2017 ASSEMBLY BILL 12

January 12, 2017 – Introduced by Representative Ott, by request of Department of Public Instruction. Referred to Committee on Judiciary.

AN ACT to amend 115.28 (15) (a), 115.95 (2), 115.95 (4), 115.955 (2), 115.955 (7),
115.96 (1), 115.96 (2), 115.96 (4) (b), 115.96 (5) (a), 115.97 (1), 115.97 (2), 115.97
(3), 115.97 (4), 115.977 (3), 115.98, 115.993, 115.995 (1), 115.995 (2), 118.30 (2)
(b) 2., 118.301 (2) (a) 4., 118.33 (1m) (a) 3. and 121.91 (4) (a) 3. of the statutes;
relating to: modifying terminology regarding limited-English proficient pupils (suggested as remedial legislation by the Department of Public Instruction).

Analysis by the Legislative Reference Bureau

Current law defines a “limited-English proficient pupil” as a pupil whose ability to use the English language is limited because of the use of a non-English language in his or her family or in his or her daily, nonschool surroundings, and who has difficulty, as defined by rule by the state superintendent, in performing ordinary classwork in English as a result of such limited English language proficiency. This bill replaces the term “limited-English proficient pupil” with “English learner” in all
instances where that term appears in the statutes, but does not change the definition of the term.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.28 (15) (a) of the statutes is amended to read:

115.28 (15) (a) Establish, by rule, standards for the approval of the abilities of certified teachers and counselors and their aides participating in bilingual-bicultural education programs under subch. VII to read, write and speak a non-English language and to possess knowledge of the culture of limited-English proficient pupils.

SECTION 2. 115.95 (2) of the statutes is amended to read:

115.95 (2) It is the policy of this state to provide equal educational opportunities by ensuring that necessary programs are available for limited-English proficient pupils while allowing each school district maximum flexibility in establishing programs suited to its particular needs. To this end, this subchapter establishes bilingual-bicultural education programs for pupils in school districts with specified concentrations of limited-English proficient pupils in the attendance areas of particular schools.

SECTION 3. 115.95 (4) of the statutes is amended to read:

115.95 (4) It is the policy of this state that a limited-English proficient pupil participate in a bilingual-bicultural education program only until such time as the pupil is able to perform ordinary classwork in English.

SECTION 4. 115.955 (2) of the statutes is amended to read:
115.955 (2) “Bilingual-bicultural education program” means a program designed to improve the comprehension and the speaking, reading, and writing ability of a limited-English proficient pupil an English learner in the English language, so that the pupil English learner will be able to perform ordinary classwork in English.

**SECTION 5.** 115.955 (7) of the statutes is amended to read:

115.955 (7) “Limited-English proficient pupil” “English learner” means a pupil whose ability to use the English language is limited because of the use of a non-English language in his or her family or in his or her daily, nonschool surroundings, and who has difficulty, as defined by rule by the state superintendent, in performing ordinary classwork in English as a result of such limited English language proficiency.

**SECTION 6.** 115.96 (1) of the statutes is amended to read:

115.96 (1) **COUNT OF LIMITED-ENGLISH PROFICIENT PUPILS ENGLISH LEARNERS.** Annually, on or before March 1, each school board shall conduct a count of the limited-English proficient pupils English learners in the public schools of the district, assess the language proficiency of such pupils English learners, and classify such pupils English learners by language group, grade level, age, and English language proficiency.

**SECTION 7.** 115.96 (2) of the statutes is amended to read:

115.96 (2) **NOTIFICATION.** Annually, on or before April 1, a school board which may be required to offer a bilingual-bicultural education program shall send to the parent, legal custodian or guardian of every limited-English proficient pupil English learner identified under sub. (1) who is eligible for participation in such a program, a notice which states that a bilingual-bicultural education program may be
instituted, contains information on the procedures for registering a pupil an English learner in such a program, and provides notice of the consent required under sub. (3).

The notice shall be in English and in the non-English language of the limited-English proficient pupil English learner.

