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## Bilingual Education: An Overview

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# Bilingual Education: An Overview

## Summary

The U.S. Department of Education (ED) administers the Bilingual Education Act (BEA), the federal education program specifically intended for limited English proficient (LEP) children. The BEA, among other things, authorizes competitive grants for local school districts to assist them in educating elementary and secondary LEP students. The FY2001 appropriation for the BEA is \$296 million. The BEA supports nearly 1000 projects nationwide.

The BEA plays a relatively modest role in the education of LEP children. In total, there are an estimated 3.4 million LEP children in the United States with only 12% served in BEA projects. Most LEP children are served in local, state, and other federal programs which address, at least in part, their special educational needs. These programs utilize a wide array of instructional models for LEP children. Although conceptually distinct, many of these models are difficult to distinguish in practice. Fundamentally, these models may be differentiated by the role of the child's native language. At one end of the spectrum, *bilingual education* projects use the native language for both English acquisition and academic learning in all subjects. Toward the other end of the spectrum, *English as a Second Language (ESL)*, *sheltered English*, and *immersion* projects may place very little emphasis on the native language while expecting a relatively rapid grasp of English. The most recent estimate available is that states spend at least \$690 million on LEP children for bilingual education and ESL training. The Elementary and Secondary Education Act (ESEA) Title I program for educationally disadvantaged children is reported to reach 1.5 million LEP students.

Congressional interest in the BEA centers on the appropriate federal role in meeting the special needs of the LEP population. In particular, attention is focusing on questions such as the role of the native language in instructing LEP children, how long it takes LEP students to master English, and the impact of California Proposition 227 and Arizona's Proposition 203 on bilingual education policy.

In the 105<sup>th</sup> Congress, there were bills introduced proposing either to eliminate or amend the BEA. The Congress considered several proposals to reauthorize the BEA in the 106<sup>th</sup> Congress. Congressional consideration of the BEA, as part of the ESEA reauthorization, is expected to intensify in the 107<sup>th</sup> Congress. It is anticipated that issues surrounding the schooling of LEP children will continue to develop as the reauthorization discussions continue.

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This document updates the original *Bilingual Education: An Overview* report, written by Steven R. Aleman.

# Bilingual Education: An Overview

“Bilingual education” is a term that has both a specific and generic meaning with respect to children who do not know English. Not only is bilingual education a distinct instructional approach, but it is also a term that refers broadly to the assorted special efforts to educate and serve limited English proficient (LEP) students (more recently termed “English language learners” (ELLs)). Local, state, and federal programs in the area represent numerous theories and practices that may also go by such terms as “English as a second language” and “English for speakers of other languages.” For the purposes of this report, we use the term bilingual education in both its precise and broad meaning.

This report provides background information on bilingual education for elementary and secondary students; describes the Bilingual Education Act (BEA), the federal education program specifically intended for LEP children; and reviews some selected issues in the field. This report will be updated to reflect program developments as they occur.

## Background

### Population

Recent estimates indicate that there are over 3.4 million LEP students in the U.S.<sup>1</sup> (Precise estimates of the LEP population are not available due to the lack of a standard definition of LEP.) Although concentrated in five states — California, Texas, New York, Florida, and Illinois — LEP students are present in almost half of the nation’s school districts (46%).<sup>2</sup> Approximately 7% of total K-12 enrollment across the country during the 1996-1997 school year was classified as LEP. Since the 1990-1991 school year, the size of the LEP population has increased an estimated 55%.<sup>3</sup>

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<sup>1</sup> National Clearinghouse for Bilingual Education. *Summary Report of the Survey of the States’ Limited English Proficient Students and Available Educational Programs and Services, 1996-1997*. Washington, 1998. (Hereafter cited as NCBE, *Summary Report 1996-1997*.) The *Summary Report 1996-1997* is the source for data in this paragraph unless otherwise indicated.

<sup>2</sup> Department of Education. *A Profile of Policies and Practices for Limited English Proficient Students: Screening Methods, Program Support, and Teacher Training (Schools and Staffing Survey 1993-1994)*. Washington, 1997. (Hereafter cited as ED, *A Profile of Policies and Practices for Limited English Proficient Students*.)

<sup>3</sup> For more information on demographic trends of the LEP population see: General  
(continued...)

In all, LEP pupils speak over 100 languages; however, Spanish is the most common native language, spoken by about three-fourths of all LEP children. A 1993 study of LEP children found that most LEP students are young — more than two out of three are in grades K-6, 18% are in grades 7-9, and 14% are in grades 10-12.<sup>4</sup> (There may be several explanations for this finding such as the eventual acquisition of English skills or dropping out due to school failure.)

