

ASSEMBLY, No. 224

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen GARCIA and ROCCO

1 AN ACT concerning the education of students with limited English  
2 proficiency, supplementing P.L.1974, c.197 and amending the title  
3 and body of that act.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. The title of P.L.1974, c.197 is amended to read as follows:

9 AN ACT providing for bilingual [education] and English as a Second  
10 Language programs in the public schools.  
11 (cf: P.L.1974, c.197, title)

12

13 2. Section 1 of P.L.1974, c.197 (C.18A:35-15) is amended to read  
14 as follows:

15 1. The Legislature finds that there are large numbers of children in  
16 the State who come from environments where the primary language is  
17 other than English. Experience has shown that public school classes  
18 in which instruction is given only in English are often inadequate for  
19 the education of children whose native tongue is another language.  
20 The Legislature believes that a transitional program of bilingual and  
21 English as a Second Language education can meet the needs of those  
22 children and facilitate their integration into the regular public school  
23 curriculum. Therefore, [pursuant] programs to serve limited English  
24 proficient students will be designed by school districts to develop  
25 English language proficiency and to promote academic achievement.  
26 Pursuant to the policy of the State to insure equal educational  
27 opportunity to every child, and in recognition of the educational needs  
28 of children of limited English [speaking ability] proficiency, it is the  
29 purpose of this act to provide for the establishment of transitional  
30 programs of bilingual ,English as a Second Language and alternative

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 education programs for students in the public schools to meet the  
2 needs of these children.

3 (cf: P.L.1974, c.197, s.1)

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5 3. Section 2 of P.L.1974, c.197 (C.18A:35-16) is amended to read  
6 as follows:

7 2. As used in this act, the following words and phrases shall have  
8 the following meaning:

9 "Children of limited [English-speaking ability] English proficiency"  
10 means those children whose primary language is other than English  
11 and who have difficulty performing ordinary classwork in English.

12 "Full-time Programs in bilingual education" means a [full-time]  
13 program of instruction (1) in all those courses or subjects which a  
14 child is required by law, rule or regulation to receive given in the  
15 native language of the children of limited [English-speaking ability]  
16 English proficiency enrolled in the program and also in English, and  
17 (2) in the aural comprehension, speaking, reading, and writing of the  
18 native language of the children of limited English-speaking ability  
19 enrolled in the program and in the aural comprehension, speaking,  
20 reading and writing of English[, and (3) in the history and culture of  
21 the country, territory or geographic area which is the native land of the  
22 parents of children of limited English-speaking ability enrolled in the  
23 program and in the history and culture of the United States].

24 "Sheltered English program" means a daily program consisting of  
25 at least one half day of instruction in which content areas are taught  
26 through English as a Second Language (ESL) methods and two daily  
27 periods of ESL.

28 "Special alternative instructional programs" means a daily program  
29 which provides instruction in language arts and mathematics, for one  
30 period each, taught in the native language and in English, and two  
31 periods of ESL.

32 (cf: P.L.1974, c.197, s.2)

33

34 4. Section 3 of P.L.1974, c.197 (C.18A:35-17) is amended to read  
35 as follows:

36 3. Each school district shall identify and ascertain, according to  
37 rules prescribed by the Commissioner of Education with the approval  
38 of the State board, the children attending the schools of the district  
39 who are of limited [English-speaking ability] English proficiency and,  
40 also, those not in attendance but resident within the district, and shall  
41 classify them according to the language of which such children possess  
42 a primary speaking ability.

43 (cf: P.L.1974, c.197, s.3)

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45 5. Section 4 of P.L.1974, c.197 (C.18A:35-18) is amended to read  
46 as follows:

1 4. a. When, at the beginning of any school year, there are within  
2 the schools of the district 20 or more pupils of limited  
3 [English-speaking ability] English proficiency in any one language  
4 classification in a high school, or in two consecutive grades at the  
5 elementary level, the board of education shall establish, for each such  
6 classification, a full-time program in bilingual education for all the  
7 pupils therein; provided, however, that a board of education may  
8 establish a program in bilingual education for any language  
9 classification with less than 20 children therein.