**SECTION 8.** 115.96 (4) (b) of the statutes is amended to read:

115.96 (4) (b) Through the use of the native language of the limited-English proficient pupil English learner, instruction in the subjects necessary to permit the pupil English learner to progress effectively through the educational system.

**SECTION 9.** 115.96 (5) (a) of the statutes is amended to read:

115.96 (5) (a) By the commencement of the school term, the school board shall place, with the parent’s or legal custodian’s written consent, each limited-English proficient pupil English learner in the appropriate bilingual-bicultural education program established under this subchapter. If a limited-English proficient pupil an English learner is identified after March 1 or the parent or legal custodian of such child gives consent after May 1, the school board shall place the pupil English learner, with the written consent of the pupil’s English learner’s parent or legal custodian, in an appropriate program where feasible.

**SECTION 10.** 115.97 (1) of the statutes is amended to read:

115.97 (1) A school board may combine pupils in attendance at separate schools in its bilingual-bicultural education program. The school board shall be eligible for state aids under s. 115.995 if the number of limited-English proficient pupils English learners served from the combined schools meets the requirements under sub. (2), (3) or (4). A pupil shall be eligible for a bilingual-bicultural education program only until he or she is able to perform ordinary classwork in English. The bilingual-bicultural education program shall be designed to provide intensive
instruction to meet this objective. Nothing in this subchapter shall be construed to authorize isolation of children English learners of limited-English proficient ability or ethnic background for a substantial portion of the school day. Pupils who are not limited-English proficient pupils English learners may participate in a bilingual-bicultural education program, except that a school board shall give preference to limited-English proficient pupils English learners in admitting pupils to such a program.

SECTION 11. 115.97 (2) of the statutes is amended to read:

115.97 (2) If, in a language group under s. 115.96 (1), there are 10 or more limited-English proficient pupils English learners in kindergarten to grade 3 in attendance at a particular elementary school and whose parents or legal custodians give written consent to such pupils’ placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program for such pupils English learners during the school term. Such program shall be taught by a bilingual teacher.

SECTION 12. 115.97 (3) of the statutes is amended to read:

115.97 (3) If, in a language group under s. 115.96 (1), there are 20 or more limited-English proficient pupils English learners in grades 4 to 8 in attendance at a particular elementary, middle, or junior high school and whose parents or legal custodians give written consent to such pupils’ English learners’ placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program for such pupils English learners during the school term. Such program shall be taught by a bilingual teacher.

SECTION 13. 115.97 (4) of the statutes is amended to read:
115.97 (4) If, in a language group under s. 115.96 (1), there are 20 or more limited-English proficient pupils English learners in grades 9 to 12 in attendance at a particular high school and whose parents or legal custodians give written consent to the pupils' English learners' placement under s. 115.96 (3), the school board shall establish a bilingual–bicultural education program. The program shall be taught by a bilingual teacher. Bilingual counselors shall be made available.

SECTION 14. 115.977 (3) of the statutes is amended to read:

115.977 (3) The school board shall give any limited-English proficient pupil English learner who has begun a bilingual–bicultural education program in the 3rd grade the opportunity to continue his or her bilingual–bicultural education program in the 4th grade regardless of the number of limited-English proficient pupils English learners in grades 4 to 8. However, if there are not a sufficient number of limited-English proficient pupils English learners in grades 4 to 8 to require a bilingual–bicultural education program under sub. (2), the school board may offer such pupil English learner the opportunity to continue a bilingual–bicultural education program with a program established for limited-English proficient pupils English learners in kindergarten to grade 3. A 4th grade pupil English learner so enrolled may be counted for purposes of determining if there are a sufficient number of pupils English learners for a kindergarten to grade 3 bilingual–bicultural education program.

SECTION 15. 115.98 of the statutes is amended to read:

115.98 Bilingual–bicultural advisory committee. In each school district which establishes a bilingual–bicultural education program under this subchapter, the school board may appoint a bilingual–bicultural advisory committee to afford parents and educators of limited-English proficient pupils English learners the
opportunity to advise the school board of their views and to ensure that a program is planned, operated and evaluated with their involvement and consultation. The committee shall assist the school board in informing educators, parents and legal custodians of limited-English proficient pupils English learners that a program exists. The committee shall be composed of parents of limited-English proficient pupils English learners enrolled in the bilingual-bicultural education program, bilingual and other teachers, bilingual teacher’s aides, bilingual and other counselors and bilingual counselor’s aides in the district, at least one representative from the community and a representative of the school district administration.