## Programs

**Civil Rights Context.** The education of LEP children is shaped by federal civil rights laws that set the legal framework within which they must be served. Title VI of the Civil Rights Acts of 1964<sup>5</sup> prohibits discrimination on the basis of race, color, and national origin by recipients of federal financial assistance. Title VI does not specifically refer to LEP individuals as a protected class. However, court interpretations of Title VI have extended the statute to LEP students. The 1974 Supreme Court case, *Lau v. Nichols*,<sup>6</sup> found that the San Francisco school system had failed to provide supplemental English language instruction to its LEP students. The Court held that the school system had thus violated Title VI by denying these children a meaningful opportunity to receive a public education. Through the *Lau* precedent and subsequent U.S. Department of Education (ED) guidelines, LEP children must have equal access to schooling, including, if necessary, special programming that allows them an opportunity to effectively participate in public education.<sup>7</sup> ED does not specifically require native language based bilingual education; alternative approaches may be utilized within guidelines.

Another federal statute, the Equal Educational Opportunities Act (EEOA),<sup>8</sup> also entitles LEP children to bilingual services in certain circumstances. In *Castaneda v. Pickard*,<sup>9</sup> a three-part test was developed for determining whether under the EEOA schools had failed to take appropriate action to help LEP students overcome language barriers. Together, these civil rights laws compose the backdrop against which the programs described below are evaluated, and protect LEP students in places where no formal programs exist.

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<sup>3</sup> (...continued)

Accounting Office. *Limited English Proficiency: A Growing and Costly Educational Challenge Facing Many School Districts*. Washington, 1994.

<sup>4</sup> Development Associates. *Descriptive Study of Services to Limited English Proficient Students, Volume 1, Summary of Findings and Conclusions*. Arlington, VA, 1993. (Hereafter cited as Development Associates, *Descriptive Study Summary*.)

<sup>5</sup> 42 U.S.C. § 2000d.

<sup>6</sup> 414 U.S. 563 (1974).

<sup>7</sup> For more information on Title VI and its application and requirements, see Department of Education. *The Provision of an Equal Education Opportunity to Limited English Proficient Students*. Washington, 1992.

<sup>8</sup> 20 U.S.C. §§ 1701 et seq.

<sup>9</sup> 648 F.2d 989 (5<sup>th</sup> Cir. 1981).

**Models.** There are several models for instructing LEP students. Although conceptually distinct, many of these models are difficult to distinguish in practice.<sup>10</sup> Fundamentally, these models may be differentiated by the role of the child's native language. At one end of the spectrum, *bilingual education* programs utilize the students' native language for both English acquisition and academic learning in all subjects. Toward the other end of the spectrum, *English as a Second Language (ESL)*, *sheltered English*, and *immersion* programs may place very little emphasis on the native language while expecting a relatively rapid grasp of English (2-3 years). Finally, in *submersion* programs, LEP students are placed in English-only classes without any accommodations.<sup>11</sup>

Bilingual education programs may be further identified by the expected progress of LEP students. "*Transitional*" *bilingual projects*<sup>12</sup> are intended to move LEP students along relatively quickly (2-3 years), while "*developmental*" *bilingual projects*<sup>13</sup> are geared to the more gradual mastering of English and native language skills (5-7 years). Finally, "*two-way*" *bilingual projects*<sup>14</sup> mix LEP and English proficient students together and steadily expose them to each other's language.

Overall, it appears that ESL projects are the most common programming option used by schools for LEP students, particularly with older student populations.<sup>15</sup> Transitional bilingual education is the most frequent approach utilized in native language based projects.<sup>16</sup>

**State and Local Programs.** There are an array of laws and programs at the federal, state, and local levels for the education of LEP students. LEP students are more likely to be served in state and local programs, or in federal programs other than the BEA. (Federal programs are discussed below.) According to the National Clearinghouse for Bilingual Education, of the 50 states, all but seven<sup>17</sup> have some form of regulations for the provision of English language instruction for LEP students, ranging from mandates that local educational agencies (LEAs) provide native language-based bilingual education to guidance that LEAs offer some modified instruction for non-English speaking children. Among the states with regulations for language services for LEP students, seven do not contribute any state aid earmarked

<sup>10</sup> Adding further confusion is the use of different labels for the same model.

<sup>11</sup> Sometimes known as "sink-or-swim."

<sup>12</sup> Also known as "early-exit" bilingual education.

<sup>13</sup> Also known as "late-exit" or "maintenance" bilingual education.

