

Date of Hearing: April 7, 2021

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1363 (Luz Rivas) – As Introduced February 19, 2021

SUBJECT: Childcare: dual language learners

SUMMARY: Replaces and redefines the term “Limited-English-speaking-proficient” with “dual language learner (DLL)” for purposes of California State Preschool Programs (CSPP), requires the California Department of Education (CDE) to develop procedures for providers to identify and report data on DLLs, including the use of a Family Language Instrument and family language and interest interview. Specifically, **this bill:**

- 1) Requires the Superintendent of Public Instruction (SPI) to include in its indicators of quality programs, program activities and services that meet the need of DLLs for support in the development of their home language and English.
- 2) Replaces, for purposes of the Child Care and Development Services Act, the definition of “limited-English-speaking-proficient and non-English-speaking-proficient children” with a definition of “dual language learner,” to mean a child from birth to five years of age who is enrolled in a CSPP and who is learning two or more languages at the same time, or who is continuing to develop their home language while learning a second language, such as English.
- 3) Requires the SPI to develop procedures for providers to identify and report data on DLLs enrolled in CSPPs.
- 4) Requires these procedures to include, at a minimum:
 - a) The distribution and collection of a completed Family Language Instrument from a parent or guardian of each child enrolled in a program upon enrollment.
 - b) Requires the Family Language Instrument to include, at a minimum, all of the following questions:

- | | |
|--|---|
| What language(s)
does the child hear or
speak in the home
with family
members? Please
check all that apply: | <input type="checkbox"/> English.
<input type="checkbox"/> Spanish.
<input type="checkbox"/> Vietnamese.
<input type="checkbox"/> Mandarin (Putonghua).
<input type="checkbox"/> Arabic.
<input type="checkbox"/> Cantonese.
<input type="checkbox"/> Filipino (Pilipino or Tagalog).
<input type="checkbox"/> Russian.
<input type="checkbox"/> Korean.
<input type="checkbox"/> Punjabi.
<input type="checkbox"/> Farsi (Persian)
<input type="checkbox"/> Other. Please specify: _____. |
|--|---|

What language(s)
does the child
understand?

What language(s)
does the child speak?

- c) A family language and interest interview conducted by the child's teacher or other designated staff.
- 5) Requires the interview to include, at a minimum, an inquiry and a discussion about the strengths and interests of the child, the language background of the child, and the needs of parents, guardians, or family members of the child to support the language and development of the child.
- 6) Requires the interview to be conducted when either of the following occur:
 - a) After the provider reviews the completed Family Language Instrument, and the provider verifies that the child is a DLL; and
 - b) Within 60 days of program enrollment and through child observations, including the use of measures such as the Desired Results Developmental Profile (DRDP), the child demonstrates that they understand or speak a language other than English.
- 7) Requires the reported data about DLLs and a program to include, at a minimum, all of the following:
 - a) A child's home language, the language the child uses most, and the family's preferred language in which to receive verbal and written communication;
 - b) A child's race or ethnicity;
 - c) Language characteristics of the program, including, but not limited to, whether the program uses the home language for instruction, such as a dual language immersion program, or another program that supports the development of home languages; and
 - d) The language composition of the program staff.
- 8) Requires the SPI, to the maximum extent possible, to use existing enrollment and reporting procedures for providers to meet the requirements of this section.
- 9) Replaces, for purposes of an adjustment to the reimbursement rate for child care programs, a reference to "limited-English-speaking-proficient and non-English-speaking-proficient children" with the new definition of "dual language learner."
- 10) States the intent of the Legislature to connect information about DLLs in the California Cradle-to-Career Data System.

- 11) States that this section shall not be deemed to be connected to or associated with the designation of an English learner in the K-12 public school system.
- 12) Makes findings and declarations relative to the importance of identifying and supporting DLLs and the need for a systematic approach to identification of a child's home language.

