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PUBLIC HEARING

before

SENATE EDUCATION COMMITTEE

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2967

(Modifies law for education of children with limited English proficiency.)

June 15, 1989
Room 334
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Matthew Feldman, Chairman
Assemblyman Daniel J. Dalton, Vice Chairman
Assemblyman Raymond Lesniak
Assemblyman John H. Ewing

ALSO PRESENT:

Deena R. Schorr
Office of Legislative Services
Aide, Senate Education Committee

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Hearing Recorded and Transcribed by
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New Jersey State Legislature
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NOTICE OF PUBLIC HEARING

The Senate Education Committee will hold a public hearing on the following legislation:

**SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2967**

Modifies law for education of children with limited
English proficiency.

The hearing will be held on **Thursday, June 15, 1989 at 2:00* p.m.** in
Room 334, State House Annex.

Person wishing to testify should contact **Deena R. Schorr, Committee Aide**, at (609) 984-6843. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

*The hearing will be held from **2:00 p.m. to 5:00 p.m.** If all witnesses cannot be accommodated the hearing will be continued at a later date.

Issued 5/30/89

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2967

STATE OF NEW JERSEY

AN ACT concerning bilingual education programs in the public schools, and amending P.L.1974, c.197.

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

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

1. The Legislature finds that there are large numbers of [children] students in the State who come from environments where the primary language is other than English. Experience [has] and research have shown that [public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The Legislature believes that a program] programs of bilingual education can meet the needs of those children and facilitate their integration into the [regular] public school curriculum. Therefore, pursuant to the policy of the State to insure equal educational opportunity to every [child] student, and in recognition of the educational needs of children of limited English [speaking ability] proficiency, it is the purpose of this act to provide for the establishment of bilingual education programs in the public schools. These programs shall be implemented in order to insure that students of limited English proficiency acquire English proficiency, master subject and course content and meet promotion and graduation requirements.

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

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

Matter underlined thus is new matter.

"Part-time program in bilingual education" means a program of instruction which includes, according to the language dominance of the student, (1) instruction in language arts and reading in the student's native language and in English, or in English only, as appropriate, (2) instruction in mathematics in the student's native language and in English, or in English only, as appropriate, and (3) English as a Second Language instruction.

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

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

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

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

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

4. [When] a. Unless otherwise provided pursuant to this section, the board of education shall establish a full-time program in bilingual education when, at the beginning of any school year, there are residing within [the schools of] an attendance area serving a school in the district 20 or more pupils of limited [English-speaking ability] English proficiency in any one language classification [, the board of education shall establish, for each such classification, a program in bilingual education for all the pupils therein; provided, however, that a board of education may establish a program in bilingual education for any language classification with less than 20 children therein] in two consecutive grade levels.

b. In lieu of providing a full-time program in bilingual education in accordance with subsection a. of this section, a district may receive approval from the State Department of Education to implement a program other than full-time bilingual education. The district shall demonstrate to the satisfaction of the State Department of Education that the programs

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

8. Each school district shall notify [by mail] the parents of the [pupils] students of limited [English-speaking ability] English proficiency of the fact that their child has been enrolled in a program of bilingual education. Such notice shall be in writing in English and in the language of which the [child of the] parents of the students so notified [possesses] possess a primary speaking ability, [and in English] unless to do so would cause undue hardship for the district.

The board shall provide for the maximum practicable involvement of parents of [children] students of limited [English-speaking ability] English proficiency in the development and review of program objectives and dissemination of information to and from the local school districts and communities served by the bilingual education program within existing State law.

(cf: P.L.1974, c. 197, s. 8)

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

10. The State Board of Education and the State Board of Higher Education shall jointly establish a State Advisory Committee on Bilingual Education to assist the Department of Education and the Department of Higher Education in the formulation of policies and procedures relating to this act. The State Advisory Committee on Bilingual Education shall include representatives of the language communities served, institutions of higher education, local school boards, school administrators, teachers, parents and legal guardians of students of limited English proficiency and [laymen knowledgeable in the field of bilingual education] members of the public knowledgeable of the educational needs of limited English proficient students.

(cf: P.L.1974, c. 197, s. 10)

9. This act shall take effect immediately.

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SENATOR MATTHEW FELDMAN (Chairman): May I welcome you here, and may I suggest that during the meeting when we have witnesses that you lower your placards? This is not a open meeting/demonstration. This is an open meeting, a public meeting, for you to listen as well as for me, and for you to express your views as well as the members of our Committee. Please, lower the placards, okay?

You know, we want to be friends. We're here for one purpose and that purpose is to discuss a bill in the American way, the democratic way, without any emotion surfacing. Let's be objective.

So I want to welcome you, once again, to this very important public hearing on New Jersey's bilingual education program. And may I introduce the Vice Chairman of this Committee, Senator Daniel Dalton who is sitting to my left.

I am certain that we can all agree that since its inception back in 1974-- And I want you to know that it was Senator Lipman and Senator Feldman who sponsored the first bilingual bill, so we're not coming in as strangers trying to upset an apple cart. This bill was my bill in the beginning.

The bilingual program that you are enjoying today is my bill and Senator Lipman's bill. But it's been a number of years since 1974, and the purpose of this meeting is to see whether or not any modification or changes in this bilingual program is necessary in the year 1989.

And I am certain that since its inception, that the nation has looked upon New Jersey as the leader in the field of bilingual education. And it is certainly -- I just want to reiterate -- not my intention to jeopardize or in any way diminish the programs which currently exist and which have served our students so well.

My concern in introducing this legislation is to expand upon those programs and services to insure that each child of limited English proficiency receives an appropriate and adequate instructional program.

It appears that under the law -- in its current form, this is not always possible -- for example, if there are 20 children in one language group in a school district scattered through a number of school buildings, and grades K through 12, that district must provide a full-time bilingual educational program. This is not only impractical but also for some language groups, impossible, since suitable teachers are not available.

On the other hand if there are 19 pupils in one language group, in one classroom, they would not be entitled to bilingual education. And if there are fewer than 10 pupils in that classroom, they would not even been entitled to English as a second language instruction. I understand that the Department of Education takes these problems into account and waives the statutory requirement in some instances.

I would point out that the law today does not permit these waivers, however well intentioned and necessary they are. So I think it is important to review the existing statute to determine, if in fact, there are problems, to define the nature of those problems, and to find reasonable solutions for them. That is the purpose of this public hearing.

The Committee needs to establish a sound, factual basis on which to proceed, and we will not consider this or any similar bill until that record is completed, and we have had the opportunity to study the results.

I should note that, as indicated on the hearing notice, we will conclude at 5:00 p.m. In order to hear all those who wish to testify, we will reconvene this hearing at a later date, probably early in the fall. Anyone who has signed up to testify and was not heard today will be notified of the date and time as soon as it is determined. So I wish to thank, on behalf of the Committee, all of you for joining us today. I am certain that this will be an informative and productive discussion, and that the result will help us preserve the many

fine bilingual education programs which now exist while permitting us to expand programs and services to all children in need of them.

Our first witness today is Assemblyman, and also Mayor, Robert Menendez, the Mayor of Union City and Assemblyman representing that fine district. Good morning-- Good afternoon, Bob.

A S S E M B L Y M A N R O B E R T M E N E N D E Z: Good afternoon, Senator. And I want to thank you and the Committee for their courtesy in allowing me to testify first.

First of all, let me say your opening statement gives, I'm sure, many of us, great relief in hearing the nature of your intentions as it relates to this bill. And I want to say before I get to the specific aspects of the bill that I think cause alarm, that first of all, I personally have the highest regard for you as your role in the education field and your work in the Senate, and I want to put to rest right away-- As I've told to the many people who have spoken to me about this bill in the education community, I don't think that Senator Feldman, for one moment, would consciously, in any way, attempt to hurt the linguistic minority children. I personally know that you have been a voice for people who don't have a voice in the Legislature, as well as against injustices. We both share a co-sponsorship of a bill that would, in fact, seek to dramatically punish people who would commit crimes based on ethnic, religious, or racial violence in our State.

So against that backdrop and against your opening statement, Senator, I'm really not here to testify, per se, as to all the intricacies of the bill. I think there are many qualified people, who have spoken to me, who are in the room, who will.

But I do want to point out to some of the things to you. I know as the State's only Hispanic legislator, that I have heard many of the concerns. And that is not the only

group, obviously, affected by this bill. But they are a significant portion of the community that is affected by this bill.

I think that the bill, as proposed, is regressive, and it would gut bilingual education as you yourself meant it to be when you proposed it several years ago. And we know the system, as it is right now, to work. We know it to work by the Department of Education's own data. I can tell you from my own community which I think has one-- If I can be proud enough to brag-- I think has one of the best bilingual programs in the State that has taken students, many who are not only linguistically deprived, but culturally deprived from a country that they didn't have an opportunity, and have created the transition period to bring them successfully into a monolingual classroom. It works; and it has been working.

Now here the bill allows a local school board to have any -- any educational programs for a limited English proficiency student that is approved by the Department of Education, and with all due respect to the Department of Education, to me, that would mean that rigor mortis would set in, almost automatically.

The Commissioner's position, I think, with reference to bilingual education, in general, is well-known. School boards and interest groups have litigated issues with the Commissioner -- my own school board being one -- and I think that given that broad latitude-- I understand some of the concerns that people who have come to you, and you're trying to address. But the broad latitude that the bill's language has in allowing such a program would, in essence, create the opportunity for programs that would just be English only, to the extent that these limited proficiency students would not be best addressed in the fashion in which we have successfully addressed it since you introduced this bill. I think under the strict laws that exist right now -- your own law -- the

Department of Education routinely allows English only programs to exist, while receiving bilingual categorical aid.

I know, Senator, that you do not want to stop these students from the successes that they have enjoyed and that were created by virtue of your bill and your vision; and to return to the days of English compensatory programs, speech programs, and even special ed programs for which children who have successfully -- we've seen this program successfully work -- would, maybe, be sent to; and in the past -- if we look at the history -- have been sent to. They should never be categorized in that way.

And so keeping those issues in mind -- and I'm sure some of the very technical things that you're going to hear from the people who have the expertise -- I would sincerely hope that you would reconsider the bill; at least to endorse those concepts that will be portrayed to you by the people, I think, who have the best experience and the best knowledge.

And I want to thank you for the opportunity -- as well as hearing your opening statement, I think, allays a lot of people's fears. Thank you very much, Senator. I don't know if you have any questions. I'd be glad to answer them.

SENATOR FELDMAN: Thank you for your kind and generous comments. My one question is, knowing the law as we do know it today, do you think the current law needs any modification at all? I mean, do you think some changes should be made or must be made in the current law?

ASSEMBLYMAN MENENDEZ: Well, let me just say that, if-- I think that when I've spoken to the people who best know -- who have gone to get degrees and know the area that we are concerned about, maybe 20 students in a broad, expanded district and that being a burden upon a school district, might be able to be worked out. But I think they suggested that maybe if it was 20 students in a specific school, that then it would be called upon.

But beyond that, I think that the issues that are addressed in the bill clearly give such expansive broad powers to the Department of Education that has shown itself to be, in my humble opinion, anti-bilingual to -- or anti-limited English proficiency to, in essence, be given a tool that you didn't mean to give, to gut the program.

SENATOR FELDMAN: Well, they're here today, and they'll answer these allegations.

ASSEMBLYMAN MENENDEZ: I'm sure that they'll disagree, but--

SENATOR FELDMAN: Thank you very much for coming.

ASSEMBLYMAN MENENDEZ: Thank you, Senator. (applause)

SENATOR FELDMAN: May I, please, suggest this. In my heart I applauded what Assemblyman Menendez said. We are very good friends. We are on the same track. But please, because to show our feelings either with applause or no applause or -- I've seen meetings where there was hissing and booing -- is not right, and not correct. This was in the affirmative, this was a positive response. But let's try to restrain ourselves.

And if we disagree, let's one of the speakers disagree with a witness, but let's not have a public demonstration, no matter how elated we are with the testimony, because applause can only lead to boos or hisses for someone else. (laughter) So, let's please, as ladies and gentlemen, as parents who are concerned with positive education for their children, and we look upon it as our children--

And Senator Ewing, may I introduce you? This is Senator Ewing, a member of this Committee.

Okay. Good. Our next witness will be, representing New Jersey School Boards Association, Edwina Lee.

D R. E D W I N A L E E: Thank you for this opportunity to speak before you today, and good afternoon. The New Jersey School Boards' Association strongly supports the proposed

Committee Substitute for S-2967 because this bill provides considerably greater flexibility than the current statute and the administrative code.

We are particularly pleased to see the elimination of the requirement for a full-time transitional bilingual program whenever there are 20 or more students of any language group in a district. This number trigger has been particularly burdensome since these students can be spread over grade levels and a number of schools throughout a district.

In many cases this dispersal makes it impossible to treat these 20 students in a class. In others, it means the class grouping covers too many grade levels or that pupils must be bused from one school to another, in order to provide the program.

The number trigger in this bill is far more reasonable. It represents a legitimate class grouping; 20 students in adjoining grades. However, New Jersey School Boards' Association would prefer to see a number trigger eliminated altogether. We believe local boards of education should have the responsibility and the authority to determine how best to meet the needs of their limited English proficient students.