<sup>14</sup> Also known as "dual language" bilingual education.

<sup>15</sup> ED, *A Profile of Policies and Practices for Limited English Proficient Students*.

<sup>16</sup> National Research Council. *Improving Schooling for Language-Minority Children: A Research Agenda*. Washington, 1997. (Hereafter cited as NRC, *Improving Schooling for Language-Minority Children*.)

<sup>17</sup> National Clearinghouse for Bilingual Education. *State Survey of Legislative Requirements for Educating Limited English Proficient Students*. 1999. (Hereafter cited as NCBE, *State Survey of Legislative Requirements*.) According to the survey, these states include: Alabama, Hawaii, Louisiana, Mississippi, South Carolina, Tennessee, and West Virginia.

for instructional programs for LEP children. Due to the different means by which states finance bilingual education programs, it is difficult to estimate total state spending in this area.

Among the major variations in state and local bilingual education programs are rules on entering and exiting. There is no standard definition of limited English proficiency. Jurisdictions apply different criteria when deciding if a child is eligible for bilingual education. Likewise, there are no uniform rules for when a child should exit a bilingual education program and enter mainstream classes. Typically, the length of stay reflects the program's philosophy (i.e., shorter for quick transition, longer for dual language development). New York and Washington generally place a 3-year limit on the participation of LEP students in English instructional programs.<sup>18</sup> California and Arizona recently passed legislation (discussed later in this report) which calls for a single year of sheltered English immersion for LEP students, with exceptions for certain children.

**Federal Programs.** There are several federal programs that serve LEP students. (The BEA, the principal federal program, is described separately below.) Indeed, the Title I, part A program for educationally disadvantaged children authorized under the Elementary and Secondary Education Act (ESEA) reaches a larger number of LEP children than BEA. (Only an estimated 12% of LEP children are served in BEA projects.)<sup>19</sup> The Improving America's Schools Act of 1994, P.L. 103-382, among other things, lifted a prior restriction in Title I on serving LEP children. Title I funds, however, may not be used for LEP services otherwise required by law.<sup>20</sup> In the 1996-1997 school year, an estimated 1.8 million LEP students participated in Title I.<sup>21</sup> The services they received under Title I may have addressed their special language needs, or other academic deficiencies unrelated to their LEP status. Other ED programs that may address, at least in part, the educational needs of LEP students include the ESEA Title VII, Part C Emergency Immigrant Education Program; ESEA Title VII, Part B Foreign Language Assistance Program; ESEA Title I, Part C Migrant Education Program; vocational education (Carl D. Perkins Vocational and Applied Technology Education Act); and special education (Individuals with Disabilities Education Act).

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<sup>18</sup> New York and Washington allow exceptions to the 3-year rule for individual students.

<sup>19</sup> NCBE, *Summary Report 1996-1997*.

<sup>20</sup> For more information on the 1994 changes in Title I for LEP children, see: CRS Report 94-968, *Education for the Disadvantaged: Analysis of 1994 ESEA Title I Amendments Under P.L. 103-382*, by Wayne C. Riddle.

<sup>21</sup> NCBE, *Summary Report, 1996-1997*.

## Bilingual Education Act

### History

The BEA was initially created in 1968 as a supplemental grant program to assist local school districts to teach students who do not know English. Since its inception, the BEA has been amended and extended several times, most recently in 1994 by the Improving America's Schools Act, P.L. 103-382.<sup>22</sup> Among the significant changes in the 1994 reauthorization were the establishment of new categories of local bilingual education grants, the elimination of mandatory research projects, and the establishment of new categories of personnel training grants.<sup>23</sup> (These new features are described below.)

### Programs

Currently, the BEA is authorized in ESEA Title VII, Part A through FY2000.<sup>24</sup> The BEA is organized into three subparts:

- ! Subpart 1 — Instructional Services — authorizes four types of competitive grants for LEAs to fund bilingual education projects;
- ! Subpart 2 — Support Services — authorizes five activities intended to support schools and educators in the teaching of LEP children;
- ! Subpart 3 — Professional Development — authorizes four types of grants for teacher training.

**Instructional Services.** ED usually conducts annual competitions for interested LEAs for four types of LEA grants:

- ! **Program development and implementation.** Three-year grants for new English language instruction projects;
- ! **Program enhancement.** Two-year grants to enhance or expand existing projects;
- ! **Comprehensive school.** Five-year grants for comprehensive reform at a school site with a heavy concentration of LEP students;
- ! **Systemwide improvement.** Five-year grants for programmatic reform within a school district with a high enrollment of LEP students.

