissal of an unsatisfactory employee, would be charged against the district's five percent allowance. Litigation initiated by a teacher could result in either the inability of the district to defend the termination or the elimination of critical district operations in order to free up resources for such purposes. Additionally, it is likely that most other legal fees would fall into the 5 percent cap.

According to the proponents of the initiative, expenditures may be classified as non-administrative through "physical contact." For example, the warehousing of instructional materials at a centralized district office would

be considered administrative because it is not located at a school site or in direct physical contact with employees of the site. However, if the warehousing occurs at the school site, it would be considered non-administrative. These distinctions are arbitrary and would likely result in a shifting of responsibilities to school sites, where facilities are already stretched. This shift would also result in higher costs for the same services because the district would not benefit from providing services consistent with economies of scale.

3. Ambiguities and Contradictions in the Initiative

The initiative contains many ambiguities and contradictions that would have significant consequences for districts, such as:

- *Construction of New Facilities.* Although it may not be the intent of the drafters of the initiative, the construction of new facilities is not included in the definition of non-administrative costs. Specifically, the initiative states:

"Direct services to school facilities' means the labor and material costs of the actual physical cleaning, maintenance, and improvement of school facilities exclusive of any central district handling, administration, or overhead costs, and services of the school-assigned plant manger, if any."

If it is found that the construction of new facilities is included in the five percent cap, the impact would be overwhelming. In most cases, the cost to build only one new facility far exceeds the 5 percent limit, as illustrated below:

School District	Total District Revenue	5 Percent Cap on Admin. Costs	Cost of Facility	Administrative Dollars Remaining
Salinas Union High	103,344,486	5,167,224	\$45,000,000 <i>(avg. cost of new high school construction)</i>	-39,832,776
Elk Grove Unified	211,014,074	10,550,704	\$10,000,000 <i>(avg. cost of new elementary school construction)</i>	\$50,704

- *District reserve funds.* All school districts are required by law to maintain a 3 percent reserve fund. The initiative does not state how those moneys are to be categorized, if at all, in the calculation of administrative vs. non-administrative costs.
- *Staff with multiple responsibilities.* In many cases, staff flow in and out of administrative and non-administrative responsibilities throughout the course of the work day. According to the initiative, if a district staff

person is working directly with a school site teacher, some of the time will be considered administrative and some non-administrative. Tracking the hours to be charged to which function will be a considerable administrative burden for districts.

- *Defining "direct services."* The initiative defines non-administrative expenditures as direct services to either pupils, school employees or facilities that are "immediate and unbrokered." Given that definition, one could surmise that the school bus mechanic is administrative while the school bus driver is non-administrative.

4. Severe Sanctions

The initiative calls for the imposition of severe sanctions for any district found to be out of strict compliance with its provisions. As defined by the initiative, the sanctions would be \$25 per ADA, or five percent of basic district revenue limit times total ADA, whichever is greater. According to the California Department of Education, 5 percent of the base revenue limit amount is roughly \$175 per ADA, which is significantly higher than \$25 per ADA. It is likely, then, that the penalty would be five percent of the basic district revenue limit times total ADA. Based on that data, districts with 10,000 students would be fined roughly \$1.75 million if it found to be out of compliance. Ironically, the imposition of such severe fines will result in less money to spend on the direct services which the initiative purports to safeguard.

The lack of clarity will not serve as an excuse for failure to comply. Legislation (approved with a 2/3 vote) or litigation will be the only avenues available for additional clarification. It is uncertain if the State Board of Education would have waiver authority for the sanction or any other provision of the initiative.

The initiative does not specify how the fines will be allocated and whether or not a fine would be reduced if the district was only marginally out of compliance, or out of compliance due to a technical error.

5. Performance Budgeting

The initiative requires all budget expenditures to also include details about how those expenditures contribute toward improved student achievement. For a variety of expenditures, including custodial services, transportation services, employee benefits, lawn maintenance, etc., it would be difficult to make a direct correlation between the expenditure and student achievement. Additionally, while the initiative contains performance budgeting, it does not contain any provision to ensure higher academic achievement for students.

Additional Administration Required by the Initiative

This initiative adds several layers of administrative costs to districts. Primarily, the initiative creates several additional and complex reporting requirements for school districts with a negligible impact on student achievement. In addition to reporting the administrative expenditures, as defined by the initiative, districts will also have to determine which specific tasks conducted by district personnel fall into which category. The following summarizes the three new administrative responsibilities impacting districts:

1. **Detailed reporting requirements.** Initially, school districts must report administrative costs based on information submitted on their J380, a form currently used by most school districts in the state. The school district must publish and make available to the general public the percentage that the administrative expenditures represent relative to the total aggregate expenditures of all funds received from state, federal and local sources.

Commencing in fiscal year 2000-01, however, the reporting requirements become more complex. School districts would no longer utilize the J380 to determine administrative costs but would, instead, compute administrative costs based on the following categories: (1) general administration; (2) supervision of instruction; and (3) instructional resources supervision. The initiative attempts to define these categories, but raises considerably more ambiguity instead. Those ambiguities will be discussed in detail below.

2. **Performance outcome budgeting.** In addition to developing its district budget, each district must also connect each expenditure to "the intended contribution...to the achievement of a specific performance outcome objective." All budget expenditures are included in this requirement, including transportation, custodial, security, and gardening costs.
3. **Audit requirement.** The costs of the required audit must be borne by the school district directly from its 5 percent administrative cost allocation.

Conclusion

The UTLA initiative adopts a one-size-fits-all budget requirement for all of California's school districts regardless of their individual characteristics. In the process of doing so, the initiative contains significant ambiguities, leaving many key education expenditures completely unaddressed. As drafted, the initiative fails to address improvements in student performance and, instead, imposes many new administrative reporting requirements on district offices. Finally, there is no empirical data or research suggesting that the administrative limits imposed in this initiative will improve student achievement or result in educational efficiencies.

April 1997