One of the real strengths of S-2967 is the relative flexibility that it does accord local boards of education in designing programs most suitable for their particular students, in cooperation with, and subject to the approval of, the State Department of Education. This is a tremendous improvement over the current law.

There is a great diversity of language groups in the State, each with its own culture and characteristics. This diversity continues to grow and will proceed through the 21st century. If we, the school boards, are to serve this diverse population well, then we must have a variety of approaches available, so that we can tailor the education to the needs of a particular student.

We must also be able to take parental wishes and concerns and those customs into account when designing such programs at the local level. The current law does not provide that flexibility. It's clearly time for New Jersey to reshape its law for limited English proficient students.

S-2967 provides for sweeping changes, not the least of which is that it brings all LEP students within its purview. The current statute affects LEP students only when there are 20 or more in a single language group in a school district. Although the administrative code requires districts to provide these low incidence students with assistance in learning English, S-2967 goes far beyond that.

Under this bill, districts must provide all LEP students with programs designed to meet the same goals. And these are important goals spelled out in the bill; the bedrock upon which the bill rests. They are to ensure that students: 1) acquire English proficiency, 2) master subject and course content, and 3) meet promotion and graduation requirements.

This next point is minor by comparison, but the Association is concerned about the proposed elimination of the requirement that districts notify parents by mail that their children are being placed in a bilingual education program. This section of the legislation would jeopardize a basic right of due process, and we feel needs to be retained. Parent notification should not depend upon students carrying these notices home, especially when the students may not even understand the instructions being given to them.

We do, however, support the provision of the bill which exempts a board of education from the requirement to provide written notice when to do so would cause undue hardship on the district. We also request that the effective date of the bill be extended so that boards have the opportunity to include program changes or additions in a budget planning cycle. The immediate effective date could pose problems in this serious economic downturn year for most local districts.

In summary, NJSBA strongly supports S-2967 and the greater flexibility it provides local boards in meeting the needs of their limited English proficient students. We thank you for your consideration. I would be happy to answer any questions.

SENATOR FELDMAN: I'll ask one question and then be followed up by Senator Dalton. And may I introduce Senator Raymond Lesniak from Union County who has arrived--

SENATOR LESNIAK: I arrived but--

SENATOR FELDMAN: --and will be with us for a limited time because of an issue that concerns all of us, and that is an insurance issue.

SENATOR LESNIAK: Right. Thank you, Senator. I apologize for not being able to stay.

SENATOR FELDMAN: That's all right. If you were to tell me you couldn't get in because of the crowd, then I would accept it. (laughter).

SENATOR EWING: He could have followed me.

SENATOR FELDMAN: Right. Edwina -- or Ms. Lee, does this bill constitute a major restructuring of bilingual education or does it merely contain technical changes? You mentioned conditions over and above the 20 students, but do you feel it's a restructuring, or is it just making certain technical changes?

DR. LEE: Senator, if I can respond? We believe that this bill really reflects what local districts had to deal with in terms of working outside of the current law. Clearly, there have been many cases where districts do not have 20 students within a building or even in contiguous school grades, and they have been required to set up bilingual programs.

But about the one child within a district that is limited English proficient that does not receive the equal opportunity for learning English that the transitional bilingual programs establish, we see this as technical

amendments refining the current philosophy for transitional bilingual programs and for teaching limited English proficient students.

SENATOR FELDMAN: Thank you. Senator Dalton.

SENATOR DALTON: Yeah. I don't-- I would not, at this point, debate you on that characterization, only to say I disagree. But what I do want to ask you deals with a component of your position that's in your advisory. It says that, "There is a need to permit districts to offer full-time transitional bilingual education or English only on an equal basis as long as the program meets the goals of the bill which are to teach pupils English to help them master subjects/course content, and to attain promotion and graduation." Why do you want to do this? Is this an administrative need, or do you feel this is an educational need?

DR. LEE: I believe the need to establish ESLs comparable to transitional bilingual programs, is basically generated by the inability of some districts to find competent teachers to provide the similar programs to transitional bilingual programs.

SENATOR DALTON: So that's an administrative need--

DR. LEE: Yes.

SENATOR DALTON: --is what you're saying. So as opposed to-- As I see, the bill presently written gives a neither/or situation, as I understand it. Why can't you come and define a rationale as to when this ESL is acceptable as opposed to, what I see as a pretty significant loophole in the bill in saying, "Well, if you don't do bilingual, then you go to the Commissioner and then he gives you the ability to use alternative programs," which, by the way, is another area which I think is ambiguous in the bill?

DR. LEE: I believe that currently what happens is we're posed with that question, and we go to the State Department and say, "We're up against our inability to find appropriate instructors for students."

SENATOR DALTON: I can appreciate that in certain-- I mean, I'm sure that's valid in certain cases.

DR. LEE: I'm certain that in that situation, establishing a criteria that both the community and the local board could adhere to and have the approval of the State Department, ESL programs, until a transitional bilingual program could be offered, would be acceptable, which is now what's being done.

SENATOR DALTON: Why don't you say, as opposed to as I said -- what I perceive as a loophole -- say that in the bill?

DR. LEE: Because I think that there will be exceptions to that possibility. And if we establish a time limit, such as ESL is good--

SENATOR DALTON: But as opposed to having the exceptions, what you're doing is creating a gaping loophole for any district that doesn't have the desire to establish an aggressive bilingual program to go and utilize the loophole.

DR. LEE: Well, we don't see it as a desire, because I think local boards have to be responsive to their parents in their community. We're not being motivated on desire. We're being prompted by the community and parental wishes.

SENATOR DALTON: But there's parts of the community that you're dealing with, by definition, that is a minority community in most cases, and in some cases, they may not have a voice on the local board of education. As a result, this State law allows -- requires that board, regardless of whether the minorities have a local voice or not, to provide bilingual education. It seems to me, what we're providing here within the Committee Substitute is an ability for those people who don't have the desire to respond to that minority community to just go to the Commissioner and to get out of that -- what I perceive, as a responsibility.

DR. LEE: Well, let me respond to the first part of your statement. I feel that in the situation of legislating

transitional bilingual programs, when you are trying to protect a minority, what we're basically talking about is legislation that still is induced by a number trigger. So we're not really legislating fairness for all students who are considered to be minority in the local community.

If that were the case, then be it one student of one single native language versus 20 students should theoretically get the same education. That under current statute does not occur.

SENATOR DALTON: I don't-- I mean, I wasn't talking about the number trigger here.

DR. LEE: But that is the current legislation, and that is what prompts bilingual--

SENATOR DALTON: No, I'm talking about the Committee Substitute in front of us. That's what I'm trying to address.

DR. LEE: And it still has a number trigger for 20 in a consecutive grade.

SENATOR DALTON: Yeah. And I think what we have to do, regardless, is we have to tighten that whole provision up. And I think if you do that and if -- that you know-- You can go a long way to, I think, addressing some of the concerns of some minority communities throughout the State who feel that their concerns will not be addressed, their bilingual educations will not be as effective, if in fact, this provision stays here the way it's presently written.

SENATOR FELDMAN: Dr. Lee, would you explain the difference between a mandated bilingual education program and an English as a second language program? The differences -- so that we all understand from an educator's point of view -- the difference between bilingual and English as a second language.

DR. LEE: Probably the Department of Education would be far better at it, but in terms of the transitional bilingual program, I believe that the intent of that program is to provide students their education in their native language

versus an ESL program which utilizes a program of teaching children their course content in any language -- any common language that that is possible.

SENATOR FELDMAN: I can accept that as your interpretation. Good. Thank you. Any other comments? (no response) Then we'll call our-- Thank you very much, Dr. Lee. Our next witness will be Dennis Testa. Incidentally, the advisory that you put out, I haven't gotten a copy of that and neither has Dr. Schorr.

DR. LEE: We will get you a copy along with our testimony.

SENATOR FELDMAN: Okay, thank you. Vice President for the NJEA, Dennis Testa.

D E N N I S T E S T A: Good afternoon. I am Dennis Testa, Vice President of the New Jersey Education Association. We represent over 130,000 active and retired school employees and county college staff. Let me introduce to the Committee my associate, Ms. Betty Hickey, who is our Assistant Director of Instruction and Training with the NJEA. Betty is with me because she has monitored this bill and the bilingual programs throughout the State for some time now, and she will be able to answer some of the more technical questions that I may not be able to deal with.

Mr. Chairman, thank you for the opportunity to express our views on the proposed amendment to the Bilingual Education Act. New Jersey educators involved in skill programs for growing numbers of non-native English speakers have relied on this law, sponsored by yourself, to provide the structure for their classes.

The 1975 law ensured that limited English speaking children would have a minimum of three years of English instruction while they were being taught appropriate academic skills in their dominant language. Because of the that law, many children have gained listening and speaking competencies

while advancing their reading, writing, and computing skills. The Department of Education has reported that 85% of all bilingual students stay in the present system of programs for three years or less. Usually those who remain beyond the third year are in special education programs or have learning problems.

Presently, the bilingual law provides for specific requirements for these supplemental programs. Districts with limited English speaking students must offer a thorough and efficient ESL or bilingual program taught by certified personnel. Trained teachers carefully monitor the learning process. They know how to determine if a child's instructional level is appropriate. Bilingual teachers make immediate adjustments about that level based on the responses they receive from their students. They test and retest the comprehension of the children and review the lesson or move ahead as indicated.

One suggested option to full-time bilingual educators has been the use of non-certified translators as classroom aides. It takes years of experience and training to enable a teacher to determine whether students are learning, and how well they are learning. A translator cannot pick this up in a few short hours of in-service training. Translators unschooled in the learning process or the dynamics of classroom instruction, would not have the ability to monitor a child's grasp of information or learning style.

In addition, imagine, if you will, the difficulty of concentrating on an introductory lesson in fractions or spelling while the simultaneous translation of your teacher's words were being heard in Vietnamese. The result could be chaotic for the entire class.

The design of the Bilingual Education Act was flexible enough to provide for varying numbers of students of diverse backgrounds. Districts have been granted approvals by the

State Department of Education to implement phase-in plans or other types of instruction for limited numbers of students.

S-2967 provides these alternate means, without the need of a waiver, but it also takes away the core of the program. It fails to provide equal opportunity for services to students within a district; it fails to adequately outline minimum standards for Bilingual/Limited English Proficiency program; and it fails to give criteria for exiting the program. The original law provided this information so that there would be consistency and integrity throughout the State for these supplemental classes.

The proposed amendments, say school districts, may provide full-time bilingual instruction in one school, but not another. Because this could encourage people of like languages to stay in the same neighborhood, it violates the spirit of the civil rights law; it indirectly encourages segregation of neighborhoods and neighborhood schools. All students, regardless of where they live, should have the same opportunity for the most appropriate educational services.

The proposed amendments speak of special instructional programs without a comprehensive definition of what they are or how they will address the linguistic needs of students. This diminishes the significance of current programs and their curricula, which emphasizes skills in multi-cultural awareness and proficiency in speech and comprehension.

The proposed amendments do not mention the length of time students may remain in these special instructional programs, or by what means they will be judged ready for admittance to mainstream classes. There will certainly be a detrimental effect in the classroom if many of the students presently receiving bilingual instruction are mainstreamed without attaining sufficient language skills.

We believe the intent of the Bilingual Education Act was to provide standardized service for over 30,000 limited English proficient students. The Department of Education

agrees with us that it has been successful. We fear if S-2967 were to become law, bilingual and LEP programs would vary widely in type, content, but most importantly, quality. Parents and children might find themselves segregated in linguistic ghettos, and large numbers of unprepared students would be prematurely placed in regular classes, causing learning disruption for all students.

These consequences would virtually deny LEP students the educational opportunities to which they are now entitled by law, and could interfere with the progress of students in regular classes.

We don't believe S-2967 will mean a more thorough and efficient education for anyone, and may, in fact, deny it to the students who need it the most. We urge you not to release this legislation from your Committee. Thank you.

SENATOR FELDMAN: Is the current law a perfect law or do you think the current law needs some modification; such as, under the current law there is no waiver provision for districts that cannot find sufficient instructors in a given language or subject area. Shouldn't there be an amendment to the law that allows for such contingencies? I'm just enumerating one of many. We're breaking the law when we give a waiver. The law says we shouldn't, so how can this be a perfect bill?

MR. TESTA: I guess it's not. I imagine we'd be hard-pressed to find any perfect bill if we go through the statutes. I guess, if the NJEA had its way, we would amend the bill the other way and mandate that all students, whether you have one or 50 or 100 in a district would be required to be given this program. We realize--

SENATOR FELDMAN: Is that another educational reform bill? (laughter)

MR. TESTA: Well we--

SENATOR FELDMAN: I wish you would have orchestrated that as well as this when we had our public hearings.

MR. TESTA: We realize the difficulty. But let me point out along those lines, we don't have the trust that school boards would continue to provide these programs, if this piece of legislation were passed. If that were true, we would find more districts now offering these programs where they have less than 20 students. I daresay, there are very few, if any, districts who have two, or three, or four, or five students that fit in this category, that offer the program.