Grants are discretionary, awarded based upon the quality ranking of applications, with priority for those projects working to develop bilingual proficiency among its students. Consistent with the grant category, LEAs use funds for bilingual education and "special alternative instruction projects." Special alternative instruction projects include those educational approaches that do not rely upon the student's native

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<sup>22</sup> For most of its history, there have been three basic activities under the BEA: local bilingual education grants, research and support activities, and teacher training.

<sup>23</sup> For more information on the 1994 changes in the BEA, see: CRS Report 94-872, *Improving America's Schools Act: An Overview of P.L. 103-382*, by James B. Stedman.

<sup>24</sup> 20 U.S.C. §§ 7401 et seq.



language, such as ESL and immersion. Grants to LEAs using funds for special alternative instruction projects, however, may not exceed 25% of all grants. In other words, there is a BEA funding cap of 25% for special alternative instruction projects. There is a statutory exception to this cap when an otherwise qualified LEA demonstrates that either due to the linguistic diversity of its LEP population, or a shortage of qualified staff, it cannot implement a bilingual education project.<sup>25</sup>

**Tables 1 and 2** present program information for BEA instructional services grants in FY2000.

**Table 1. Bilingual Education Instructional Services Grants, ESEA Title VII, Part A, Subpart 1, FY2000 National Total of Projects and Total Funding by Grant Type**

Grant type	Number of projects	Total FY2000 grant awards
Program enhancement	70	\$9,446,715
Systemwide improvement	77	\$36,306,935
Comprehensive school	341	\$84,592,252
Development & implementation	203	\$31,682,869
<b>Total</b>	691	\$162,028,771

**Source:** U.S. Department of Education. Unpublished data.

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<sup>25</sup> The actual percentage of BEA instructional services grants funding awarded to special alternative instructional projects is not known.

**Table 2. Bilingual Education Instructional Services Grants, ESEA Title VII, Part A, Subpart 1, FY2000 Total Obligations Aggregated by Grant Type and State**

	Development & implementation	Program enhancement	Comprehensive school	Systemwide improvement	Totals
Alabama	—	\$137,825	—	—	\$137,825
Alaska	—	—	\$627,361	—	\$627,361
Arizona	\$1,773,780	\$150,000	\$4,824,100	\$1,302,449	\$8,050,329
Arkansas	—	—	—	—	\$0
California	\$10,405,219	\$2,836,484	\$33,260,841	\$12,181,744	\$58,684,288
Colorado	\$1,201,589	\$211,000	\$247,000	\$1,836,114	\$3,495,703
Connecticut	\$325,000	—	\$1,236,057	—	\$1,561,057
Delaware	—	—	—	—	\$0
District of Columbia	\$91,739	—	\$243,212	\$570,500	\$905,451
Florida	\$742,114	\$517,097	\$2,164,537	\$1,762,600	\$5,186,348
Georgia	\$60,000	—	—	\$70,000	\$130,000
Hawaii	\$459,830	\$100,000	\$280,978	—	\$840,808
Idaho	—	—	\$491,959	\$307,243	\$799,202
Illinois	\$502,658	\$121,123	\$1,030,131	\$873,527	\$2,527,439
Indiana	\$161,434	—	—	—	\$161,434
Iowa	\$165,200	—	—	\$808,604	\$973,804
Kansas	—	\$88,301	\$198,000	\$434,296	\$720,597
Kentucky	\$174,978	\$75,000	—	—	\$249,978
Louisiana	\$305,000	\$140,420	\$427,263	—	\$872,683
Maine	\$760,804	\$299,935	\$305,310	—	\$1,366,049
Maryland	—	—	—	—	\$0
Massachusetts	\$686,240	\$301,598	\$2,097,999	\$650,000	\$3,735,837
Michigan	\$153,300	\$146,312	\$611,362	\$1,024,082	\$1,935,056
Minnesota	\$171,732	\$102,137	\$994,686	—	\$1,268,555
Mississippi	—	\$150,000	—	—	\$150,000
Missouri	—	—	—	—	\$0
Montana	\$1,048,237	\$249,270	\$1,266,269	\$965,550	\$3,529,326
Nebraska	\$467,671	\$130,000	—	\$498,000	\$1,095,671
Nevada	—	\$120,989	—	—	\$120,989
New Hampshire	—	—	—	—	\$0
New Jersey	—	—	\$799,244	—	\$799,244
New Mexico	\$684,084	\$442,598	\$3,817,134	\$1,547,860	\$6,491,676
New York	\$3,520,950	\$598,643	\$13,860,041	\$4,586,158	\$22,565,792
North Carolina	\$325,000	—	—	—	\$325,000
North Dakota	\$449,597	—	\$952,985	—	\$1,402,582
Ohio	\$174,960	—	—	—	\$174,960
Oklahoma	\$3,571,396	\$474,606	\$4,931,337	—	\$8,977,339

