

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2631

By: O'Neal

AS INTRODUCED

An Act relating to schools; creating the Oklahoma English Immersion Education Act; providing definitions; requiring public school students to be taught in English; requiring English learners to be educated through sheltered English immersion; providing for a transition period; authorizing school districts to combine students and classes; providing for transfer to English language mainstream classrooms; providing for distribution of funding; providing an exception for certain students and classes; allowing certain parental waiver; requiring informed consent; providing for transfer of student when parental waiver is granted; providing circumstances for a parental exception waiver; stating rights to an English language public education; establishing legal standing of parents to enforce provisions of the Act; providing for certain damages; providing for liability of certain school officials; requiring monitoring of students through standardized testing; directing the State Board of Education to establish certain requirements; directing the State Department of Education to establish certain guidelines for certain monitoring; requiring an annual report by school districts; listing information to be included in the report; requiring the Board to submit an annual report on certain monies; providing for participation in certain professional development or training; repealing 70 O.S. 2001, Section 11-102, which relates to instruction in the English language; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-120 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma English Immersion Education Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-121 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma English Immersion Education Act:

1. "Bilingual education/native language instruction" means a language acquisition process for a student in which much or all instruction, textbooks, or teaching material are in the native language of the student other than English;

2. "English language classroom" means a classroom in which English is the language of instruction used by the teaching personnel, and in which such teaching personnel possess a good knowledge of the English language. English language classrooms encompass both English language mainstream classrooms and sheltered English immersion classrooms;

3. "English language mainstream classroom" means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English;

4. "English learner" or "limited English proficient student" means a student who does not speak English or whose native language is not English, and who is not currently able to perform ordinary classroom work in English; and

5. "Sheltered English immersion" or "structured English immersion" means:

1. An English language acquisition process for young students in which nearly all classroom instruction is in English;

2. The curriculum and presentation is designed for students who are learning English; and

3. The books and instructional materials are in English. Although teachers may use a minimal amount of the students' native language when necessary, no subject matter shall be taught in any language other than English, and students in this program shall learn to read and write solely in English.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-122 of Title 70, unless there is created a duplication in numbering, reads as follows:

Beginning with the 2003-2004 school year, subject to the exceptions provided in Section 4 of this act, all students in the public schools of Oklahoma shall be taught English by being taught in English and all students shall be placed in English language classrooms. Students who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one (1) year. Local school districts shall be permitted, but are not required, to place in the same classroom English learners of different ages who have a similar degree of English proficiency. Local school districts shall be encouraged to mix together in the same classroom English learners from different native-language groups who have the same degree of English fluency. English learners who have acquired a good working knowledge of English and are able to do regular school work in English shall no longer be classified as English learners and shall be transferred to English language mainstream classrooms. As much as possible, current per capita supplemental funding for English learners shall be maintained. Foreign language classes for students who already know English and special education programs for students who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA) shall not be affected by the provisions of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-123 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The requirements of Section 3 of this act may be waived on an annual basis with the prior written informed consent of the parents or legal guardian of the student as specified in subsection B of this section. In order to give the informed consent, the

parents or legal guardian shall personally visit the school to apply for the waiver and shall receive descriptions of the educational materials to be used in the different education program choices and all of the education opportunities available to the student. If a parental waiver is granted, the student shall be transferred to classes teaching English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. School sites in which twenty (20) or more students in a single grade level have been granted a waiver shall be required to offer such a class. In all other cases, the students shall be permitted to transfer to a school district or site in which the program is offered.

B. The conditions under which a parental waiver may be applied for are:

1. The student already knows English and possesses good English language skills, as measured by oral evaluation or standardized tests of English vocabulary comprehension, reading, and writing in which the student scores at or above the state average for the student's grade level or at or above the fifth grade average, whichever is lower;

2. The student is ten (10) years of age or older, and it is the informed belief of the school principal and educational staff that an alternative course of education study would be better suited to the overall educational progress and rapid acquisition of basic English language skills of the student; or

3. The student has been placed for a period of not less than thirty (30) calendar days during the school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the student has such special and individual physical or psychological needs, above and beyond the lack of English proficiency, that an alternate course of educational study would be better suited to the overall educational

development and rapid acquisition of English for the student. A written description of not less than two hundred fifty (250) words documenting such special individual needs for the student shall be provided and permanently added to the official school records for the student, and the waiver application shall contain the authorizing signatures of both the school principal and the superintendent of the school district.

C. Any such decision to issue a student waiver shall be made subject to the approval of the local school district superintendent under guidelines established by the school district board of education. The State Board of Education shall adopt guidelines for local boards of education to follow. A school district may reject a waiver request without explanation or legal consequence. The existence of special individual needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to the waiver.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-124 of Title 70, unless there is created a duplication in numbering, reads as follows:

As provided in Sections 3 and 4 of this act, all students shall have the right to be provided at their local school with an English language public education. The parent or legal guardian of any student shall have legal standing to bring an action for enforcement of the provisions of this act, and if successful, shall be awarded usual and customary attorney fees and actual and compensatory damages, but shall not be entitled to punitive or consequential damages. Any school board member or other elected official or administrator who willfully and repeatedly refuses to implement the provisions of the Oklahoma English Immersion Education Act may be held personally liable for fees and actual and compensatory damages by the parents or legal guardian of the student, and shall not be

subsequently indemnified for such assessed damages by any public or private third party.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-125 of Title 70, unless there is created a duplication in numbering, reads as follows:

In order to ensure that the educational progress of all Oklahoma students in academic subjects and in learning English is properly monitored, a standardized written test shall be administered at least once each year to all Oklahoma public school students in the second through twelfth.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-126 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Education shall prescribe the manner in which:

1. The primary or home language for all new students who enroll in a public school district shall be identified;

2. The English language proficiency of all students with a primary or home language other than English shall be assessed through the administration of English language proficiency exams;

3. The process of reassessment of English learners for the purpose of determining English language proficiency shall be conducted;

4. The evaluation of former English learners shall be conducted; and

5. Professional development training may be provided in structured English immersion or bilingual education.

B. The State Department of Education shall develop guidelines for the monitoring of school districts for the purpose of ensuring compliance with all federal and state laws regarding English learners, including requiring each school district to annually

submit a report that includes the following information identified by grade level and by school site:

1. The number of students who are classified as English learners for the first time;

2. The number of English learners who achieved English proficiency in the past academic year and who exited the English learner program;

3. The total number of students classified as English learners;

4. The number of students who are enrolled in each type of language acquisition program offered by the school district; and

5. Student test results used to determine English proficiency.

C. Beginning January 1, 2003, the State Board of Education shall submit an annual report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate that includes an itemized list of all federal monies received by the State Department of Education for language acquisition programs and the purposes for which such federal monies are designated.

D. Nothing in this section shall be construed to prohibit a school district from developing or participating in a professional development or training program that does not meet the conditions prescribed in this section.

SECTION 8. REPEALER 70 O.S. 2001, Section 11-102, is hereby repealed.

SECTION 9. This act shall become effective July 1, 2002.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

48-2-7750 KB 6/12/15