They have the option now, and they're opting out. We would contend that if this piece of legislation passes, those districts that have above 20 districts (sic) would choose to do the same thing, and opt out -- not provide the necessary services to these students. That's been their track record, and that's our fear.

SENATOR FELDMAN: All right, can you please, Mr. Testa -- Dennis, I want to clear up one thing, are you Vice President or are you Secretary/Treasurer?

MR. TESTA: Matty, I thought of what I could do on my first day as Vice President of the NJEA, and I could think of nothing finer than to testify in front of your Committee.

SENATOR FELDMAN: Because the report says you're Secretary/Treasurer--

MR. TESTA: I changed today.

SENATOR FELDMAN: --and I know you're Vice President.

MR. TESTA: Today is my first day as Vice President.

SENATOR FELDMAN: Right. Would you explain -- as Dr. Lee explained -- your interpretation between a mandated bilingual education program and an English as a second language program?

MR. TESTA: Betty has been trying to prompt me, so I'm going to let her answer.

SENATOR FELDMAN: Do you agree with her, or is there a difference in your interpretation? May I hear yours?

MR. TESTA: We don't agree, but let me let Betty answer.

E L I Z A B E T H H I C K E Y: We don't agree with that interpretation. Right now bilingual education-- A bilingual educator provides bilingual education. So they're educating the student in their native language and also in English. And as the program progresses, as in programs that I've seen in very effective school districts in New Jersey, you might find that a student that initially enters a bilingual program because they have virtually no English skills, would receive a majority of instruction in English.

But certainly as the program progresses, a bilingual educator has the opportunity, and does, in fact, switch the level of instruction from predominantly the native language over to predominantly English. I have been in bilingual classes in New Jersey where a student is in the third year of a bilingual program, where say, 80% of instruction is in English, and only a very small follow. So when the LEP student becomes confused about a point, could then perhaps address that point with the instructor in their native language.

That is different than saying that-- I think that's a real problem we have sometimes; that there's a misunderstanding of bilingual education. We tend to hear bilingual education, and we tend to think it's either all in native language and the children are never learning English, or at best, it's a little English and mostly predominantly native language. That simply is not the case. And that's not the purpose, as you know, of the law as you wrote it.

ESL instructors have a very difficult job. They provide either -- the only instruction a child may receive if right now there is 10, all right -- but their job is to supplement and work with the bilingual instructor. They may have children from many, many diverse language backgrounds in their program, and they work on reinforcing the English

skills. So even though an ESL instructor may, in fact, be bilingual, the instruction is in English and is reinforcing the English skills. It would be very difficult, I would think, for anyone to find an ESL instructor that would be fluent in all the native languages that they might have in an ESL classroom.

SENATOR FELDMAN: There is no purpose then in developing a student's proficiency in their native language as well as in English?

MS. HICKEY: Let me try to reclarify that point. For a child to receive an education and to pick up certain skill levels, it may be necessary-- We have children that come into the State of New Jersey that have never been in a classroom in their lives. They have never been in school. Now, in order for that child to be able to learn, they need to receive some basic instruction in their native language to bring their skill level up to a point -- in which, in fact, okay -- they are then able to receive and understand the English instruction.

I'm assuming you're not asking me to address the point at all, whether it's truly an asset to the nation as a whole to have bilingual people. I'm not talking about that aspect of bilingualism.

SENATOR FELDMAN: What is the purpose of developing a student's proficiency in his or her native language as well as in English? Is that the purpose of bilingual education?

MS. HICKEY: The purpose of bilingual education is to maintain the child's skill level in their native language while they are learning English instruction -- while they are learning English. The purpose of bilingual education is not to say the child will become truly proficient in their native language and not become proficient in English. That would be a disservice, an educational disservice to the student. It would be an educational disservice to the community. It would be an educational disservice to the nation. On the other hand, to

suppress the native language of the student, and say, you know, it has no value in this country-- To be bilingual would be a disservice to the country.

SENATOR FELDMAN: No, it's not the intention of the--

MS. HICKEY: I know that.

SENATOR FELDMAN: --of ESL bill. Thank you very much. Thank you, Dennis. Right. Dr. Annette Lopez, Chairperson of the Bilingual Advisory Committee.

D R. A N N E T T E L O P E Z: Before I present my testimony--

SENATOR FELDMAN: Why don't you sit down and be comfortable. Raise your right hand and repeat after me. (laughter) All right.

DR. LOPEZ: We have several letters representative of many constituents of the Committee, and we would like to present them, if we may.

SENATOR FELDMAN: We just want testimony from you.

DR. LOPEZ: Okay.

SENATOR FELDMAN: And you can speak on behalf of other people.

DR. LOPEZ: Okay.

SENATOR FELDMAN: But we have such a long list of witnesses, and at five o'clock we close up shop, and we continue this at some later date.

DR. LOPEZ: Okay.

SENATOR FELDMAN: No action will be taken today.

DR. LOPEZ: Yes, I understand that.

SENATOR FELDMAN: We want to listen. We want to learn.

DR. LOPEZ: Yeah. Okay.

SENATOR FELDMAN: If there are shopping bags of letters, give them to Deena. (Committee members confer) We're going to put those names in the computer and we're going to use them at election time. (laughter)

DR. LOPEZ: Okay.

SENATOR FELDMAN: All right, Dr. Lopez.

DR. LOPEZ: I am Annette Lopez, co-chair of the State Advisory Committee on Bilingual Education, which is a legislatively constituted body appointed by Chancellor Hollander and Commissioner Cooperman. As co-chair of this Committee, I wish to present our concerns about the proposed amendments to the 1975 Bilingual Education Act.

The 1975 Act is a comprehensive law enacted to mandate genuine equal opportunity for children whose primary language is other than English. The Legislature chose to establish bilingual programs based on its findings that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. If any changes to preserve this law are made, these should be to further improve and strengthen it.

The amendments proposed oppose the premises upon which this law was founded by broadening the definition of bilingual instruction to include four types of programs: full-time bilingual program, part-time bilingual program, alternative instruction programs, and English as a second language. Only two of these may permit instruction in the native language and only if there are 20 or more limited English proficient children in any one language in any one school and in two consecutive grades. Such restrictions limit the opportunities for language minority children in a sound and equitable instructional program which addresses critical issues of the use of the native language for instruction and the length of time that it takes language minority children to learn English for academic purposes. The recent findings of outstanding researchers in the field of second language acquisition, provide evidence to substantiate that a program which includes instruction in the native language is best for these students.

A review of psycho-educational data regarding bilingual academic development. show that a theoretical and

research basis for some policy decisions regarding minority students education, does exist. Policymakers can predict with considerable reliability the probable effects of educational programs for a minority students implemented in very different sociopolitical contexts:

First, they can be confident that if the program is effective in continuing to develop students' academic skills in both languages, no cognitive confusion or handicap will result.

Second, these policymakers can be confident that spending instructional time through the minority language will not result in lower levels of academic performance in the majority language -- in this case English -- provided, of course, the instructional program is effective in developing academic skills in the minority language. This is because at deeper levels of conceptual and academic functioning, there is considerable overlap or interdependence across languages. Conceptual knowledge learned in one language helps to make input in the other comprehensible.

These two psycho-educational principles open up significant possibilities for planning of bilingual programs by showing that, when programs are well-implemented, students will not suffer academically either as a result of bilingualism per se, or as a result of spending less instructional time through English. If academic development of minority students is the goal, then students must be encouraged to acquire the conceptual foundation in their native language, to facilitate the acquisition of English academic skills.

The Association for the Supervision and Curriculum Development conducted a review of bilingual education policy in 1987 which expresses the interdependence of bilingual language proficiency as follows: "Having a strong foundation in the native language makes learning a second language both easier and faster...there is general agreement that knowledge transfers readily from one language to another, so that

students do not have to relearn in a second language what they already learned in the first. In fact, it is clear that the ability to transfer to English what is learned in the native language applies not only to content area subjects like science and math, but also to skills in reading and writing, even when orthographic system is quite different from the Roman alphabet."

Finally, the research suggests that very different time periods are required for minority students to achieve peer appropriate levels in conversational skills in the second language, as compared to the academic skills. Specifically, conversational skills often approach native-like levels within about two years of exposure to English; whereas a period of five years or more may be required for minority students to achieve, as well as, native speakers in academic aspects of language proficiency. Academic language proficiency refers to both reading and writing abilities and to content areas where students are required to use their language abilities for learning; for example, in science and social studies.

This pattern is well illustrated in Collier's studies. These involved more than 2000 limited English proficient students and were carried out in an affluent suburban school district where all instruction was through English. She reported that it took four to nine years for these students to attain grade norms in different aspects of English academic skills. It is noteworthy that these figures represent the time period required for the most advantaged LEP students to perform, as well as their native English-speaking peers, and a longer time period can be expected of less advantaged students. Educators often fail to take into account the difference between communicative and cognitive language proficiency. Cummins found that because students often appear to be fluent in English, psychologists tended to assume that they had overcome all problems in learning English, and

consequently administered IQ tests in English. The students were frequently labeled "learning disabled" or retarded on the basis of tests administered within one or two years of the student's exposure to English. In fact, the data show that students were performing at the equivalent of 15 points below grade norms, as a direct result of insufficient time to catch up with their native English-speaking peers.

The amendments proposed run contrary to what the research evidence suggests is a theoretically sound and equitable approach to the instruction of language minority students. We must not abrogate our responsibility to all children in the State of New Jersey, regardless of color or language origin, to a thorough, efficient, and quality education. With the exception of the full-time bilingual program, the other options proffered school districts are administratively facile, but educationally unsound. The law, as it presently exists, meets the needs of limited English proficient students and facilitates their integration into the regular public school curriculum and should not be changed to accommodate potentially deleterious options which will impact primarily on the educational opportunities of the poor and underprivileged.

Thank you for allowing me the opportunity to render testimony.

SENATOR FELDMAN: Thank you. You answered many of the technical questions that I had in mind, in a very articulate manner. I just have a couple of questions other than those that you have raised.

DR. LOPEZ: Sure.

SENATOR FELDMAN: Any questions in my mind on the validity of these questions-- But one question is, do you believe ESL is ever appropriate? Should all programs in the State be bilingual?

DR. LOPEZ: The ideal would be, yes, that all states be bilingual. We're losing a very vital resource. We are, I think, amongst the only nation in the Common Market who has the potential for graduating polyglots. And we bring children into our schools being bilingual and trilingual, and insist on making them monolingual. And then, when they get into the tenth or eleventh grade, they're encouraged to take a foreign language, and by then they've already lost what they had in the beginning. (laughter)

SENATOR FELDMAN: So you believe that ESL is not necessary.

DR. LOPEZ: It is not sufficient.

SENATOR FELDMAN: Not sufficient. Now you're speaking as an educator. Doesn't the current law, the mandate of bilingual education when there are 20 students in one language group in a district, create an unrealistic standard? In other words, if 20 or 25 students are spread out over 12 grades, how is it possible to group these students for bilingual education?

DR. LOPEZ: I'm sure that if we got together to think about it, we could find some possible solutions to that.

SENATOR FELDMAN: Well, there are-- I'm waiting because I do know it's not practical. This current law has been going on since 1974 -- you know, for 15 years, and I do know that some changes must be made, and we just can't go on with something that's been outdated and outmoded. We're looking to bring things up-to-date for the benefit, as you so eloquently stated, of the children of our State. What alternatives would you propose? If you cannot give them to me now, I would appreciate, Dr. Lopez, hearing from you.

DR. LOPEZ: I certainly will. There are many solutions that we could propose. One of them might be a magnet approach. Another one is to develop two-way bilingual programs across districts. There are some solutions, and yes, you will hear from the Advisory Committee about this.

SENATOR FELDMAN: Okay. Thank you.

DR. LOPEZ: Thank you.

SENATOR FELDMAN: Ray Peterson, representing the New Jersey American Federation of Teachers.

R A Y M O N D A. P E T E R S O N: Good afternoon, Mr. Chairman, and members of the Committee. As you can see on the list Jeanette Collin, one of our Vice Presidents from Newark, was supposed to testify today. Obviously, I'm not Jeanette. Nor do I claim to have any expertise.

SENATOR FELDMAN: Unless you went to Denmark for a change in sex. (laughter)

MR. PETERSON: That's right. That I didn't. But I did meet with a group of bilingual teachers in Newark last week, and I listened very carefully to their concerns. And Jeanette's recommendation to me is to keep it brief, and try to provide some time for those teachers to express their concerns. I see that some of their names are on this list, so I'll give you about two or three minutes' worth.

The education of the students who have limited education proficiency becomes more significant each year, as thousands of non-English speaking immigrants arrive on our shores and attempt to take their place in a society that is increasingly technical and information oriented. At the same time, there is a growing public awareness and concern for the problem of functional illiteracy in America, and of the price being paid for functional illiteracy by the unemployable, the underemployed and their dependents, and by society as a whole.

Fully half of the nation's functional illiterates are immigrants, either legal or illegal, and the other half are school dropouts or push outs.

Against this background, we focus our attention today on the goal of providing the best possible education for students of limited English proficiency, and on helping them to become productive, fully participating members of society.