	Development & implementation	Program enhancement	Comprehensive school	Systemwide improvement	Totals
Oregon	\$824,853	\$542,497	\$300,000	—	\$1,667,350
Pennsylvania	—	—	—	\$629,946	\$629,946
Rhode Island	—	—	—	—	\$0
Puerto Rico	—	—	—	—	\$0
South Carolina	—	—	—	—	\$0
South Dakota	—	—	\$2,213,222	—	\$2,213,222
Tennessee	—	—	—	—	\$0
Texas	\$1,544,038	\$831,084	\$5,117,327	\$5,100,810	\$12,593,259
Utah	\$157,266	\$106,082	—	\$291,097	\$554,445
Vermont	\$178,093	—	—	—	\$178,093
Virginia	\$173,735	\$130,128	—	—	\$303,863
Washington	\$312,740	\$145,513	\$1,547,246	\$480,351	\$2,485,850
West Virginia	—	—	—	—	\$0
Wisconsin	\$109,632	\$148,375	\$276,716	—	\$534,723
Wyoming	—	—	\$274,685	\$386,004	\$660,689
Guam	—	—	—	—	\$0
Micronesia	—	—	—	—	\$0
Palau	—	\$149,698	\$195,250	—	\$344,948
Marshall Islands	—	—	—	—	\$0
<b>Total</b>	<b>\$31,682,869</b>	<b>\$9,446,715</b>	<b>\$84,592,252</b>	<b>\$36,306,935</b>	<b>\$162,028,77</b>

**Source:** U.S. Department of Education. Unpublished data.

**Note:** State amounts are aggregated awards to LEAs within state; states are not grant recipients. LEA grants are competitive, awarded based upon the quality ranking of applications.

**Support Services.** ED funds four activities under Subpart 2 — Research, Evaluation, and Dissemination, that are intended to assist school districts and teachers in improving the education of LEP students:

- ! **State Educational Agency (SEA) grants** — provides technical assistance to LEAs related to program design, capacity building, evaluation and assessment of student performance, and data collection.
- ! **Research** — grants and contracts for data gathering related to improving education of LEP students.
- ! **Academic Excellence projects** — provides awards to promote the establishment of high-quality instruction and professional development programs serving LEP students.
- ! **National Clearinghouse for Bilingual Education** — collects, analyzes, and disseminates information about programs for LEP students.

A fifth activity, instructional materials development, is authorized but has never been funded. **Table 3** presents the most current data on support services activities.

**Table 3. Bilingual Education Support Services, ESEA Title VII, Part A, Subpart 2, FY2000**

Activity	Funding	Number of grantees
SEA grants	\$8,040,716	58
Research	\$299,725	4
Academic Excellence	\$1,200,000	7
Clearinghouse	\$1,500,000	1

**Source:** U.S. Department of Education, *Budget Justification, FY2001* and unpublished data.

n.a. is not available.

**Professional Development.** ED funds four activities under Subpart 3 to increase the number, and improve the quality of, bilingual educators. Categories include:

- ! **Training for All Teachers program** — provides for incorporating courses and curricula on appropriate and effective instructional and assessment methods relating to LEP students into professional development programs;
- ! **Teachers and Personnel grants** — promotes professional development activities for teachers working in, or planning to work in, educational programs for LEP students;
- ! **Career Ladder program** — assists higher education institutions, in consortium with LEAs or SEAs, to upgrade the skills of teacher aides and others working with LEP children who are not certified, or not certified in bilingual education, and to help recruit and train high school students as bilingual teachers;
- ! **Graduate Fellowship program** — provides assistance at the masters, doctoral, and post-doctoral levels in field related to bilingual education.

**Table 4** presents the most current data on professional development activities.

**Table 4. Bilingual Education Professional Development, ESEA Title VII, Part A, Subpart 3, FY2000**

Activity	Funding	Number of grantees
Training for all teachers	\$17,964,515	90
Teachers & personnel	\$29,815,381	147
Career ladder	\$18,760,845	90
Graduate fellowships	\$4,900,774	34

**Source:** U.S. Department of Education. Unpublished data.

## Funding

**Table 5** shows the funding history for the BEA since FY1984. The table indicates that funding for the BEA has fluctuated over time, particularly during the early 1980s and mid-1990s. After adjusting for inflation, funding for the BEA has increased an estimated 44% from FY1984 to FY2001. (Please note that the figures in **Table 5** are in current dollars.)