10 b. [The Commissioner of Education may waive the requirement  
11 that a board of education establish a full time bilingual education  
12 program when the board is able to demonstrate that due to the age  
13 range, grade span or geographic location of the eligible pupils it would  
14 be impractical to provide a full time bilingual education program. The  
15 waiver shall permit the district to implement a special alternative  
16 instructional program for as long as the conditions exist that justified  
17 the waiver.

18 b.] Districts shall establish special alternative instructional programs  
19 or sheltered English programs at the elementary or secondary level  
20 when there are between 10 and 19 pupils of limited English  
21 proficiency in two consecutive grades in any one language  
22 classification.

23 c. Districts shall offer ESL programs when there are fewer than 10  
24 pupils of limited English proficiency of the same language  
25 classification or when there are 10 or more pupils of limited English  
26 proficiency of different languages in the district. All ESL programs  
27 shall be high intensity ESL consisting of two consecutive periods of  
28 instruction.

29 d. Districts shall offer English language services when there are  
30 fewer than 10 pupils of limited English proficiency of two or more  
31 language groups in the district.

32 (cf: P.L.1995,c.59, s.1)

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34 6. Section 5 of P.L. 1974, c.197 (C.18A:35-19) is amended to read  
35 as follows:

36 5. a. Every pupil participating in a program established pursuant  
37 to this act shall be entitled to continue such participation for a period  
38 of [3] two years.

39 b. A limited English proficient student may not remain in a  
40 program for more than two years, unless the student's parent or  
41 guardian requests continuation in writing and that request is approved  
42 by the county superintendent. No student shall remain in a full-time  
43 bilingual education program for longer than three years.

44 (cf: P.L.1987, c.197, s.5)

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46 7. Section 6 of P.L.1974, c.197 (C.18A:35-20) is amended to read

1 as follows:

2 6. In those courses or subjects in which verbalization is not  
3 essential to an understanding of the subject matter, including but not  
4 limited to art, music, and physical education, pupils of limited  
5 **[English-speaking ability]** English proficiency shall participate fully  
6 with English-speaking pupils in the regular classes provided for such  
7 subjects. Each board shall insure to each pupil enrolled in a full-time  
8 program [in] of bilingual education, ESL or a special alternative  
9 instructional program, a practical and meaningful opportunity to  
10 participate fully in all programs and activities available in the school  
11 district. Programs in bilingual education shall be located in the regular  
12 public schools of the district rather than in separate facilities. Bilingual  
13 education programs may include children of **[English-speaking ability]**  
14 English proficiency.

15 (cf: P.L.1974, c.197, s.6)

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17 8. Section 8 of P.L.1974, c.197 (C.18A:35-22) is amended to read  
18 as follows:

19 8. Each school district shall notify by mail the parents of the pupils  
20 of limited **[English-speaking ability]** English proficiency of the fact that  
21 their child has been **[enrolled]** identified as eligible for enrollment in a  
22 program of bilingual education. In addition, whenever a school district  
23 determines, on the basis of a pupil's level of English proficiency, that  
24 a pupil should exit from a program of bilingual education the district  
25 shall notify the parents of the pupil by mail. Such notice shall include  
26 the information that the parents have the option of declining  
27 enrollment of their child in a bilingual program, and they shall be given  
28 an opportunity to decline enrollment if they so choose. The notice  
29 shall be in writing and in the language of which the child of the parents  
30 so notified possesses a primary speaking ability, and in English. If the  
31 parents choose not to enroll the pupil in a bilingual program, the board  
32 of education may appeal that decision to the county superintendent.  
33 If the county superintendent determines that the pupil should be  
34 enrolled in a bilingual education program, the parent may appeal that  
35 decision to the commissioner, or the commissioner's designee,  
36 pursuant to the provisions of section 2 of P.L.1991, c.12  
37 (C.18A:35-19.2). The commissioner's decision shall be rendered  
38 within 30 days of the filing of the appeal.

39 During an appeal to the county superintendent or the commissioner  
40 pursuant to the provisions of this section, the pupil shall be enrolled in  
41 the bilingual program designated by the district until the appeal  
42 process is concluded and a final determination is made.