EXISTING LAW:

- 1) Requires the SPI to develop standards for the implementation of quality programs. Requires indicators of quality to include, program activities and services that meet the cultural and linguistic needs of children and families. (Education Code (EC) 8203)
- 2) Defines "Limited-English-speaking-proficient and non-English-speaking-proficient children" for purposes of the Child Care and Development Services Act to mean children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:
 - a) Having used a language other than English when they first began to speak; or
 - b) Having a language other than English predominantly or exclusively spoken at home. (EC 8208)
- 3) Requires the development of prekindergarten learning development guidelines. (EC 8203.3)
- 4) Establishes, in regulations, the DRDP to record the information in the "developmental profile," a record of a child's physical, cognitive, social, and emotional development that is used to inform teachers and parents about a child's developmental progress in meeting desired results. (CCR Title V, Section 18270.5)
- 5) Requires that each school district take a census of English learners, in a form and manner prescribed by the SPI in accordance with uniform census taking methods, and requires the results of the census to be reported by grade level on a school-by-school basis to the CDE not later than April 30 of each year. (CCR Title V, Section 11307)
- 6) Requires all pupils whose primary language is other than English and who have not been previously assessed or are new enrollees to the school district have their English language skills assessed within 30 calendar days from the date of initial enrollment. (CCR Title V, Section 11307)
- 7) Requires, in accordance with federal law (Title 20, § 7012, USC), LEAs to provide notice to each parent of the assessment of his or her child's English language proficiency not later than 30 days after the start of the school year. (EC 440b)
- 8) Requires the SPI to prescribe census taking methods for the determination of the primary language of students. Requires that this determination occur when students enroll, and once determined need not be redetermined unless the parent or guardian claims that there is an error. States that home language determinations are made only once, unless the parent disputes them (EC 52164).

- 9) Through initiative statute, requires that public schools ensure that students obtain English language proficiency. Requires school districts to solicit parent/community input in developing language acquisition programs. Requires instruction to ensure English acquisition as rapidly and effectively as possible. Authorizes school districts to establish dual-language immersion programs for both native and non-native English speakers.

FISCAL EFFECT: Unknown

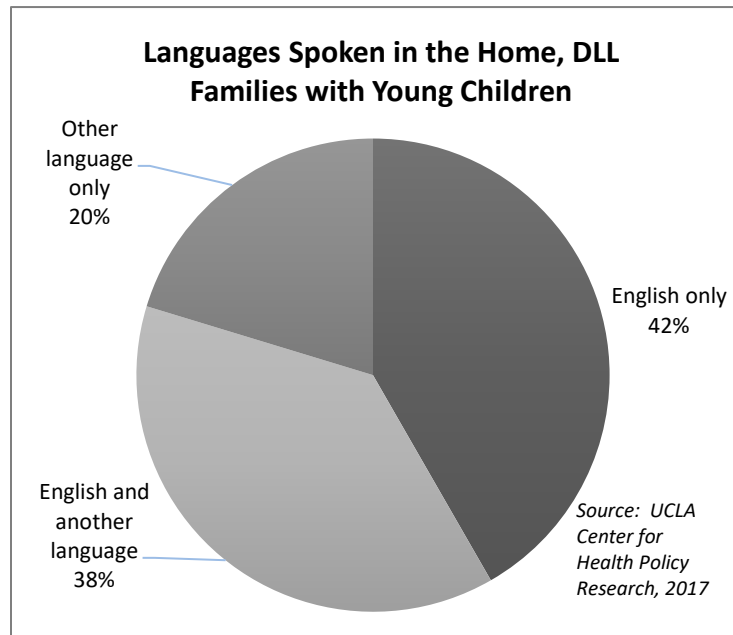
COMMENTS:

Need for the bill. The author states, “My bill, AB 1363, takes the first critical step in implementing the Master Plan for Early Learning and Care recommendations supporting our children who are DLLs. Despite the state’s positive shift acknowledging linguistic and cultural diversity as assets, and although 60% of children ages birth to five live in households in which a language other than English is spoken, there is no consistent manner of identifying DLLs in California’s Early Learning system. The absence of information about the state’s DLLs impairs the ability of state policymakers to make informed decisions over resources and other critical elements of Early Learning programs that could be leveraged to nurture and develop the early linguistic assets of these children for their benefit and the greater benefit of California.”