We are not convinced that the current law needs a major overhaul. We agree with those who say that if any changes are made, they should be in the nature of fine-tuning, and not an overhaul.

I want to commend Dr. Schorr for the clear and concise memorandum attached to the proposed Committee Substitute. It has helped me, and others, I'm sure, to focus on the main provisions of this proposal.

We are pleased to see that the bill recognized the appropriateness of some part-time programs, on page three, but we are troubled by the absence of language that would require such instruction on a daily basis. We believe that this definition is altogether too vague, and that it should be amended or omitted altogether.

There was even less specificity in the provision defining alternative instructional programs, on page two, for those districts not providing full-time, part-time, or ESL instruction. It seems to us that the vagueness of this provision would allow a district to pass off a minimal or token effort as a substitute or a reasonable alternative to genuine bilingual education.

Since loopholes in the law can undercut the effects of any language, we urge you to pay special attention to those two provisions, and to listen carefully to the suggestions of those who have firsthand knowledge of bilingual education, to the teachers who are charged with the responsibility for making the programs work. Thank you for your attention. If you have any questions on my testimony, I'd be glad to answer them.

SENATOR FELDMAN: Thank you, Ray, very much. And we'll move right on. Our next witness is the Superintendent of Schools in Paramus, Harry Galinsky -- Dr. Galinsky, of national fame, sitting down with the President.

D R. H A R R Y A. G A L I N S K Y: Let me begin, Senator Feldman, by reminding you that I don't come at this issue

strictly from the suburban point of view. I spent 22 years in a district called Hoboken. I had one of the largest minority language groups in the State and I was, in fact, responsible for the introduction of the first bilingual program in the State of New Jersey.

And I want to secondly say, I think we ought to do everything we possibly can to maintain bilingual education. Despite what some people may have thought, when you see change, change is often viewed as criticism.

SENATOR FELDMAN: The bill does not throw out bilingual.

DR. GALINSKY: Well, I want to speak to that.

SENATOR FELDMAN: Good.

DR. GALINSKY: I'm not here, nor does NJASA whom I also represent as part of this committee, in any way look to weaken or destroy bilingual education. Much of the testimony you previously heard I agree with 100%; that there's an importance involved in bilingual education; there's an effectiveness involved in bilingual education. I couldn't conceive of trying to deal with children who have never been in school, who have come to this country uneducated; and try to deal with them, without dealing with them, at least, in the oral language that they bring to the classroom.

However, what I think you're hearing is not a true picture of the entire State. I think there are some dramatic differences from community to community, from ethnic group to ethnic group, and the aspirations and the beliefs and needs of different groups you're responsible for, as well as only one, or two, or three.

I'm in a community where 20% of my student body's primary language is not English. They represent over 54 languages. The overwhelming majority of the children that come into my district, come in very well educated, and the only thing separating them from immediate success, is the acquisition of the English language.

Those children have been placed in English as a second language, which by the way, is a requirement under the present law. So that we're talking about English as a second language not being an effective approach. NJEA has-- Many of its constituents who belong to NJEA, who are, in fact, certified English as a second language teachers -- very proficient, very well-trained -- and to have you hear people say that children in this State who are being taught by certified, professional, competent teachers of English as a second language are being destroyed or not adequately served, I believe is a disservice.

If you want to take a look at research, take a look at many of the communities in which there is no dropout rate of children who come into this -- those school systems without the ability to speak English, who progress effectively, and despite what people talk about -- the shallowness of the English training -- go onto some of the most prestigious colleges and universities in this country and are, in fact, not 15 points below anything.

So I think what we have to understand-- And I recognize, because I've worked with many of these people for four years trying to bring together their needs and other needs, into a bill that will, in fact, be a win, win situation.

The bill that you're considering today is not the bill that NJASA asked you to consider. That bill had much more flexibility, many more options than the present bill.

You asked us to go back and deal with the Urban Superintendents and the other urban groups to see whether or not we could find a way in which everybody's needs are protected.

We've done that. This particular bill is not the bill that I would like to see passed, but I must say, it's the best situation that meets everybody's needs. And I just want to continue to point to the fact that if you continue to listen to speaker after speaker speak in terms of this bill being an

attack on bilingual education, then we're shifting from the educational forum to a political forum, and that's not what we're about; we have never been about that. We're not about to destroy or hurt bilingual education.

In fact, at a meeting which involved some of the key leaders of the bilingual constituency -- those who believe in it and profess it -- the new definition that's in that bill, which now defines bilingual education in four parts, emerged from that meeting. Because the original draft had no mention of bilingual education in it, they pointed that out as a deliberate attempt if you left it that way, to exclude bilingual language or definitions at all. We saw that as a possibility. There is a great deal of distrust: whether there's one change, one opening, then the whole fabric of bilingual education will crumble and disappear.

Well, I don't have that distrust in my heart. Maybe that's a concern that will occur in some places that needs to be addressed, but to say there's going to be no changes because there's a possibility that bilingual education will be destroyed or eliminated in some district around the State, is to hold hostage many students across this State who, in fact, enjoy and profit from other kinds of approaches.

I have a constituency, in fact, that threatened to take me to court, if, in fact, when, there are 20 Japanese children in my district, to put them into a bilingual class; to say to me, that they have options to put their children in full-day Japanese schools; that they want their children, in my schools, to learn English as quickly and effectively as possible, and they'll take care of the cultural issue. They will take care of the fact that they will continue to be bilingual, and what they want from me is the opportunity for those children to move into the mainstream as quickly as possible.

And I have Indian groups, and I have Korean groups, and you name it. They also have a voice that you need to hear. So we ought not to have legislation that says, there's only a single way to solve it. I know of nothing in education -- and this is my 40th year -- and I think I have some credentials to look. I know of no approach in education that any educator of any repute would say, "There's only one way to teach a child." We don't do that in reading. We don't do that in math. We don't do that in science.

And I have to say to you, that if there's anything we've learned in education, it's that children are different. They have different needs, and we have to have alternate approaches to deal with them. And to say there's only one way to deal with it, I think, is a disservice.

I would hope that you and your Committee will recognize that the thrust of this bill is to provide some of that flexibility so that we can match the best possible approach for children to what we have available in terms of proficient education. Thank you.

SENATOR FELDMAN: I tried to make that clear -- and you did it very well -- in my opening statement, if you were here. My question is this: If we were to grandfather those districts that work with bilingual education, this is their only mode that's operative, would you be--

DR. GALINSKY: I would support anything that you could do to make sure that boards of education, who would arbitrarily throw out working programs -- does not happen, and if you want to build that into bill, you'd have my personal support. Nobody wants to see that happen. And if they're here today-- Some of the constituencies are here because of that fear, I think you ought to meet that fear.

We don't want that to happen. But on the other hand, to meet that need -- and the only way to meet that need, is to extend that to 600 school districts, which I think, is a bit much.

SENATOR FELDMAN: Okay. Can you explain the difference between a mandated bilingual education program and the English as a second language program?

DR. GALINSKY: Yes. I think there's been, certainly, an adequate definition that came forward, but let me help a little bit. The transitional bilingual education program takes children in their native language and teaches them all their subjects in that native language, and slowly, as a child is ready, brings them into the English as quickly as possible.

English as a second language is very similar to your going into a class with 15 or 16 other students wanting to learn French where you might have a different ethnic background, and so on. So now a teacher is teaching English as if it were a foreign language to students.

There's an organization called TESL which is Teachers of English as a Foreign Language. There are training programs. There are certification-- And I consistently say, that legislators ought to take a look at the present legislation that says if you have less-- If you have less than 20 students -- between 10 and 19 -- English as a second language is required. And if we're saying that's inappropriate and that's not effective for children, then, in fact, you need changes in the law. But I think you would find just as large a group of passionate people, well trained, who believe English as a second language would come down here with placards to tell you, "Don't you dare throw out English as a second language because that is an approach that can and does work."

Now, we ought not to get into a debate whether bilingual education is effective, or English as a second language is effective. I'm convinced they're both effective. I think that schools should have those tools to match what it takes, and we should never get into the rhetoric of people trying to convince the Legislature there's only one way to Rome. And I would oppose legislation that says we should only

have English as a second language in this State and that we should eliminate bilingual education, as I would the reverse.

SENATOR FELDMAN: Should parents, under certain circumstances, be allowed to reject placement of their children in a bilingual program?

DR. GALINSKY: I believe that there ought to be a process, much as in Special Education, when we go through a process in which we're mandated to classify a child-- The law says to us that parent input is a critical issue; that when you have a child in a program that the parent opposes, you start off 80% behind the eightball. So that I certainly would encourage the opportunity to force a child into-- And the reverse is true. If a parent, and a group of parents want bilingual education, I think they should have the right to lobby for that within a particular district also. I think it has to go both ways.

SENATOR FELDMAN: Thank you, Dr. Galinsky. Thank you. I know most of you are here today because you read in the papers that one of the witnesses will be Frank Sinatra. (laughter) So Frank Sinatra is with us today. But this is the Frank Sinatra who is Superintendent of Schools in Perth Amboy.

F R A N K M. S I N A T R A: Thank you, Senator. You've taken away my first line.

SENATOR FELDMAN: Have you ever thought of changing your name?

MR. SINATRA: No, I haven't. I'm very proud of my name, Senator.

UNIDENTIFIED MEMBER OF AUDIENCE: He should ask the other fellow to. (laughter)

MR. SINATRA: That's one thing Dr. Galinsky and I had in common was at one point-- That was one thing that Dr. Galinsky had in common, at one point in time. He was in Hoboken, and I was Sinatra that was in Perth Amboy, that many people thought was in Hoboken.

Senator, I'm here this afternoon, really in a twofold position: One, as a member of the Urban School Superintendents' Association who chaired a committee of five superintendents to study the proposed original legislation S-2967, and make some recommendations for modification in that.

I'm also here in my role as Superintendent of Schools of Perth Amboy, having been a lifelong resident of Perth Amboy and a product of the Perth Amboy schools, and actually a second generation English speaking member of that community, and having graduated from our high school. Perth Amboy is a school district, not only now but also in the past, that has always served immigrants of various languages.

At the present time, our majority non-English speaking language in the community is Hispanic -- various forms of Spanish. Well, I, like Harry, started a bilingual program in Perth Amboy before your bill was originally introduced in 1974. When I was in charge of Federal programs using Chapter I monies -- at that point in time was known as Title I -- we started bilingual education and also ESL programs in Perth Amboy to meet the needs of our students, which at that time was also-- The language need was in the area of Spanish.

And I have to say, I'm extremely proud of my staff in Perth Amboy, that exceeds more than 65 people that are formally assigned into the bilingual education and ESL programs that we have in Perth Amboy. I realize that there are many fine bilingual educators in the room, but I also feel very proud that I have what I believe to be, two of the finest bilingual educators, not only in the State of New Jersey, but throughout the country on my staff.

There is no way that I can see, with the bill that you are presently considering -- the revised S-2967 -- will ever eliminate bilingual education in the City of Perth Amboy or in fact, any other community that is presently conducting bilingual education. I think, what the bill does is -- imagine

-- it is able to establish some flexibility in the present law that makes the present law not really applicable, which then tends to go away from, really, the intent of the program.

We, on our committee, had five superintendents, and one of the first things we did when we decided to review this legislation was to identify key bilingual people on our staffs, to go through this bill with us since they are really the technicians of the program and are best suited to answer some of the technical questions in bilingual education that you may be asking this afternoon.

And the bill that the Urban Superintendents are supporting, which is the revised version of S-2967, really came out of a series of meetings that we conducted that had a series of compromises that were put in which we thought actually were safeguards to ensure that no district could, if it so desired, really eliminate a bilingual program or give less than a thorough and efficient education to a LEP student.

From what I can see, and from what I have heard and some of what I may have read, it appears that the most troublesome part of the present bill probably is section 4b, on page three, which says, "In lieu of providing a full-time program" and so forth. I believe -- and perhaps some people may say I am naive -- but I believe with the present system that is in effect, that this will not enable a district to eliminate a bilingual program, if, in fact, it is needed in that community. There are two reasons for that: First, you would have to say, if that could happen, you have absolutely no confidence in the State Department of Education because they have to approve whatever you would be doing, under this aspect of the bill. I've had many disagreements with the State Department on various topics, but at the same time, under the monitoring requirements that we have, I do not believe that someone could put up a sham and be able to walk away from a program that was needed in his or her district.

At the same time, boards of education must approve any of the programs that are submitted to the State Department for approval. Boards of education are made up by representatives of the community -- people that must live in the community. Most boards of education are elected, and I'm sure that the elected representatives of the community are not going to permit it, if a school administrator wanted to put something in, that could be considered a sham. But the board members would be in a position to pick that person up, on that particular point.

I personally, and as the representative of the Urban School Superintendents, will report to you, that our group, after a series of meetings -- a series of presentations has approved the amended version of S-2967. I believe that certainly the needs in 1989 are vastly different than what existed in 1974. Perhaps the bill in 1974 was best. But we certainly know a lot more today in this particular area, and the needs of our State are different. We heartily endorse the full support of the revised version of S-2967.

SENATOR FELDMAN: Thank you very much, Mr. Sinatra -- Dr. Sinatra?

MR. SINATRA: It's mister, Senator.