**Table 5. Bilingual Education Act, Authorization, Budget Request, and Appropriations, Current Dollars, FY1984-FY2001**

	Authorization	Budget request	Appropriation
1984	139,970,000	92,034,000	135,679,000
1985	176,000,000	135,559,000	139,265,000
1986	such sums	139,265,000	133,284,000
1987	such sums	142,951,000	143,095,000
1988	such sums	143,095,000	146,573,000
1989	200,000,000	156,573,000	151,946,000
1990	such sums	157,113,000	158,530,000
1991	such sums	175,393,000	168,735,000
1992	such sums	171,512,000	195,407,000
1993	such sums	203,645,000	196,283,000
1994	such sums	202,789,000	201,163,000
1995	215,000,000	215,000,000	156,700,000
1996	such sums	200,000,000	128,000,000
1997	such sums	156,700,000	156,650,000
1998	such sums	199,000,000	199,000,000
1999	such sums	232,000,000	224,000,000
2000	such sums	259,000,000	248,000,000
2001	such sums	296,000,000	296,000,000

**Source:** U.S. Department of Education budget documents.

**Note:** “Such sums” is such sums as may be necessary. Figures rounded to nearest thousand.

## Selected Issues

Several bills introduced in the 105<sup>th</sup> Congress proposed to either eliminate or amend the BEA. One proposal, the “English Language Fluency Act,” H.R. 3892,

passed the House on September 10, 1998. H.R. 3892 would have replaced the current BEA and Emergency Immigrant Education Program (EIEP) with a consolidated program of formula grants to states for the education of LEP students. Under H.R. 3892, the current requirement that most funds provided under the BEA be devoted to bilingual instructional methods would have been eliminated, and funded programs, using either bilingual or other instructional methods, would have to be designed to move students into mainstream English language programs within 2 years.<sup>26</sup>

The 106<sup>th</sup> Congress also considered several proposals for reauthorizing the BEA, along with the rest of the ESEA. On October 21, 1999, the House passed H.R. 2, the “Student Results Act,” which would have consolidated the BEA instructional services grants (Subpart 1) into a single formula grant program to states (for distribution of subgrants to LEAs) when the appropriation for a given year is \$220 million or above; through the formula grants, funds would be distributed based on the proportion of LEP children enrolled in K-12 education in the state, relative to the total number of LEP children enrolled in all states. Under the bill, the requirement that only 25% of funding may be used for special alternative instructional programs would be eliminated. H.R. 2 would require states to discontinue funding to LEAs if the majority of students are not attaining English language fluency and reaching state standards after 3 years of participation.

S. 2, the “Educational Opportunities Act” would have consolidated the Program Development and Implementation grants and Program Enhancement grants into a single 3-year competitive grant program; it would have also consolidated the Comprehensive School and Systemwide Improvement grants into a 3-year grant program. Under the bill, 2/3 of funds would have been distributed to schools and one-third distributed to LEAs. As with H.R. 2, S. 2 would also eliminate the 25% funding cap for special alternative programs from instructional services grants. The full Senate debated S. 2 between May 1 and May 9, 2000, but no further action occurred.

Finally, S. 2254, the “Public Education Reinvestment, Reinvention, and Responsibility Act,” would authorize \$1 billion for the education of LEP students. Under the bill, states would receive a hold harmless amount of 85% of FY1999 funding for Title VII, Parts A (bilingual education) and B (foreign language assistance program), with the remaining amounts distributed based on enrollment of LEP pupils in the state. S. 2254 was offered as a floor amendment to S. 2 (No. 3127) on May 9, 2000. After floor debate, the Senate rejected the amendment.

Congressional consideration of the BEA, as part of the ESEA reauthorization, is expected to intensify in the 107<sup>th</sup> Congress. The following discussion highlights selected topics that have recently arisen. It is anticipated that issues surrounding the schooling of LEP children will continue to develop as reauthorization discussions take place.

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<sup>26</sup> For a more detailed description of the English Language Fluency Act, see CRS Report 98-547, *Bilingual Education: A Description and Analysis of H.R. 3892, The “English Language Fluency Act”*, by Wayne Riddle.

## Role of Native Language

The BEA embraces the dual goals of bilingualism and English language acquisition, and this has generated tension in the program around the role of the native language in the instruction of LEP children. There are different views about whether native language development should be an independent objective or simply a means to achieve English language proficiency. Some critics believe that there is no place for the native language in American schools on either account, i.e., either for its own sake or as a means to learn English.