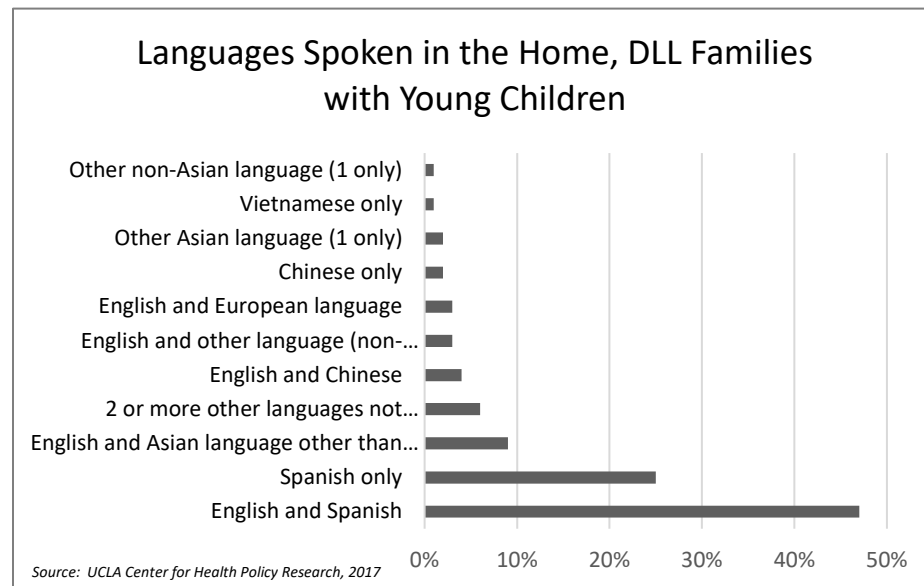
Who are California DLLs ages 0-5? Data from the California Health Interview Survey for the years 2011-2014 show that the majority (58%) of families with young children in California speak languages other than English (Holtby, 2017).

Most of the children in the surveyed families who were DLLs lived in Spanish-speaking families, followed by families speaking an Asian language. 10% of respondents spoke only another language in the home, excluding Spanish. More than 60% of the parents said they spoke English well or very well, and 37% said they spoke English “not well” or “not at all.” Of the parents in DLL families, 70% were Hispanic, 10.2% were white, 17.9% were Asian, and 2.2% were other races (including African-American).

About two-thirds of the parents in these families were born outside the U.S., and 23.4% had been naturalized. The data also show that DLL families are not a homogenous population. Families differ in household income and education levels, and this heterogeneity may have implications for programs and policy.



Master Plan for Early Learning and Care recommends identification of DLLs. This bill is consistent with some of the recommendations in the recently developed Master Plan for Early Learning and Care (Master Plan), released in December, 2020 by the California Health and Human Services Agency.



The Master Plan recommended providing DLLs with high-quality language experiences in both English and their home language as a foundation for future academic success, noting that bilingualism has associated benefits such as strengthened cognitive and memory processes, improved communication abilities, social and cultural benefits, and advantages in the job market.

The Master Plan also found that California lacks a basic universal infrastructure for identifying DLLs and that caregivers often lack the support they need in order to provide these children with high-quality, culturally relevant experiences in both English and the children's home language.

The Master Plan recommended that legislation require identification and reporting of the language status of children from birth through five years in subsidized early learning and care (disaggregated by age, race, ethnicity, language, and disability). It also recommended that California:

- Require specialized training and development to address dual language development, children with disabilities, and how to eliminate bias and inequitable practices. More early learning and care providers need to add to their foundational understanding of child development further and specific understanding of responsive interactions, dual language development, and best instructional practices for serving DLLs, as well as training and coaching on identifying and working with children with disabilities in an inclusive environment. To ensure equitable treatment of children, training and support is also needed on implicit bias, the adverse consequences of exclusionary discipline, culturally responsive discipline, trauma-informed care, and effective practices that support the social and emotional health and well-being of children. These requirements should be embedded in standards for licensure and the Child Development Permit. Also important are additional incentives and supports for providers and programs, such as grants for professional development, access to targeted technical assistance, and early childhood mental health consultation.