43 The board shall provide for the maximum practicable involvement  
44 of parents of children of limited **[English-speaking ability]** English  
45 proficiency in the development and review of program objectives and  
46 dissemination of information to and from the local school districts and

1 communities served by the bilingual education program within existing  
2 State law.

3 (cf: P.L.1991, c.12, s.3)

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5 9. Section 10 of P.L.1974, c.197 (C.18A:35-24) is amended to  
6 read as follows:

7 10. The State Board of Education shall establish a State Advisory  
8 Committee on Bilingual Education to assist the Department of  
9 Education in the formulation of policies and procedures relating to this  
10 act. The State Advisory Committee on Bilingual Education shall  
11 include representatives of the language communities served,  
12 institutions of higher education, local school boards, school  
13 administrators, teachers and [laymen] others knowledgeable in the  
14 field of bilingual education.

15 (cf: P.L.1994, c.48, s.64)

16

17 10. (New section) The Commissioner of Education shall have the  
18 authority to review and approve district proposals to offer innovative  
19 programs. A written plan shall be submitted by the district  
20 superintendent, with a resolution of support adopted by the district  
21 board of education and a transcript of a public hearing conducted by  
22 the board of education. The commissioner may consider an innovative  
23 program based on, but not limited to, the following factors: a. the  
24 board of education is able to demonstrate that it is impractical to  
25 provide a full-time program in bilingual education due to the  
26 age-range, grade-span, geographic location of the eligible pupils, the  
27 cost of the full-time program, or the availability of certified teachers;  
28 or b. the district has implemented an alternative instructional program  
29 which is effective in promoting English language acquisition and  
30 academic achievement; or c. the teaching staff members who work  
31 directly with the eligible pupils recommend an alternative instructional  
32 program as the most appropriate instructional approach. The State  
33 board shall establish procedures for initial approval and final  
34 disposition of innovative alternative programs.

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36 11. (New section) The State Board of Education shall establish  
37 certification requirements that will assure: a. an adequate pool of  
38 provisionally certified first-year teachers; and b. a reasonable  
39 possibility that these teachers will receive standard certification within  
40 two years of initial employment.

41

42 12. (New section) a. Except as provided in subsection b. of this  
43 section, a parent or guardian may remove a pupil who is enrolled in a  
44 bilingual education program at the end of each school year. If the  
45 parents decide to withdraw the pupil from the bilingual education  
46 program, the board of education may appeal that decision to the

1 county superintendent. If the county superintendent determines that  
2 the pupil should not be withdrawn from a bilingual education program,  
3 the parent may appeal that decision to the commissioner, or the  
4 commissioner's designee, pursuant to the provisions of section 2 of  
5 P.L.1991, c.12 (C.18A:35-19.2). The commissioner's decision shall  
6 be rendered within 30 days of the filing of the appeal.

7 b. If a parent or guardian wishes to remove the pupil prior to the  
8 end of each school year, the removal shall be approved by the county  
9 superintendent of schools. If the county superintendent determines  
10 that the pupil should remain in the bilingual education program until  
11 the end of the school year, the parent may appeal the county  
12 superintendent's decision to the Commissioner of Education, or his  
13 designee, pursuant to the provisions of section 2 of P.L.1991, c.12  
14 (C.18A:35-19.2). The commissioner's decision shall be rendered  
15 within 30 days of the filing of the appeal.

16  
17 13. (New section) For the 1995-96 school year, the Commissioner  
18 of Education may waive the requirement that a board of education  
19 establish a full time bilingual education program when the board is able  
20 to demonstrate that due to the age range, grade span or geographic  
21 location of the eligible pupils it would be impractical to provide a full  
22 time bilingual education program. The waiver shall permit the district  
23 to implement a special alternative instructional program for the  
24 1995-96 school year.

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26 14. (New section) The Commissioner of Education shall provide  
27 periodic reports to the Governor and the Joint Committee on the  
28 Public Schools on the effectiveness of the programs established  
29 pursuant to the provisions of this act including, but not limited to, the  
30 progress and exit rates of the students, the types of programs utilized,  
31 the cost effectiveness of the programs, and recommendations for any  
32 revisions deemed advisable, with the first report due no later than  
33 three years after the effective date of this act.