SENATOR FELDMAN: Well I just gave you an honorary doctorate. Any questions from Dan Dalton -- Senator Dalton?

SENATOR DALTON: The bill that the Urban Administrators approved talks about alternative instructional programs. Can you give me an example or define that for me?

MR. SINATRA: That provision came into what our suggestions were, because if the legislation is going to stay in effect -- the new legislation -- as long as the present legislation is in effect, there may very well be something in the future that we just don't know about.

So, to specifically say that this is what an alternative program would be, I really can't say that. It's to

provide for a particularly unique situation that can develop in any school district, throughout the State, at any point in time while this bill is in effect.

SENATOR DALTON: That doesn't give me great solace. (laughter) Again, I would like, if someone can give me an example of what this means so that the bill and this particular section of the bill, has some meaning to it. And the alternative instructional program is, if you don't define it, then it certainly can be -- the whole phrase, the whole notion, whatever the intent is -- can certainly be misinterpreted down the line.

MR. SINATRA: Except this, Senator. In the language of the bill, it says that the district shall demonstrate to the satisfaction of the State Department of Education that the programs offer students of limited proficiency the opportunity to acquire what the other programs are also doing.

SENATOR DALTON: I'm not a member of the State Department of Education. I'm a member of the Legislature. And we are the policy making body of this State. As a result, I think we have to make that determination, here, in this Committee, and on the floor of the Senate, and in both houses. And I'm willing to leave that up to the State Department of Education.

Another concern I have is in page one; the issue of findings. What is taken out, it seems to me, is -- and I'll start on line 4 -- "public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The Legislature believes that--" Why is that taken out? For what reason? Isn't that still valid today, as it was, back in 1974.

MR. SINATRA: I'm just trying to get the sense of it, Senator. I'm sorry. Actually, this is -- as I would read it very quickly, Senator-- It's placing the place of bilingual program as a very positive force to meet the needs of students.

SENATOR DALTON: I'm not suggesting it doesn't. But what I'm suggesting is, that if you take public school classes in which instruction is given only in English are often inadequate to those whose native tongue is another language, if you take that out, I think that that denies reality. That is the finding of the Legislature, which served as the premise for the Bilingual Education Act of 1974. Why are we taking that out? That is as true today as it was then.

MR. SINATRA: I would say, Senator, that particular section-- Back in 1974, we were nowhere near in the position of even thinking about running bilingual programs throughout the country and also in our State. Perhaps one of the other superintendents can more specifically answer why that phrase has been omitted. But I don't see--

DR. GALINSKY: If it's possible I'd like to-- I worked on that line.

SENATOR FELDMAN: Yeah. All right, yes. Harry, come on. Why don't you--

DR. GALINSKY: At the time--

SENATOR FELDMAN: We're transcribing everything.

DR. GALINSKY: At the time that was in the legislation -- the original language -- it didn't envision English as a second language, which is a program that's effective in the law that the fact, predominantly, uses English. So if you leave that in, in essence, it says that English as a second language -- which is a program teaching children the English language using English, in effect -- has the pejorative nature of that language.

In 1974, when you go back, they were envisioning legitimately, the sink and swim; dumping kids into regular mainstream classes in which the instruction was primarily in English. What we're saying in 1989, that that language no longer reflects the sink or swim, to which everybody's opposed. A kid comes in, can't speak English, gets assigned to

a third grade class where the teacher's teaching everything in English. That's not what's being proposed in this legislation. What's being proposed in this legislation, is that every child, even one, must receive instruction that will enable that child to learn English, so, in fact, they can participate in the regular classroom.

SENATOR DALTON: I don't see that. You know, I mean--

DR. GALINSKY: Well that was-- I'm answering--
(disturbance from audience)

SENATOR FELDMAN: Shhhh. Please.

DR. GALINSKY: I'm answering--

SENATOR DALTON: I understand.

DR. GALINSKY: I'm answering your question as to why it was eliminated. Whether you agree with it or not, that's something else, obviously.

SENATOR FELDMAN: Thank you. Our next witness is Annette Kearney, Superintendent of Schools, Plainfield. Thank you, Frank.

A N N E T T E K E A R N E Y: Good afternoon. Senator,--

SENATOR FELDMAN: Good afternoon.

MS. KEARNEY: --members of the Committee. I thank you for the opportunity to speak for this bill, S-2967.

I am a member of the Urban Superintendents Committee, and I need not say that I am one of the very few black, female superintendents in the State of New Jersey. In Plainfield we do have bilingual classes and a sizable bilingual population.

I'm coming upon 30 years in education. And at this point in my life, at no time would I sit by and allow the destruction of any program that is going to negatively impact children. I exist because of children: black children, Hispanic children, white children, all children. I am superintendent to them in Plainfield. So it's not an issue here of destroying a program, because I doubt if there is any

superintendent who will sit by and allow that to happen. If so, that's cause for going to another arena, not this particular one.

We have some particular problems in Plainfield with the bilingual program. One is, in 1980 Plainfield gave up busing its children. The only children who are bused now are Hispanic children going to bilingual programs. It's disgusting. They ride the bus in the morning. They have to wait for the bus in the afternoon. They lose a considerable amount of their time. That's all because-- Impacted on that, we were under an order to desegregate, and the children who had to move were special ed and bilingual children in Plainfield.

It's just a matter of time before the State of New Jersey comes into the 20th century with regard to change in the bilingual program, just like in regard to change in the handicapped program where there is going to be more flexibility with the program. Bilingual education needs that same flexibility.

When we talk about some alternatives as Senator Dalton had mentioned before we think about a program called Immersion. There are many other programs in this country other than the very few that we seem to be myopic about, and seem to think there are only a couple that address the education of bilingual, or speakers of other languages.

The goal, of course, for all of us is that we will educate all children. There's no doubt about that. It's how do we do it in an effective manner?

When I look at my speakers of other languages and look at their math scores, they approach the norm of the predominantly black children in my district; meaning that these children can serve and can be served in classes that are servicing now regular children -- other children.

Then there goes children who need, of course, to develop the proficiencies so that they can maintain in

classes. That's fine, and we will do that. And we will do that with great aplomb in Plainfield.

Flexibility is really important. It's important because the State has mandated so many other things. So that we can concentrate on efficiency and effectiveness, we need some ability to move. The State does have a responsibility for overseeing that bilingual children or speakers of other languages are served effectively. That's not going to diminish. And it's up to the Legislature, of course, to ensure that those things happen.

You gave them that responsibility with the monitoring. Evidently, you must be satisfied with that bill because they have that responsibility to check to see that all those things are happening so that we're not afraid of the fact that bilingual children will not be served. They will be. We will monitor ourselves, in addition to the State will monitor, in addition to parent groups and other groups who will be monitoring also.

My last point is the reality of the teacher crisis; that in my bilingual classes many of my teachers have emergency certification. I don't like that. I think that teaching is a craft. It's a superior craft, as a matter of fact. People ought to be trained into it and well trained, and not getting training as they come into the job. So that I would like to see regular teachers, also, teach children who are in bilingual classes.

The crisis is getting greater; it's not diminishing. We're not able to find teachers now to cover our other classes, so what makes us think we're going to be able to find bilingual teachers? And you can check the records with the colleges too. They are not graduating a lot of teachers in bilingual education. So the crisis will still exist. Thank you.

SENATOR FELDMAN: Thank you very much for your pleasant presentation and thoughtful-- I don't believe there are any other questions, so we'll move on now to John F. Patrick, Jr. of Lakewood.

J O H N F. P A T R I C K, J R.: Thank you for the opportunity to speak on behalf of the proposed changes. I testify on behalf of the changes contained--

SENATOR FELDMAN: Now is Lakewood part of the Urban--

MR. PATRICK: Yes, it is. Yes, sir.

SENATOR FELDMAN: Okay.

MR. PATRICK: I am an Urban Superintendent, and as some of my colleagues to the right proudly announced, many of us have completely passed all of the HSPT standards this year in the current testing. I think that's a milestone for all of us.

I testify on behalf of the changes contained in the proposed substitute legislation which will adequately provide for the education of children who are of limited English proficiency, while providing greater flexibility for the school personnel in the choice of delivery systems utilized to address those needs. The language of the Act is clear, and more consistent when students served by the Act are called "students of limited English proficiency" as opposed to previous terminology, "students of limited English speaking ability."

The Act clarifies that English as a second language means a developmental program of second language instruction as opposed to a concept of remedial instruction. It de-emphasizes without eliminating the responsibility to teach the history and culture of the country, geographic area, etc. of the native land, allowing greater concentration on the development of English proficiency.

The change requiring a full-time program when the history tests 20 or more limited English proficient students in two consecutive grade levels is a much more realistic standard.

for triggering program implementation, and ownership of the programs and the choice exercised by the district, assures the professional staff it will be able to maintain its focus on providing the best programs possible to meet the needs of students of English limited proficiency. As a previous speaker stated, I'm sure that my board of education, my professional staff, and my administrators have intentions of providing the best possible programs, and when they have any flexibility, they're going to opt for that choice.

We made the choices that were necessary to move us over the last eight years in our standardized testing to improve the results that we're attaining. Why should we reverse that and choose something that is less efficient when it comes to the flexibility that you may provide us here?

We extol local control and freedom of choice in professional participation at the decision making level -- the lowest decision making level -- as one of the strongest features of improving education. And I think you're doing that through this change. Thank you for the opportunity to speak.

SENATOR FELDMAN: Thank you. Just one question. You mentioned the proposed standards limited to two consecutive grade levels. Did I hear correctly on that?

MR. PATRICK: That 20 students in any two consecutive grade levels trigger the bilingual program as opposed to 20 students K through 12 as previously required. Twenty students distributed over a K through 12 program, as you in your opening remarks indicated, could be such a disparate setting that it would be very difficult to have a bilingual program in that particular situation.

SENATOR FELDMAN: Okay.

MR. PATRICK: Thank you.

SENATOR FELDMAN: Thomas Lane, Superintendent of Schools of Bridgeton. It's your neck of the woods.

SENATOR DALTON: That's right.

C. T H O M A S L A N E, I V: Good afternoon. I'm more or less the new boy on the street even though my hair displays me to be different. I've just become an Urban Superintendent in the last year or so. However, my experience with the bilingual ESL program started even before you had a law. I was the Director of the old Title I program in my town.

I walked into a classroom one day and saw some children sitting around a table. I couldn't quite understand, as I observed the instruction going on, why these youngsters were sitting quietly but not involved in what was going on in the instruction. So I went out in the hall and beckoned to the teacher. And the teacher said to me, "You know, they're nice children, but I can't speak Spanish and therefore, I really don't know what to do with them during this period." That caused me immediately, without any kind of laws that anybody made, to go up to Glassboro, pick up two or three people who were adept in Spanish, bring them back, and design, at that time, my own bilingual program.

So that the law came after the kinds of things I did. I don't know how lawful it was, what I did, to be honest with you, I was able, however, to get it through in terms of my application in providing a service for these boys and girls.

So when I come here this afternoon and hear you people talking about no bilingual, no ESL, I become a little bit upset with the whole idea of anybody even coming in here with that thought in mind. To me, the bill will give some flexibility, and as one who has worked in this over a period of years, I can say to you, I see a need for it.

I think we all have to agree that when we do a needs assessment of children, they all do not have the same need. Now what we're running across, especially now-- I spoke to someone in the hall just before I came in. They had seven youngsters, she said, just come in. Four of the youngsters-- Boom, they're moving that quickly. Now they need some other

types of things in terms of keeping these youngsters, letting them go ahead, and not holding them back. Three are having trouble.

Now to me, the kinds of things we are talking about in this bill will give us some of that kind of flexibility. The other thing that I was interested in is the idea of incorporating the cultural things for the LEP student. I can remember as a black teacher trying to bring in, what I called at that time, "black history" because it wasn't a part of the program in the district where I taught, and I was brought before the board of education, by a black member of the board for teaching black kids black history. And I think that's the worst thing that ever happened to me; I couldn't believe that. Now I'm saying to you, even that needs to be brought in as part of the experience so these kids get a realization that there were many kinds of things that contributed to our history.

So, as I look at this bill, and I'm not going to, because I'm one of those people who is like a Methodist minister; you know, you wind me up and you can't turn me down. However, I'm in full support of what this issue-- There are some things in here -- I'll be very honest with you -- I still have some concerns about. But basically, overall, I think the bill will give us the kind of flexibility we need to do a better program for the bilingual, ESL programs.

Now I've redesigned-- Actually, our whole school district in coming down the line with this, in order to provide better services for these boys and girls. And as long as I can do something to continue that, and I'm sure fellow superintendents feel the same way-- I serve boys and girls to the utmost of my ability, and sometimes if I have to do some things that maybe people frown about, as long as it's goods for kids, I try to get it done.

I thank you for the opportunity to speak. I'm a neophyte at this. I know nothing about it. I speak from the heart, because I speak what I feel. Thank you, gentlemen.

SENATOR FELDMAN: One question is, that you said you agree with the bill in principle, however, you have some reservations. Are they technical or what concerns have you because this bill, again, is not etched in concrete? There will be revisions. There will be modifications. We're listening to people, and if you feel there should be some technical amendments or some refinements, or a portion of the bill is not clear enough, please, let us know.