- Make explicit, within licensure, Commission on Teacher Credentialing-issued permits and credentials, and other workforce requirements, the need for requirements to support anti-bias, DLLs, children with disabilities, and children who have experienced trauma.
- Incentivize and provide affordable community-based professional development and online professional development offerings to license-exempt providers on best practices and strategies that support DLLs and children with disabilities.
- Update early learning guidelines to expand and integrate throughout DLLs and children with disabilities. Program sites and early learning providers face limitations in resources and in their capacities to serve DLLs and children with disabilities. They note a range of issues, including the limited availability of culturally and linguistically responsive materials. By updating early learning foundations, curriculum frameworks, program guidelines, and culturally responsive pedagogical materials, we can strengthen both dual language strategies and Universal Design for Learning practices that support learning for all children, and that promote authentic, reciprocal relationships with families as their children's first teachers.
- Collect and use data to support DLLs and children with disabilities and address issues of equity. Identification, assessment, and progress monitoring on language development for DLLs varies by funding stream (e.g., Head Start, CSPP, private) and is limited by a lack of DLL-specific measures and tools to monitor instruction and learning for DLLs.
- Legislation could require monitoring through data collection of developmental assessments in English and in the child's home language (e.g., DRDP or other assessments). At the same time, data on early learning and care developmental assessments should be collected and analyzed, and it should reflect required support to ensure that all children with disabilities are growing and learning. Finally, we should collect suspension, expulsion, and discipline data, disaggregated by gender, age, race, ethnicity, home language, and disability, to focus on support for providers, including technical assistance, anti-bias training, and early childhood mental health consultation.

In 2016, the U.S. Department of Education (USDOE) also recommended that states identify DLLs to guide policy and inform resource allocation. The USDOE recommended that states establish a home language survey (HLS) policy that would require or encourage all early childhood programs to determine the home language of children at enrollment. The USDOE noted that better data can assist states in deciding how to allocate limited resources and developing new valid and reliable tools for screening and assessment.

Effect of the COVID-19 pandemic on programs serving DLLs. In the summer of 2020, the American Institutes for Research (AIR) and Early Edge California conducted a survey of a representative sample of early learning and care programs in California to understand the status of early learning programs—80% of which serve DLLs—and the ways they have adapted during the pandemic and the challenges they face. They found that the pandemic has significantly disrupted the support system on which families of DLLs rely. They found:

- Program closures and restrictions on group sizes due to the pandemic have displaced large numbers of children, including many DLLs. Based on the survey data, nearly eight

of 10 children (78%) enrolled in licensed early learning programs prior to COVID-19 were no longer receiving care in those programs as of June or July 2020.

- The impact on DLLs has been even greater. At the time of the survey, 81% of DLLs (compared with 73% of non-DLLs) were no longer being served in the programs in which they were enrolled prior to COVID-19. This disparity is greater in center-based programs, where 89% of DLLs were no longer receiving in-person care at their program, compared with 72% of non-DLLs. Again, these shifts in enrollment are likely due to multiple factors, including the fact that communities of color and immigrant communities have been disproportionately affected by the COVID-19 pandemic and the economic disruptions associated with it.
- Although many children lost their care arrangement due to COVID-19, the survey data indicate that some programs actually began enrolling new children after the initial stay-at-home order, including children of essential workers or from vulnerable populations. About half (56%) of open centers and a third (33%) of open family child care homes reported enrolling new children since March. But only 40% of the new children being served in these programs are DLLs.
- Not only did more DLLs who were enrolled in March lose their spots due to COVID-19, but fewer DLLs secured new spots as programs began enrolling new children during the pandemic. DLLs are particularly underserved in centers, comprising only 23% of the children newly enrolled in centers. In contrast, 48% of the newly enrolled children in family child care homes are DLLs.
- Among the many programs that are not serving all of their pre-COVID-19 families—whether they are closed or have reduced enrollment—about half (51%) reported communicating (by phone, e-mail, or other means) at least once a week with the families they could not serve in person. An additional 35% reported reaching out to these families but on a less frequent basis.
- 43% of the DLL-serving programs that have families they cannot serve in person reported having staff that can communicate with all families in their home language. The remaining 57% of programs do not have staff who speak some (or any) of the languages spoken by families in the program.