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35 15. This act shall take effect immediately and shall first apply to  
36 local school districts beginning in the 1996-97 school year, except that  
37 section 13 shall apply to the 1995-96 school year.

#### 38 39 40 STATEMENT

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42 This bill revises the law concerning the education of children with  
43 limited English proficiency. Under the bill's provisions, the  
44 requirements for the education of these pupils are the following:

45 1. If there are within a school district 20 or more pupils of limited  
46 English proficiency in any one language classification in a high school,

1 or in two consecutive grades at the elementary level, the board of  
2 education of that district is required to establish a full-time program  
3 in bilingual education.

4 2. If there are between 10 and 19 pupils of limited English  
5 proficiency in any one language classification in two consecutive  
6 grades at the elementary or secondary level, the board of education is  
7 required to establish a special alternative instructional or sheltered  
8 English program.

9 3. If there are fewer than 10 pupils of limited English proficiency  
10 in any one language classification or when there are 10 or more pupils  
11 of different languages in the district, the board of education is to offer  
12 high intensity English as a Second Language (ESL) programs.

13 4. If there are fewer than 10 pupils of limited English proficiency  
14 of two or more language groups in the district, the board of education  
15 is to offer English language services.

16 The bill provides that a student of limited English proficiency may  
17 not remain in a program for more than two years, unless the student's  
18 parent or guardian requests continuation in the program in writing and  
19 that request is approved by the county superintendent of schools. A  
20 student shall not remain in a full-time bilingual program for longer than  
21 three years.

22 The bill further provides that each school district is to notify the  
23 parents of pupils of limited English proficiency that their child has  
24 been identified as eligible for enrollment in a program of bilingual  
25 education and that the parents have the option of declining the  
26 enrollment. If the parents choose not to enroll the pupil in a bilingual  
27 education program, the board of education may appeal that decision  
28 to the county superintendent of schools. If the county superintendent  
29 determines that the pupil should be enrolled in the bilingual program,  
30 the parent may appeal that decision to the Commissioner of Education.  
31 During any appeal to the county superintendent or the commissioner,  
32 the pupil is to be enrolled in the bilingual program designated by the  
33 district until the appeal process is concluded.

34 The bill also grants to parents of pupils enrolled in bilingual  
35 education programs the right to remove the pupil at the end of each  
36 school year. If the parent decides to withdraw the pupil from the  
37 program, the board of education may appeal that decision to the  
38 county superintendent. If the county superintendent determines that  
39 the pupil should not be withdrawn, the parent may appeal that decision  
40 to the Commissioner of Education. Also, if a parent or guardian  
41 wishes to remove the pupil prior to the end of the school year, that  
42 removal must be approved by the county superintendent. If the county  
43 superintendent determines that the pupil should remain in the program  
44 until the end of the school year, the parent may appeal the county  
45 superintendent's decision to the commissioner.

46 Under the bill, the commissioner is authorized to review and

1 approve district proposals to offer innovative programs for the  
2 education of pupils of limited English proficiency. The commissioner  
3 may consider an innovative program based on, but not limited to, such  
4 factors as the impracticality of offering a full-time program due to the  
5 geographic location of the pupils, the cost, or the availability of  
6 certified teachers; the district's implementation of an effective  
7 alternative program; or the teaching staff's recommendation of an  
8 alternative instructional program as the most appropriate approach.

9 The bill deletes a provision of the law which provides that the  
10 Commissioner of Education may grant a waiver to a school district for  
11 the requirement of a full-time bilingual education program under  
12 certain conditions. This waiver provision is inserted into the bill as a  
13 new section and made applicable only to the 1995-96 school year. The  
14 other requirements in the bill for bilingual education would be  
15 applicable to the 1996-97 school year and thereafter.

16 Finally, the bill requires the Commissioner of Education to provide  
17 periodic reports to the Governor and the Joint Committee on the  
18 Public Schools on the effectiveness of the programs established by the  
19 provisions of the bill.

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25 Modifies law for the education of children with limited English  
proficiency.