Available research is inconclusive as to the best way to educate LEP children.<sup>27</sup> The research points out that there is no superior method for teaching every individual pupil English; a model may be successful in some circumstances but not others. Factors such as age and educational background of the student, as well as training of staff and quality of material, may influence the effectiveness of any instructional approach. Utilization of a person's native language has proven at times to be useful in the acquisition of English and achievement of academic outcomes. Other techniques that do not rely upon the native language have also yielded positive results at times.

The latest research on the subject finds support for using the native language in the schooling of LEP students. A recent study by the National Research Council (NRC) on reading difficulties in young children recommended that LEP children be taught how to read in their native language while acquiring proficiency in spoken English *if* appropriate instructional guides, materials, and staff are available locally.<sup>28</sup> If LEP children cannot be taught to read in their native language because of a lack of resources, the NRC study recommends that they not be taught to read until they can speak proficiently in English.

## Length of Time in Program

How long LEP children should remain enrolled in bilingual education programs has recently been a controversial issue. Estimates of how long it takes to master English vary and are complicated by different measures of English proficiency, whether academic performance in mainstream English classes is included, and the pace of the model examined. The most recent research on the topic, which studied only "well implemented" programs providing on-grade level academic work in the native language, found that it typically takes bilingually schooled LEP students from 4 to 7 years to achieve the same on-grade level performance in English reading as students whose first language is English.<sup>29</sup> In contrast, LEP students schooled only in English typically take from 7 to 10 years to achieve the same on-grade level

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<sup>27</sup> For a comprehensive review of research on the education of LEP children, see NRC, *Improving Schooling for Language-Minority Children*.

<sup>28</sup> National Research Council. *Preventing Reading Difficulties in Young Children*. Washington, 1998.

<sup>29</sup> National Clearinghouse for Bilingual Education. *School Effectiveness for Language Minority Students*. Washington, 1997.

performance in English reading as students whose first language is English. The report acknowledges that there are several factors, such as the quality of instruction, age and educational background of the student, and home support, that affect the rate of English acquisition. It should be noted that these findings have come under some criticism because of the lack of peer review.<sup>30</sup>

Over the years, the Congress has taken different positions on the amount of time LEP students should participate in BEA projects. In 1988, Congress added an enrollment cap to the BEA that limited the length of time a LEP child may enroll in a BEA project to 3 years, with two 1-year extensions possible if conditions warranted.<sup>31</sup> The Senate committee report accompanying the 1988 amendments stated: “[T]he Members feel that a fundamental goal of this federal program is proficiency in English. The Committee hopes that students will be able to accomplish this goal within three years.”<sup>32</sup>

In 1994, Congress dropped the enrollment cap from the BEA.<sup>33</sup> A panel of bilingual educators had recommended that the time limit be deleted from the program, stating: “There is no pedagogical justification for imposing any arbitrary date for students to exit a Title VII, Part A, bilingual program. To the contrary, language-minority students should be provided opportunities to continue studying in the native language after they become proficient in English.”<sup>34</sup>

For fiscal years 1997 and 1998, Congress added language to the annual appropriations measure for the Departments of Labor, Health and Human Services, and Education stipulating that BEA projects quickly move LEP students into English language schooling. The appropriation language stated that ED should only support BEA instructional programs “which ensure that students completely master English in a timely fashion (a period of 3 to 5 years) while meeting rigorous achievement standards in the academic content areas.”<sup>35</sup>

## Changes in State Bilingual Education Programs

A major spark for the recent debate over bilingual education was a California state ballot initiative on bilingual education. Proposition 227 was passed on June 2, 1998, with 61% of California voters supporting the measure.<sup>36</sup> Proposition 227

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<sup>30</sup> See for example, The Bilingual Education Debate. *The Harvard Education Letter*, v. XIV, no. 3, May/June 1998.

<sup>31</sup> P.L. 100-297, § 7021(d)(3)(A)-(C), 102 Stat. 130, 281-82 (1988).

<sup>32</sup> S.Rept. No. 100-222, 100<sup>th</sup> Congress, 1<sup>st</sup> Session 80 (1987).

<sup>33</sup> P.L. 103-382.

<sup>34</sup> Stanford Working Group. *Federal Education Programs for Limited-English-Proficient Students: A Blueprint for the Second Generation*. Washington, 1993.

<sup>35</sup> P.L. 105-78, 111 Stat. 1467, 1500 (1997).