Purpose and context in designing an identification system for DLLs. In a 2017 report by the National Academies of Science, Engineering, and Medicine (NASEM) titled *Promising and Effective Practices in Assessment of Dual Language Learners' and English Learners' Educational Progress*, the authors begin by noting that “a central tenet of selecting appropriate assessment instruments is that the purpose of the assessment must guide the choice of measures.” The report notes that the National Education Goals Panel established four main purposes of early care and education assessments:

- To promote learning and development of individual children
- To identify children with special needs and health conditions for intervention purposes
- To monitor trends in programs and evaluate program effectiveness

- To obtain benchmark data for accountability purposes at the local, state, and national level

The NASEM report also noted the importance of understanding the impact of sociocultural and language learning contexts on DLL's development, and the importance of selecting instruments and procedures that match the purpose for the assessment and the characteristics of the children. They note that researchers have found stronger relationships between parents' reports of their children's language abilities than between teachers' reports and direct child assessments, particularly the area of vocabulary knowledge. The report argues that it is important that family language surveys or interviews should:

- Be available in the languages families speak
- Include questions about:
 - which language a child first learned to speak
 - the language of the child's primary caregiver
 - the age of the child when first exposed to English
 - the language spoken by other adults and peers who interact with the child regularly.

Lessons from the K-12 home language survey. Current law requires public schools to determine the language(s) spoken in the home of each student. This determination begins with the parent's completion of a home language survey (HLS) when the student is first enrolled. The CDE provides a sample form, available in two languages, to assist with this identification process.

- 1) Which language did your child learn when they first began to talk?
- 2) Which language does your child most frequently speak at home?
- 3) Which language do you (the parents and guardians) most frequently use when speaking with your child?
- 4) Which language is most often spoken by adults in the home? (parents, guardians, grandparents, or any other adults)

If the HLS indicates that a language other than English is spoken in the home, current law requires that the student be assessed to determine their English proficiency level using the English Language Proficiency Assessments for California (ELPAC). If a language other than English was inaccurately included on the HLS, a parent/guardian may request to update the HLS to accurately reflect the language(s) spoken in the home. However, once a student has taken the ELPAC and has been designated an English learner, the student must take the assessment annually until they are reclassified as fluent English proficient.

In 2013, in response to concerns about the HLS raised by parents, educators, and the U.S. Department of Education Office for Civil Rights, the Council of Chief State School Officers (CCSSO) convened a national working group, and in 2014 issued a working paper titled *Reprising the Home Language Survey*. This paper noted concerns that existing home language surveys may not reveal accurate information about students' language skills or exposure to English language and literacy because of inconsistency in administering these surveys, among other reasons. The paper notes that these factors may contribute to poor data quality, which can result in the misidentification of potential English learner students in school districts, and that misidentifying students poses a challenge for both districts and state education departments when

they allocate resources to support English learner students' success. The report noted that, "to date, no validity studies have been conducted by states on the accuracy of HLS, so little is known about the quality of the information HLS yield (Bailey, 2010). Where there has been opportunity to evaluate HLS, researchers have found them lacking."

The CCSSO report recommended that states work to strengthen several key dimensions of their HLS in order to ensure that they serve their intended purpose, by:

- Clarifying the key purposes and intended uses of the home language survey;
- Identifying essential and associated constructs aligned to those purposes and uses;
- Formulating HLS questions that target those essential and associated constructs;
- Recommending key administrative procedures to ensure effective survey provision; and
- Suggesting guidelines for decision rules to strengthen the reliability and validity of inferences and actions derived from survey results.