Section 16. 115.993 of the statutes is amended to read:

115.993 Report on bilingual-bicultural education. Annually, on or before August 15, the school board of a district operating a bilingual-bicultural education program under this subchapter shall report to the state superintendent the number of pupils, including both limited-English proficient pupils English learners and other pupils, instructed the previous school year in bilingual-bicultural education programs, an itemized statement on oath of all disbursements on account of the bilingual-bicultural education program operated during the previous school year and a copy of the estimated budget for that program for the current school year.

Section 17. 115.995 (1) of the statutes is amended to read:

115.995 (1) From the appropriation under s. 20.255 (2) (cc), divide proportionally, based upon costs reported under s. 115.993, an annual payment of $250,000 among school districts whose enrollments in the previous school year were at least 15 percent limited-English proficient pupils English learners. Aid paid under this subsection does not reduce aid paid under sub. (2).

Section 18. 115.995 (2) of the statutes is amended to read:
115.995 (2) Certify to the department of administration in favor of the school
district a sum equal to a percentage of the amount expended on limited-English
proficient pupils English learners by the school district during the preceding year for
salaries of personnel participating in and attributable to bilingual-bicultural
education programs under this subchapter, special books and equipment used in the
bilingual-bicultural programs and other expenses approved by the state
superintendent. The percentage shall be determined by dividing the amount in the
appropriation under s. 20.255 (2) (cc) in the current school year less $250,000 by the
total amount of aidable costs in the previous school year.

Section 19. 118.30 (2) (b) 2. of the statutes is amended to read:

118.30 (2) (b) 2. According to criteria established by the state superintendent
by rule, the school board, operator of the charter school under s. 118.40 (2r) or (2x),
governing body of the private school participating in the program under s. 118.60, or
governing body of the private school participating in the program under s. 119.23
may determine not to administer an examination under this section to a
limited-English-speaking pupil an English learner, as defined under s. 115.955 (7),
may permit the pupil English learner to be examined in his or her native language,
or may modify the format and administration of an examination for such pupils
English learners.

Section 20. 118.301 (2) (a) 4. of the statutes is amended to read:

118.301 (2) (a) 4. The examination provider makes available translations for
limited-English proficient pupils English learners, as defined in s. 115.955 (7).

Section 21. 118.33 (1m) (a) 3. of the statutes is amended to read:

118.33 (1m) (a) 3. A school board, operator of a charter school under s. 118.40
(2r) or (2x), and governing body of a private school participating in a program under
s. 118.60 or 119.23 shall permit a limited-English proficient pupil an English learner, as defined in s. 115.955 (7), to take the civics test described under subd. 1. in the pupil’s English learner’s language of choice.

**SECTION 22.** 121.91 (4) (a) 3. of the statutes is amended to read:

121.91 (4) (a) 3. Notwithstanding subd. 2., if a school board increases the services that it provides by adding responsibility for providing a service that is transferred to it from another governmental unit for a child with a disability, as defined in s. 115.76 (5), or for a limited-English proficient pupil an English learner, as defined in s. 115.955 (7), the limit otherwise applicable under sub. (2m) in the current school year is increased by an amount equal to the estimated cost of providing the service less the estimated amount of aid that the school district will receive for the child or pupil English learner in the following school year under s. 115.88 (1m) to (6) and (8), 115.995 or 118.255, as determined by the state superintendent. A school board that transfers or receives responsibility for providing a service under this subdivision shall notify the state superintendent. A school board that transfers responsibility for providing a service under this subdivision shall provide the state superintendent with an estimate of the reduction in cost attributable to the transfer, even if that estimate is zero. The state superintendent shall notify the transferring school district when a receiving school district notifies the state superintendent that it has received responsibility for providing a service transferred to it under this subdivision.