MR. LANE: Do you wish me to forward this in writing?

SENATOR FELDMAN: Please.

MR. LANE: I think it would be better. I mean but there's nothing, you know, to the extent that I would negate the bill.

SENATOR FELDMAN: Well you mentioned it and I didn't want you to feel that I'm glossing it over.

MR. LANE: Just a couple of things. I noticed in one area where it talks about the part-time bilingual education programs, which require an instruction in language arts, reading, and mathematics in the student's native language and english, I question whether we can do -- you know, do the Spanish and English at the same time. That seems to be, to me, what that implies.

The other one is where you talk about, in lieu, and I think later in the bill you already deal with that when you give the other kinds of ways that the programs can be developed under the okay of the State. So I think you've dealt with them. All right?

SENATOR FELDMAN: Thank you.

MR. LANE: Thank you, sir.

SENATOR FELDMAN: Anthony Marsella of Bergen County, of Hackensack -- the west bank of the Hackensack River.

A N T H O N Y M . M A R S E L L A: And a neighbor.

SENATOR FELDMAN: And a neighbor.

MR. MARSELLA: Nice to see you, and thank you very much for the opportunity to speak about this bill, which I think is an extremely important concern. Although I have a prepared statement, I'd like to maybe-- Some things that have been said that particularly disturb me because like my predecessors, I'm an Urban Superintendent, as well, in a district of 4000 kids. We have 33% of our youngsters that are black, 29% that are non -- origin other than white and black. We have 35 to 40 linguistic groups, the major group being Hispanic. In that school system, 250 youngsters need language assistance. One-hundred-and-ninety of them are Spanish; the other 60 are a variety of languages from Arabic to Vietnamese.

I was very struck by the fact that some people could consider that any of us would want to minimize programs that were helping kids. Hackensack has had a long history, 75 years, of programs for -- as English for foreign born adults as well as kids. In recent years we've had numerous young people. As a matter of fact, I might point specifically to our recent program which we honor the top 20 kids in the school system that graduate. We do this annually. It's our sixth annual.

Each year a portion of those youngsters are youngsters that came to our district who were non-English speaking when they began, and I need to tell you that as many youngsters that are in that group who have come through an English as a second language approach, have come through a bilingual approach.

So I don't believe that any one program -- and I think Dr. Galinsky said this very well -- that in any area of education, there's any one program that is the panacea for how to approach the needs of kids. So it's in that background that I would want to make my comments. I happen to be one of those districts to which you referred earlier, where the youngsters are distributed throughout the grades and through the schools.

I have four elementary schools, 190 Spanish speaking youngsters. That gives me an average of about 15 youngsters per grade. I have four elementary schools, therefore, on average I will have three to six youngsters in each school who will require bilingual programing under the present configuration. That makes it almost impossible to provide programs within the school.

As a result, in order to have effective and efficient programing we are forced, we believe, to bus those youngsters. We need to take youngsters from two of the schools and bus them to other schools so that we can come up with reasonable class sizes, reasonable configuration of youngsters, both across the grade levels as well as the skills that these kids have.

Now that is of concern to me for two reasons: First, we are disrupting these youngsters. They need to be shifted from their home schools to other schools. When they are phased out of the program, and they are usually within two or three years, particularly at an elementary school, and we return them back to their home schools, questions like that need to be resolved.

And secondly, and perhaps more importantly, I find in Hackensack, where we are required to have a desegregated system, that this works against that very goal that we need to achieve, which is a desegregated system. As a matter of fact, right now, we find that two of our schools are impacted with Hispanic youngsters as opposed to the other two. So we are on one hand dealing with the goal, or the need to provide for a desegregated situation, and then on the other hand, want to provide for a reasonable bilingual approach.

I would be the last person to argue against bilingual education. I believe that all youngsters that are in our schools that need assistance because of their other than English background, need to have some work in their native language. And I believe, wherever possible, we should provide for a bilingual setting.

But that does not mean that we must provide that setting in every component of their school day. And I believe this bill will allow us some flexibility in providing other approaches to young people based on the needs of our particular district.

Now, I need to just add a couple of other items. I don't believe this bill addresses some other concerns that we would have in Hackensack. For example, annually young people tell me that they are disturbed -- I'm referring now to the LEP youngsters -- disturbed and angry because at the secondary level, they are often forced to take courses-- I should put it another way, they are prevented from taking courses they would like to take because under the law, they must be in a bilingual component of that course; for example, a youngster may wish to take algebra II and is required to take mathematics in a bilingual setting because they're still in the program.

Now, I also believe that in our present setting of the bilingual law, we are systematically segregating youngsters throughout the whole day, and that is not, I think, to the benefit of our kids. Many of our Hispanic youngsters in our school district are segregated from the rest of the population through most of the day, and it would be beneficial to us if we are able, under certain circumstances, to allow for that flexibility. Thank you.

SENATOR FELDMAN: Thank you, Anthony. When we talk about Hispanic students in Hackensack, can we throw a blanket over them? I mean, their place of origin whether -- do you include the Colombians or Ecuadorians, which you have a number of Colombians in Hackensack -- or Puerto Ricans or Cubans?

MR. MARSELLA: We have a wide variety. The Hispanic population in Hackensack comes from a variety of countries: South American, Central American, and the islands.

SENATOR FELDMAN: Of course, one of the largest in Bergen County. Thank you very much and good luck in your position.

MR. MARSELLA: Thank you.

SENATOR FELDMAN: Thank you. James -- I'm sorry-- (confers with staff) From Bayonne, New Jersey, James H. Murphy. J A M E S H. M U R P H Y: Good afternoon, Senator Feldman, Senators. As both the President of the New Jersey Association of School Administrators and as an Urban Superintendent, I am here today to ask the members of the Senate Education Committee to support the proposed substitute for S-2967, sponsored by Senator Feldman.

You're aware, as previous speakers and several of my colleagues who have already spoke before me have said, a considerable amount of work has been done on this substitute bill. During the past nine months, a very valuable dialogue has taken place among several of the interested educational organizations, with the result that a very workable substitute bill has been drawn.

The situation in school districts today, I believe, is very different from 1974 when the Bilingual Education Act became law. Unlike 1974, when school districts were dealing with one major non-English speaking population, the Hispanic child, today many communities have student populations who speak dozens of languages. The very diverse needs of these students demand that school districts develop educational programs tailored to meet the needs of the individual child. And here today, I think the key word that you heard several times is, "the need for flexibility." It is not sensible, in my opinion, to require full-fledged bilingual programs for individual students whose educational needs may be better met through a different instructional program that will meet the same goals.

We must recognize that some populations of students today bring to school with them different levels of previous education and experience. The lock step current regulations must be revised, in my opinion, to make way for the changing times.

The compromise bill will guarantee, as previous speakers have already said, that the individual educational needs of every limited English proficiency child is met through an appropriate program approved by the State Department of Education. Safeguards have been built into the substitute bill before you, to ensure maximum educational opportunity for every student.

I wish to emphasize, again, that the substitute bill is a result of dozens of hours of discussions with many educational groups of varying opinions. All opinions were seriously considered, and dozens of language changes were made to accommodate objections. The finished product is a considerable improvement over the existing statute, and in my opinion, will increase educational opportunity. The Executive Committee of my Association, NJASA, composed of representatives of each of the 21 counties, has enthusiastically endorsed the bill. In addition, the Urban Superintendents' Committee, as you've heard previously, gave its endorsement once several language changes were incorporated.

I urge you to support the bill and work for timely approval in both the Senate and Assembly. And thank you very much for your time here today.

In conclusion, I'd just like to say that I didn't spend nine months working on this, but I know the work that's gone into it through my colleagues -- and you've heard several of them here today. I, in my community, have a very successful bilingual program and a very successful ESL program. Both programs work. In my opinion, neither program will be diminished. But the key is going to be, will it give us the

flexibility at the local district level to meet the needs of the individual child? I think that's the key. And I think today with the populations that we have, especially -- not just in the urban areas, but throughout the State -- I think that it's something that's well worth looking at, and ask your consideration.

SENATOR FELDMAN: Thank you very much, Jim. Any questions for Superintendent Murphy? (no response) Our next witness-- We're moving along now and, again, all of this is down on tape. Jack Eisenstein, Director of Urban Affairs for the New Jersey Association of Superintendents.

JACK EISENSTEIN: Thank you, Senator Feldman, members of the Committee. I'm going to be brief. My main purpose in being here is to make sure that the Urban School Superintendents of the New Jersey Association of School Administrators were on record. We helped spearhead some of these changes and suggestions, trying to work with the interested bilingual people throughout the State of New Jersey: personnel, teachers, and administrators.

And I can tell you firsthand, the intent is not to destroy -- as Mr. Galinsky has said and Mr. Sinatra has said, because they worked very, very closely with us. The intent is not to destroy bilingual education as we know it, or ESL education as we know it, but to give strength to districts to try to bring a law that was perhaps -- it was written in 1974 -- up-to-date to 1989.

I think a thing we want to be concerned with, and I think Senator Dalton might have alluded to it indirectly, is the fact that the code-- You said you wanted something specifically in the law to make sure that the changes that might come about -- what the intent would be there. I think some of that has to come out of the Department when it writes the code, hopefully when some legislation is passed.

And I think when the code is written is where these safeguards have to be ensured. I think at this point, the public that's here today that looking to protect the interest of bilingual education will be forthwith with the State Board of Education to make sure the new code that will have to be rewritten to implement a new bill, if it does take place, will be ensured.

So with that in mind, it's my opinion as to what takes place, I can say that we urge you to support it. Urban Superintendents in the State-- Our organization represents 36 out of the 56 urban districts in the State of New Jersey, and we hope that the changes in the amendments will take place. Thank you.

SENATOR FELDMAN: Thank you very much, Jack. Say hello to my brother when you see him.

MR. EISENSTEIN: I will.

SENATOR FELDMAN: I wish the witnesses-- Atlantic City, will tell us when they call in whether or not they are doctor, whether they be Kearney, or Galinsky, or Patrick, or Lane, or Lee, or Testa because you've earned that degree. We'd like to have you down with a degree that you have earned. If you're not a doctor, fine. I'm not one either, neither is Jack Ewing.

SENATOR EWING: Who said so? (laughter)

SENATOR FELDMAN: You have your doctorate? Sure, you've got a few honoraries, right? All right, now, Judy Savage. She picked the shortest straw in the Department of Education. So because of that, she was sent over here for punishment. Okay, Judy.

JUDITH F. SAVAGE: Thank you very much. I'd like to just preface my comments by commenting on the many, many people that made the trek down to Trenton today because they feel this is such an important issue. And while we may look at this bill in a different light, I think we all share the same

goal; that is, making sure that limited English proficient students get the best services they can get and have the best possible chance for success. So I really just want to commend them for being here today.

I'd also just like to say from the outset, that the Department of Education is extremely committed to bilingual education and ensuring that students get the best possible services.

The Department supports the Committee Substitute for S-2967. We'd like to commend Senator Feldman, as well as the many superintendents, for all of their work with the various groups including the Department, to refine the bill so that it will best meet the needs of students, parents, and school districts.

We believe this bill would be a major improvement because it will better allow school districts to meet the needs of all limited English proficient students. As has been noted here today, demographics have changed dramatically in the 15 years since the existing law was drafted. With 125 different languages spoken by students in schools throughout the State, the number-driven approach to bilingual education is no longer appropriate in all cases. When students are scattered through a number of grades; for example, when the language in question is an uncommon one where it might be impossible to find a variety of teachers to teach high school level subjects in that native language, it's unreasonable to require a full-time bilingual program. The law should be updated to provide for the changing needs and circumstances in the area of bilingual education.

The Department of Education supports S-2967's provisions for part-time and alternative bilingual programs approved by the Department in cases where a full-time bilingual program is impractical. Such provisions should not affect most

existing full-time bilingual programs. When such programs are the best option for students, we fully expect that they would continue unchanged.

An additional benefit of Senator Feldman's bill is the requirement that bilingual programs be provided for all limited English proficient students. The current law does not require programs when there are less than 20 limited English proficient students in the district. Existing regulations do not require a formal program taught by a bilingual or ESL certified teacher when there are fewer than 10 limited English proficient students in the district. This bill would require that even one limited English proficient student be provided with some form of formal bilingual program which is appropriate to that child's needs.

So in summary, we support the bill, and I'll be happy to respond to any questions.

SENATOR FELDMAN: I know there will be a few. My first one would be that we noted during this testimony that if a district has 20 students of the same language, they must provide bilingual education. How often, and under what circumstances does the Department allow exceptions to this provision of the current law? And what is the nature of these exceptions or alternative programs?

MS. SAVAGE: If you don't mind, I'm going to call in Jay Doolan who is the Manager of our Bilingual Education Office, since he's the expert on this, and he can help me respond to these technical questions.

EDWARD J. DOOLAN: Good afternoon.

SENATOR FELDMAN: Because we are waiving the law which is sort of against the law. We're asking for a waiver of a variance. Okay?