The paper also concluded that "there is clearly a need to empirically test the proposed HLS questions and decision rules in relation to ELP screener/assessment results in order to strengthen survey quality as well as to validate that the right students are being appropriately identified as potential English learners."

English Learner Roadmap for California shifts to an asset-based orientation toward home language and culture. In July, 2017, the State Board of Education adopted the California English Learner Roadmap State Board of Education Policy. The Roadmap is intended to articulate a common vision and mission for educating English learners and to assist the CDE in providing guidance to LEAs in order to welcome, understand, and educate the diverse population of students who are English learners attending California public schools.

The vision of the Roadmap is: "English learners fully and meaningfully access and participate in a twenty-first century education from early childhood through grade twelve that results in their attaining high levels of English proficiency, mastery of grade level standards, and opportunities to develop proficiency in multiple languages." The principles of the Roadmap are:

- 1) Assets-Oriented and Needs-Responsive Schools
- 2) Intellectual Quality of Instruction and Meaningful Access
- 3) System Conditions that Support Effectiveness
- 4) Alignment and Articulation Within and Across Systems

The first principle is assets-oriented and needs-responsive schools is described to mean: "Pre-schools and schools are responsive to different English learner (EL) strengths, needs, and identities and support the socio-emotional health and development of English learners. Programs value and build upon the cultural and linguistic assets students bring to their education in safe and affirming school climates. Educators value and build strong family, community, and school partnerships."

Early education dual immersion programs. Research supports the early exposure of children to language rich environments. California's Preschool Learning Foundations support the use of home language in instruction at this age, noting its benefits for language acquisition and development of the brain:

The development of language and literacy skills in a child's first language is important for the development of skills in a second language and, therefore, should be considered the first step in the range of expectations for children learning English as a second language.

Learning by these children is not confined to one language. Children who have the skills to understand and communicate in their home language will transfer that knowledge to their learning of a second language, resulting in a more effective and efficient second-language learning process. Recent research suggests that the development of two languages benefits the brain through the increase in density of brain tissue in areas related to language, memory, and attention. This increased brain activity may have long-term positive effects.

A key challenge facing the broad scale establishment and expansion of early education dual language immersion programs is the availability of qualified teachers. The Center for the Study of Child Care Employment, University of California at Berkeley reported in 2008 that licensed family child care providers and assistant teachers in centers are more linguistically diverse than the California adult population, but that the more qualified teachers are less likely to be able to communicate fluently with children and families in a language other than English. Providers (43%) and assistant teachers (49%) were the most likely, and teachers (37%) and directors (25%) were less likely, to have these language skills.

In addition to issues of supply, there is currently no early childhood education permit or supplementary authorization which qualifies a preschool teacher as a bilingual educator. Employers use their own means of determining whether early childhood educators possess the language and pedagogical skill to teach in another language.

Future implications of DLL identification. This bill states Legislative intent to connect information about DLLs to other systems through the California Cradle-to-Career Data System. The bill also states that its requirements may not be deemed to be connected to or associated with the designation of an English learner in the K-12 public school system. The Master Plan suggests that the identification of DLLs should be part of a system to "follow children's learning and development all the way from preschool to high school."

The identification of DLLs naturally raises questions about how this system might in the future relate to the system of EL classification in the K-12 system. The alignment of the pre-K and K-12 systems is a critical goal. It is also complex and warrants thoughtful consideration to avoid unintended consequences. ***The Committee may wish to consider*** the value in taking an incremental approach to ensure that the results meet the state's objectives.

Staff recommends that this bill be amended to:

- 1) Specify the purposes and intended uses of the DLL identification system.
- 2) Specify the constructs which the identification system is intended to measure.
- 3) Retain the family language instrument and interview, but strike the specific questions. Direct the CDE to develop these questions based on a) the purposes and intended uses, and b) the constructs the system is intended to measure, as specified in the bill.
- 4) Require the CDE to establish decision rules for use with the identification procedures.
- 5) Specify the responsibilities of the CDE in implementing this requirement, including processes for development, implementation, and any guidance and resources for the field.