<sup>36</sup> The ballot initiative is officially entitled “Education. Public Schools. English as Required Language of Instruction. Initiative Statute.” For more information on Proposition 227, see (continued...)



requires that all instruction in public elementary and secondary schools be conducted in English, with a general requirement that LEP students be placed in sheltered English immersion for 1 year before transferring them to regular classrooms. **Sheltered English immersion** has been described as a method where LEP children receive instruction in English that is “sheltered” from input beyond their comprehension, usually first in subjects that are less language-intensive, such as mathematics.<sup>37</sup> In other words, only simple words or concepts that students can comprehend are used at first. Supporters claimed that Proposition 227 ensures that LEP students would quickly learn English before entering regular classrooms. Opponents of the initiative argued that the prescribed programs for LEP students would not meet their academic needs and rush too many into regular classes without a sound command of English.

Under the new law, parents may request that their LEP children be placed into other programs, such as those utilizing the child’s native language, *if* (1) the child is 10 years old or older and the school believes such a move would better serve the child, or (2) the child has “special needs” that warrant a different educational placement. However, individual schools are only required to honor requests for bilingual instruction if there are at least 20 parents making such a request per grade level. The new law also authorizes \$50 million annually for 10 years to fund programs of adult English language instruction for parents or other community members who commit themselves to serving as English tutors for LEP students.

After its passage, efforts to block Proposition 227’s implementation failed.<sup>38</sup> Additionally, school districts around the state requested waivers from the State Board of Education to allow them to continue using bilingual instructional methods.<sup>39</sup> The San Francisco school district, which is still under the *Lau v. Nichols* court order, is continuing its use of bilingual methods while offering an English immersion option. Other districts are maintaining their bilingual programs, pointing to agreements between the district and the U.S. Department of Education’s Office of Civil Rights that require them to offer bilingual education.

Although the transition to the new instructional method was rocky, some schools have reported that students are taking to the new method and learning more quickly

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<sup>36</sup> (...continued)

*Legislative Analyst’s Office Analyses of Measures on the June 2, 1998 Ballot.* Legislative Analyst’s Office, Sacramento, CA, 1998. Also, see the following internet Web site: [[http://www.lao.ca.gov/1998\\_june\\_ballot.html#\\_1\\_22](http://www.lao.ca.gov/1998_june_ballot.html#_1_22)].

<sup>37</sup> ERIC Clearinghouse on Languages and Linguistics. *ESL and Bilingual Program Models.* Washington, 1993.

<sup>38</sup> Immediately following the June 2 election, a coalition of civil rights and education groups filed a lawsuit against Proposition 227 on constitutional grounds. The initiative, however, was upheld by the Federal District Court in San Francisco. An appeal to the U.S. Court of Appeals for the 9<sup>th</sup> Circuit was also denied.

<sup>39</sup> California’s 154 charter schools have been ruled exempt from Proposition 227.

than initially expected.<sup>40</sup> However, the Proposition 227 has generated vastly different results around the state. Questions of implementation in some districts, and compliance in others, remain unresolved.

After recent debate and controversy surrounding the effectiveness of bilingual education in Arizona, an initiative nearly identical to Proposition 227 was placed on the ballot.<sup>41</sup> Arizona's Proposition 203 passed on November 7, 2000 by a margin of 2 to 1. Native American tribes have indicated that they will challenge the proposition in court, stating that the proposition could destroy tribal languages. Supporters of Proposition 203 state that tribal sovereignty would allow bilingual education in Native American schools to continue; however, the majority of school-age Native American children in the state attend state public schools.

## **Future Directions**

Almost from its creation, the BEA has been a controversial program with attention traditionally focused on finding and supporting the most appropriate means to teach LEP children English while ensuring their academic progress. While many of the issues have remained the same, some new directions in the debate have emerged. For instance, interest seems to have shifted toward *how long* LEP children should participate in special programs designed to meet their educational needs. This is reflected in the California, and most recently, the Arizona ballot initiative on bilingual education and some of the new research on bilingual education. As the ESEA reauthorization discussions continue in the 107<sup>th</sup> Congress, other issues may emerge surrounding bilingual education

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<sup>40</sup> Liz Seymour. Following the Letters of the Law. *Los Angeles Times*, November 16, 1998. Also: Louis Sahagun. L.A. Students Take to English Immersion. *Los Angeles Times*, January 13, 1999.

<sup>41</sup> Unlike Proposition 227 in California, Proposition 203 did not authorize funding for programs of adult English language instruction for parents or other community members who commit themselves to serving as English tutors for LEP students.