MR. DOOLAN: Right. There are a number of restrictions that we have invoked when an alternative program is provided: 1) The program or the alternative must be

developed in consultation with, and approved by, the Department of Education. They are only allowed when it's evidence related to size, scope and quality of the program would indicate that it would be unreasonable, educationally unsound, financially unable for a district to implement a full-time program. And the bottom line is, the alternatives that are allowed are essentially what we would consider phase-in models to a full-time bilingual program.

You, yourself in the beginning, Senator Feldman, indicated that it is very-- When a district has a small number of limited English proficient students scattered throughout the district in several school buildings, in kindergarten through twelfth grade, that it would be difficult to confine all of those students into one classroom to provide a full-time program of service. That essentially is our bottom line in terms of providing or allowing the districts, to waive the time requirement, to allow an alternative.

I don't have statistics in terms of the numbers of alternative programs that we currently allow. There are some districts that have sizable programs, larger bilingual programs that in one school building or perhaps at the high school level do have an alternative program that we've approved. You asked what the programs are that we currently allow in terms of the alternative?

SENATOR FELDMAN: And how many students are currently served in the bilingual programs of our State?

MR. DOOLAN: Well, currently we are serving approximately-- Well, let me begin by saying that there are approximately 36,000 students of limited English proficiency in the State -- in all of the districts in the State. About 34,000 of those students are receiving service in a formal program. There are about 70 school districts that are providing bilingual education programs, and of those 70 districts, there are approximately 28,000 students that are served in those programs.

The other districts -- some 190, I believe -- are providing English as a second language only programs. Those are districts that have less than 20 students of limited English proficiency in one language group.

Our current Administrative Code provides that a district implement a formal ESL program if there are 10 students of limited English proficiency, regardless of language background. So as a result, the majority of our districts are providing ESL only programs because there are sizable numbers of limited English proficient students, but not one language group that has 20 or more.

The bulk of the 36,000 students that are served, are served in the 70 districts that have bilingual programs. But there are approximately 270 districts that have bilingual and/or English as a second language programs in the State.

SENATOR FELDMAN: The proposed law requires -- this is not the current law, but the proposed legislation -- requires that a full-time program in bilingual education include instruction in English as a second language. Does the inclusion of the requirement mean that English proficiency must be taught without the use by the student of his or her native tongue?

MR. DOOLAN: You're talking about the bill that is currently proposed?

SENATOR FELDMAN: Yeah. Right.

MR. DOOLAN: Yes, it does. In my understanding, English as a second language would be-- An option would be another program model that a district could implement if they did not fulfill the requirement of 20 or more students in a consecutive grade level.

SENATOR FELDMAN: Dan, do you want to follow up?
(Chairman confers with Committee)

MR. DOOLAN: I may not have understood the question.
Excuse me, Senator.

SENATOR FELDMAN: Well I'll try to rephrase it after--

MR. DOOLAN: Right. There was a lot of information that I just gave, and I wasn't--

SENATOR FELDMAN: Must English proficiency be taught without the use of the student's native language? Can you teach English proficiency without the use of the student's native language?

MR. DOOLAN: There are ESL programs that are currently implemented in the State that do just that. ESL programs are conducted in English only, and those students are taught English without the use of their native language.

SENATOR FELDMAN: That was the question.

MR. DOOLAN: Okay.

SENATOR FELDMAN: Has it been successful?

MR. DOOLAN: ESL only programs? ESL programs have been successful, as well as bilingual programs have been successful.

SENATOR FELDMAN: Do you monitor these programs?

MR. DOOLAN: Absolutely.

SENATOR DALTON: How many students are served in ESL programs? Did you give that statistic?

MR. DOOLAN: Yes, let me get that for you. Let me explain the difference between an ESL only program. If you recall, I indicated that that is implemented if a district has ten or more students, regardless of language background. There are currently about 190 school districts that are implementing ESL only programs, and they serve approximately 6000 students. Currently, as we implement the Bilingual Education Act, ESL is a component of the bilingual education program. So essentially, every student that's limited English proficient and served in a bilingual program or an ESL only program, gets ESL. So ESL is a component of bilingual education as we currently implement it.

SENATOR DALTON: Your ESL program, you indicated that it was -- don't let me put words in your mouth -- that it was generally successful?

MR. DOOLAN: Yes.

SENATOR DALTON: Okay.

MR. DOOLAN: It's successful in those districts that have implemented ESL only programs.

SENATOR DALTON: Tell me about the success rate.

MR. DOOLAN: Well, we know that in bilingual programs as well as ESL programs, the average rate of exit from those programs is approximately three years. In some cases, depending upon the English language proficiency of the students, it may be less. I should say that there is a great difference between a full-time bilingual program and an English as a second language program. I think previous speakers indicated that.

ESL only is a part-time program. It is usually a pull-out program so that a student is in the mainstream for the majority of the day and is pulled out or served in class with a certified ESL teacher. So an ESL only program does not have the full scope of program services as a bilingual program would.

SENATOR DALTON: But you're-- I asked for the success rate of the ESL program. Do you have that?

MR. DOOLAN: ESL essentially is lumped in with our bilingual program statistics. We haven't looked, essentially, at the difference between ESL and bilingual in terms of our technical reports.

SENATOR DALTON: But in the bill that you're proposing, you're proposing that a district can go to ESL, okay? If we go to ESL or we give that ability to go to ESL, don't you think we better know some data about ESL?

MR. DOOLAN: Yes, but the bill was providing the flexibility to go to that. As Judy has said in her testimony, we don't envision, based upon our own regulations, should the bill ever be adopted, that districts would be able to automatically go into ESL if they had currently implemented a bilingual program.

SENATOR DALTON: I'm not talking about automatically going into ESL. I'm talking about the criteria for going to ESL. I'm talking about the success of ESL, and I want to get for this Committee the success rate of ESL. Can you get that for me? Can you pull that information out?

MR. DOOLAN: We would certainly have to study it. Yes, I could certainly-- We would make it a point to provide that to you.

SENATOR DALTON: Let me ask you just a couple more questions, and then I'll turn it back to the Chairman. You indicated that there are no statistics or no data with regard to "alternative programs." The number of types--

MR. DOOLAN: There is no data that has been compiled. We certainly know those programs that we've improved.

SENATOR DALTON: Okay. Do you have-- The programs that you approve, how do you group them? Alternative programs: Is there any group or is there any, sort of, general category they come under?

MR. DOOLAN: Yes. It would come under the category of alternative programs that we, in our guidelines, have allowed, essentially for program models to be implemented. And they would pretty much be grouped according to those program models.

SENATOR DALTON: What are those four program models?

MR. DOOLAN: One is called a bilingual part-time program or a pull-out program. The second is a bilingual tutorial program. The third is high intensity ESL. And the fourth is a resource room approach.

SENATOR DALTON: Do you have a handle on the success rate of those alternative programs?

MR. DOOLAN: We have not studied those specifically, no. We studied the data.

SENATOR DALTON: Can you provide that to this Committee?

MR. DOOLAN: I will certainly take an opportunity--

SENATOR DALTON: See, you're asking us to go ESL if they meet a criteria; the criteria, by the way, as it's spelled out in the bill. Or you're talking about alternative programs. Now if this Legislature is going to recommend to -- or give you the ability to do that, okay? -- then I think that we should have some data as to how successful they are, before we make that recommendation.

SENATOR FELDMAN: We would like to get the answers to that, please. (applause)

MS. SAVAGE: Senator Feldman, if I might just elaborate. What we could certainly do right away is to look at some specific district programs, specifically ESL only programs and specific types of alternative programs, and report back on the success of various districts. It would be hard to do a statewide snapshot on all these various alternatives, but we'll give you some specifics from individual districts.

SENATOR FELDMAN: At least it will give us some information.

MS. SAVAGE: Absolutely.

SENATOR DALTON: Let me be definitive, okay. Let me--

MR. DOOLAN: One of the critical things--

SENATOR DALTON: Wait a minute. Wait a minute.

MR. DOOLAN: --that would be important to get from you, Senator, is what specifically you define as success? I mean, do you have some specific criteria that you would like us to look at?

SENATOR DALTON: You use your own definition and then define it for me, okay? Additionally, I want those statistics across socioeconomic backgrounds. Okay? Not just one.

SENATOR EWING: You know, we've got a short budget. (laughter)

SENATOR FELDMAN: Our current law provides that a student would be entitled to participate in a bilingual program for a period of three years. The proposed legislation provides

that a student participate until such time as the student has demonstrated sufficient mastery of the English language. What does the Department consider "mastery of the English language"? And also, in the experience of the Department, how long does it take for most non-English speaking students to master the English language? Would some students possibly be kept in the program for more than three years?

MR. DOOLAN: Yes, absolutely. The reason that we support the phrase "demonstrated sufficient mastery of the English language" is just what you had mentioned; the fact that some students take longer than a set period of time to acquire English proficiency. They take longer than -- certainly than the three years that was spelled out in the original law.

We currently measure mastery of English through what we call an English Language Proficiency Test. This is a standardized test that focuses in four areas: English listening, speaking, reading, and writing. We have standards and norms on two language proficiency tests and students are entered into the program or exited from the program based on those two language proficiency tests.

Generally the majority of students exit from our bilingual ESL programs in about three to four years. Some students take less than that. It depends on the level of English proficiency they have when they come into the program. Some students speak English to a small extent -- to a larger extent, whatever. So that some students are able to deal with bilingual or ESL programs in a small amount of time, one to two years. Others who come in speaking little English sometimes need far more. This would allow those students who need to take more than three years, the opportunity to be in those programs for as long as they need to acquire English proficiency.

SENATOR FELDMAN: Is bilingual education, when it is administratively possible, a more desirable approach to

instructing students with limited English proficiency, or is ESL a more preferable approach?

MR. DOOLAN: Bilingual programs would be the preferable approach. There's no question in our mind that that is the case.

SENATOR FELDMAN: I wanted that made clear. And you've made it clear.

MR. DOOLAN: Thank you.

SENATOR FELDMAN: Thank you. If there are no further questions, then I want to thank you. This is your first appearance before this Committee?

MR. DOOLAN: Yes, it is.

SENATOR FELDMAN: All right. Good.

MR. DOOLAN: Thank you very much.

SENATOR DALTON: Hey, Matty?

SENATOR FELDMAN: Yes?

SENATOR DALTON: For the record, can I ask you just two more questions? And I'll be very brief.

MR. DOOLAN: Certainly.

SENATOR DALTON: In the current school year, how many less students will be required to be in full-time programs if the new standards are implemented?

MR. DOOLAN: Quite frankly, we've not-- Our data is not collected according to the new standards, and we have not looked at the impact of that, essentially because we don't have the data. We do not collect data in terms of program implementation by grade level, by school. Our data is school district based, and we do have numbers of total students of limited English proficiency in a school, but not in a particular grade level.

SENATOR DALTON: So if I were to ask a further question, that if you made the standard 20 students in two consecutive grades, you wouldn't know the impact of that, even?

MR. DOOLAN: No.

SENATOR FELDMAN: We would like--

SENATOR DALTON: How about the school district?

MR. DOOLAN: Pardon me?

SENATOR DALTON: School or school district?

MR. DOOLAN: We would know the total number of limited English proficient students served in a bilingual or ESL program, by school. It is not broken down by grade level. We do collect-- Because essentially we are operating under the current law, and are implementing the current regulations, which require that students be provided a bilingual program if there are 20 or more in an entire district. So all of our efforts have been to implement the current regulations.

To provide data to you on the new, I think, would be premature. And our whole data collection system does not have that information.

SENATOR DALTON: But having both, without having the data, would be premature. (laughter)

MR. DOOLAN: Thank you.

SENATOR FELDMAN: The questions that have been unanswered, please forward answers to these questions to this Committee--

MR. DOOLAN: All right.

SENATOR FELDMAN: --as soon as possible.

MR. DOOLAN: Very good.

SENATOR FELDMAN: All right, thank you.

MR. DOOLAN: You're welcome.

SENATOR FELDMAN: Mr. Jose Delgado. (applause) I know it's Mr. Delgado's return performance here.

J O S E E. D E L G A D O, J R.: By popular demand.

SENATOR FELDMAN: All right.

MR. DELGADO: Mr. Chairman, I thank you again for giving us this opportunity. I don't have a doctorate, but I have a high degree of frustration after hearing all the testimony that has been given. And I've grown through this

experience, because I had to sit there for over an hour-and-a-half and hear half-truths and misrepresentation of data, and more importantly, misrepresentation of the needs of students. But again, I'm going to have to grow, a little longer and with the indulgence of the Committee, I would ask if Marienne Moro, who is a student, be allowed to speak at this time, because she has to leave. She's a student. And I was wondering if the Committee would be so kind as to let her speak at this moment, so that she can go home?

SENATOR FELDMAN: You know, there are many on our list and we cannot get to everybody today by five o'clock. And if you would capsule your remarks-- I just want to be fair to everybody. I mean nobody-- This was not taken alphabetically, but in the order that Dr. Schorr received these witnesses. So if you want to capsule your comments in a few shorts minutes, okay, and take it away from Mr. Delgado's time, that's okay with me.

M A R I E N N E M O R O: I just wanted to give you an example as one of the many people who have benefited from--

SENATOR FELDMAN: Can you speak up, please?