- 6) Correct the definition of DLL to ensure continued reimbursement rate adjustment for all DLLs ages 0-5, not just those enrolled in preschool.

Arguments in support. Early Edge California writes, “AB 1363 establishes a standard process for California State Preschool providers to identify the DLLs they enroll and serve and requires providers to report key information about them. The information will support the ability of teachers, providers, and state policymakers to make informed decisions over resources and other important elements of preschool programs, including instructional strategies that could be leveraged to support the long-term academic success of DLLs while nurturing and developing their early linguistic assets. AB 1363 is in alignment with the state’s positive shift to acknowledging bilingualism as a linguistic and cultural diversity asset. Given that DLLs represent 60% of children from birth to age five in California, the need for AB 1363 is now. The bill will illuminate ways to improve DLLs’ academic and social outcomes while ensuring that they have the skills they need to be successful in a global economy.”

Related legislation. AB 1012 (Reyes) of the 2019-20 Session would have required, upon appropriations for this purpose, the California Department of Education (CDE) to provide grants to LEAs for, among other purposes, professional learning for child development providers so that they can support the development of dual language learners. This bill was held in the Assembly Appropriations Committee.

SB 594 (Rubio) of the 2019-20 Session would have established the California English Learner Roadmap Initiative, for the purpose of awarding grants to build capacity for implementation of the EL Roadmap, including the EL Roadmap at every level of the statewide system of support, and establishing connections to the local control and accountability plan and Title III plan, among other goals. This bill was held in this Committee.

AB 2514 (Thurmond), Chapter 763, Statutes of 2018 establishes the Pathways to Success Grant Program, for the purpose of providing grants for the establishment and expansion of dual language immersion programs, developmental bilingual programs for English learners, and early learning dual language learners programs.

AB 952 (Reyes) of the 2017-18 Session, as it passed this Committee, would have established the Bilingual Teacher Professional Development Program and requires the CDE to allocate grant funding for purposes of providing professional development services to specified teachers and paraprofessionals to provide instruction to English learners. Most of the contents of the bill as it passed this Committee were included in AB 99, the trailer bill to the Budget Act of 2017 (see below). As it was sent to the Governor, this bill would have required the CTC to establish a process to identify short-term, high-quality pathways to address the shortage of bilingual education teachers. This bill was vetoed by Governor Brown, who stated:

California recently provided funds to support teachers and paraprofessionals interested in becoming bilingual teachers. This past spring the Commission awarded one-time grants to higher education institutions that sought to create or improve four-year integrated teacher education programs, including for bilingual teachers. Before making additional investments on this matter I believe it's wise to first assess the success of our current programs.

AB 99 (Committee on Budget), Chapter 15, Statutes of 2017 establishes the Bilingual Teacher Professional Development Program and requires the CDE to allocate grant funding for purposes

of providing professional development services to specified teachers and paraprofessionals to provide instruction to English learners.

AB 2735 (O'Donnell), Chapter 304, Statutes of 2018, prohibits English learners, with the exception of newcomer students, from being excluded from the standard instructional program of middle and high schools.

AB 2763 (O'Donnell) of the 2017-18 Session would have required the CDE to develop a standardized English language use observation protocol, for use in reclassifying English learners as fluent English proficient. The language in this measure was included in AB 1808 (Committee on Budget), Chapter 32, Statutes of 2018, the trailer bill to the Budget Act of 2018, and this bill was held in Senate Appropriations Committee.

SB 463 (Lara) of the 2017-18 Session would have established new procedures for the reclassification of a student from English learner to English proficient whereby an LEA would determine whether to reclassify an English learner according to specified criteria. This bill was amended to address another topic.

AB 2350 (O'Donnell) of the 2015-16 Session would have prohibited English learners from being excluded from the standard instructional program of middle and high schools. This bill was held on the Assembly floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Bilingual Education (co-sponsor)
Californians Together (co-sponsor)
Early Edge California (co-sponsor)
Abriendo Puertas/Opening Doors
Association of Regional Center Agencies
California Language Teachers' Association
Children Now
First 5 San Benito

Opposition

None on file

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