MS. MORO: (complies) I wanted to give you an example as one of the many people who have benefited from the bilingual program. I came to the United States in 1980 with the Mariel immigration and entered the fourth grade without any knowledge of the English language. Thanks to the bilingual program, I was able to receive classes in my native language, while also learning to speak English. This enabled me not to fall back in classes such as mathematics and science.

And within two years I was out of the bilingual program and entered the program for gifted and talented at Jefferson Magnet School. After graduating as valedictorian I went to Emerson High School where I have been able to partake in programs such as the National Honor Society, student

government, and even this summer will have the honor of representing Hudson County in the Governor's School of the Sciences at Drew University.

Not if it wasn't for the bilingual program, I really believe that things would have turned out very differently. Primarily, it is unlikely that a teacher whom I could have not even communicated with, would have recognized me as a candidate for the gifted program. I might have just been left in the background. And where I am now, it would have been impossible.

I'd like to thank you for your support of the bilingual program in the past, and I just hope that you'll continue it. I believe that many students will be capable of doing what I have accomplished and much more, if only they are given a chance through the bilingual program. I hope that it will not be changed, and it will continue to give the opportunities that it has given me. Please continue to support the bilingual program.

SENATOR FELDMAN: All right, thank you. Short and sweet.

MR. DELGADO: Senator Feldman, I'd like first to begin by conveying a message from Assemblyman Wayne Bryant. He asked me to tell you that he opposes 2967. He suggests that the energies of this Committee would be better served if we would be looking to overturn some of the initiatives emanating from the Department of Education and the State Board of Education that have been used to undermine what is happening in bilingual education at the local level, i.e. multiple exit criteria. He felt that a more proactive stance for limited English proficient children would be more effective.

Secondly, I think that before we begin to discuss this whole issue, we have to understand that this is a civil rights issue. This is not an issue about language, or legislative language, or amendments, and so forth and so on. The rights of

limited English proficient children are covered in Title VI under "Equal Access as National Origin Children." And basically it says, you can't deny a limited English proficient child the right that any other child has; equal access to an education, based on his inability or her ability to speak English.

The Supreme Court has also ruled in Lau v. Nickels, which by the way was a suit that dealt with Asian students, not Hispanic students, because we hear a lot about the Asian student being somehow culturally superior, or their families being perhaps more supportive than Hispanic families in some way-- And it's important to note that there was two classes in Lau v. Nickels. One class of Asian students, Chinese students to be specific, were not given anything. They were placed in the classroom and told to learn. Immersion. Someone suggested, "Let's try Immersion."

They were trying Immersion, but the most interesting was the second class. These were Asian students that were receiving ESL. And then they were being placed in the mainstream classroom. The court found that these children were being denied their due process, according to their interpretation of the laws.

Basically they said that asking a student to learn in a language they can't understand or expecting them to postpone learning until they learn English, is to make a mockery of education. And I don't think the purpose of this Committee -- even though the purpose of, perhaps, 2967 is -- is to make a mockery of education.

Let me just make a special note. I am not here to say that ESL is not effective. Senator Dalton asked this question. ESL is effective. It does what it is supposed to do. It teaches English. Under the thorough and efficient mandate, limited English proficient children have that right. But they also have the other right which is to receive a

thorough and efficient education. Explain to me how you can get a thorough and efficient education when you're pulled out of ESL classes for 35 minutes, or 45 minutes a day and then you're stuck back in science or algebra and social studies, and you don't know what's going on?

Now if you want to change the definition of thorough and efficient, fine, because you'll be doing it if you pass this bill, because that's exactly what this bill does. It elevates ESL instruction, monolingual English instruction, structured Immersion, all the other alternative programs -- God knows what they are? -- on the same level as bilingual education.

The other thing too is that, you know, I wrote this before I heard the testimony from some of the very learned superintendents. Either they are unaware of the research or they're presenting misrepresentation to this Committee. I hope it's the former. I hope they don't understand the research or they have not had the time to read the literature, because I know that superintendents are very busy.

ESL was attempted prior to 1975. I say that again: ESL only was attempted prior to 1975. This Committee, the Department of Education, the people of New Jersey vis-a-vis their Legislature, found that to be inadequate. So I don't think we have to argue whether ESL is effective. It is effective. I'm not arguing against ESL. I'm not arguing against flexibility.

We have flexibility currently, as was pointed out to me when I came to this Committee the last time. That flexibility is outside the law. And I am totally in favor of bringing that flexibility into the law with the conditions that currently exist in the guidelines, i.e. that this is a phase-in model; that this State of New Jersey recognizes that limited English proficient children, if anything else, have the basic right to understand what the teacher is saying. That's all I'm saying. That's all we're all saying.

You say we're getting emotional. Well, I get emotional because I spent many years in a classroom not knowing what in the world was being said to me. And if you ask my superintendent and if you ask my teacher, "Oh Jose's a very nice boy. He doesn't say anything," (applause) "He behaves himself." And if you ask that superintendent -- whoever in the hell he was -- he would probably say, "We met our responsibility to Jose."

He would tell you that because no educator -- until I heard someone say something today -- no superintendent or no educator would come up to you and say, "We're not meeting the responsibility of the students." Of course they're not going to say that to you. Yet I heard one superintendent say that limited English proficient children are being precluded from taking math and science and other classes that they want to take because they can't speak English. He admitted this in this very chair to you. He is violating the law.

Those are the comments-- There are so many other things, Mr. Chairman, that were said to this Committee. Someone made the comment that bilingual education impacts on desegregation. It does not. Limited English proficient children or children who can be, are excluded for educational purposes, and the inability to speak the language excludes them from being counted in whatever formula the district is forced to do that. How do I know? It happened in my district. The Office of Equal Educational Opportunity, if you would call them, would verify that, because I asked that question, and on a daily basis I have to make sure that in my district it's enforced, because many of the principals don't know that.

The other thing is that someone made a statement that the law doesn't say-- Someone said that the law says that if there are 20 or less students, they get ESL. The law doesn't

say that. That's the Administrative Code. So we've got superintendents that don't know the difference between the law and the Code.

The other thing, too, is that many people in this room, none of them who, by the way, represented the language minority communities that are affected, and that's important here-- I think that I don't have 40 years of education behind me, but I have a lot of years being miseducated -- and I'm an elected official of the language minority community, and I think that gives me a little bit of status. I'm an elected board member.

Any time that I hear flexibility -- as a Hispanic -- local flexibility in this State, the first thing that comes into my mind is that in the whole State of New Jersey we have 41 elected and appointed officials, in the whole State; that's boards of education, we have one Assemblyman, and so on and so on. So local flexibility to a Hispanic doesn't mean local control, okay, and that's important. So when people come to this Committee and say, "Oh, we want flexibility so we can meet the needs of the students." According to whose standards? Their standards, not our standards, because we're constantly fighting for the rights of our children to receive a thorough and efficient education, even with the current law.

Now, when I was here the last time I talked to you about the frustration and the emotional baggage that I still carry as a result of my English only very effective program. And by the way, again, effectiveness is very important. ESL is effective to do what it does, to teach English. But it doesn't teach-- It doesn't have the capability-- It was not designed to teach the content area, and anyone that tells you that, is lying. And I will say it to their face. It is not intended to do that. And the children have that right.

I'm looking at the wrong testimony. Excuse me, Senator Feldman. I'm looking at my last testimony.

Now, the testimony that I gave last time, Mr. Chairman, unfortunately is relevant today, because the current version, 2967, is merely a camouflaged version of the original. It's the same bill. You changed some words. You put bilingual back in, and then you put the word "unless." But it's the same bill.

These amendments would have us deny the terrible experience of LEP students prior to passage of the bilingual education law. That's what you're doing. They would have us ignore the research data which demonstrates the effectiveness of bilingual education and the ineffectiveness -- ineffectiveness of monolingual English instruction. That's not a personal opinion, that's the research data.

And they would have us accept the dangerous assertion that education legislation should be tailored to meet alleged cultural and racial differences as opposed to educational need. Unfortunately some individuals are prepared to do exactly that, in order to further their particular agenda.

I think it important that the Committee understand that I am here as an advocate of all, and I repeat, all children who are of limited English proficiency, and I speak on behalf of the parents of these children. I am not here to advocate for administrators, bureaucrats, school board members, teacher organizations, nor politicians masquerading as educators. My mission is simply to ensure that the State does not march backwards to those pre-1975 days which saw so many thousands of LEP students destroyed by a system unwilling to acknowledge or meet their educational needs.

I would like to speak to two amendments found in the bill. The first would eliminate the "finding" or "condition" which the Bilingual Education Law was enacted to correct, namely: "Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language."

Senator Dalton asked that question. I must say the response you got was very lame. There is no reason to eliminate that. This statement represents this Committee's original "finding" that English as a second language and remedial classes or monolingual classes were ineffective in providing limited English proficient students with a thorough and efficient education.

Mr. Chairman and members of the Committee, nothing has changed. This is still true. Why are we moving backwards? How many thousand more children do you have to see hurt before you go back again and say that we want to mandate bilingual education in all districts, where possible.

The Committee may wonder what the deletion of this statement has to do with expanding flexibility? That's a very good question. The answer is, nothing and everything. Nothing, because flexibility could be had without deletion. Everything, because it is first necessary to deny or ignore the past before we can revisit it. It is perhaps the best evidence that the interests of the children are not the main motivation behind these amendments. To accept this particular amendment is to acquiesce to the proposition that is is first necessary to contradict the past and ignore the need before we can move to alleviate, or better said, prevent pain. I am positive that this Committee does not wish to be a party to this travesty.

Finally, speaking as a former LEP student, I find this amendment to be particularly repugnant, because it is an attempt to make light of my experience in a monolingual English class. The law, as it stands now, is a belated but appreciated apology for what this State did to thousands of LEP students. Don't take back the apology.

The second amendment tinkers with the English language by offering a new definition of bilingual education. The new definition proposes that this term would now mean, "Programs that afford the opportunity to students of limited English proficiency to acquire English proficiency," so forth and so

on. This is a beautiful expression of the outcome goal of bilingual education, but it is not a definition of anything, let alone bilingual education. In fact, this statement describes what we expect education to accomplish for all of New Jersey's students.

The definition of bilingual education is not negotiable. Anyone interested in pushing for a definition should petition publishers of dictionaries, not this Committee. But for the record, bilingual education refers to the use of two languages for instructional purposes.

Again, it may be asked, what does this statement have to do with expanding flexibility? Again, the answer is, nothing and everything. Nothing, because flexibility could be had without torturing and abusing the English language. Everything, if one's intention is to facilitate the implementation of educational approaches which are not bilingual education and whose ineffectiveness is an accepted fact in the literature.

These amendments and others that I could mention require that we accept the proposition that monolingual English approaches are effective for providing a thorough and efficient education to limited English proficient students. I would be surprised if someone does not come before you and attest, using anecdotal evidence, to the effectiveness of their monolingual English approach. And I was right. People sat here and gave you, "This one's a valedictorian," and so on, and so on.

But the research literature and our own experience does not support this popular misconception. ESL classes may be effective at facilitating the acquisition of English, but they are not thorough in that they are not designed to contribute to the cognitive and academic growth of LEP students.

Proponents of these amendments attempt to sidestep reality by proposing some rather troubling opinions. They

suggest that the current law was enacted in response to Hispanic LEP students. That is a false bold-faced lie. LEP students that existed in this law when the bill was passed were not only Hispanic; there were other Asian and other students here. They compound this error by asserting that Asian Americans, Indians, and other ethnic groups present different needs and require different approaches than the transitional bilingual technique -- which is a statement from Mr. Galinsky. He wrote it in 1977 -- '87, I'm sorry.

These statements are not only preposterous, they are dangerous. They suggest that cultural and ethnic differences should be used when developing educational legislation. Where would this lead us?

In a recent article written by two researchers, entitled "Assessment of Linguistic Needs of Korean--" -- and listen to this -- "Assessment of Linguistic Needs of Korean Students;" not Hispanic students -- "Korean American Students in Northern New Jersey: Implications for Future Directions," it was observed in this article that, and I quote, "While school officials state that, in their experience with Asian students, bilingual education has limited value Asian students say that some home language instruction would be useful." And I would quote what one student said, and this appeared, by the way, in I think the Union Record (sic) in a story that was written in response to Mr. Galinsky at that time trying to push the previous version-- One student who was interviewed said, -- and this is a Korean student -- "I had a science class. I didn't know anything. I was just sitting there drawing, and it was a waste of time." This is a student that is now, then was enrolled, in a successful ESL only program. I think the consumers have something to say to this Committee also.

I hope that the Committee will consider and approve a series of amendments proposed by the various language minority

communities which significantly increase flexibility, while respecting the needs of the students.

Let me just add, and I was asked to say this to the Committee, and this is the last statement, Mr. Chairman -- I know I'm taking a lot of time -- I have to use, from memory-- It was stated here that Urban Superintendents approve this bill. My superintendent didn't. My superintendent sent a very strong letter to that committee. And I am told that the committee never met and voted on this particular amendment. Now, the people who were there know about this. I wasn't there but I trust their-- I trust what they say, because I don't think they would make me look like a fool up here by telling you this.

Let me just also say that it was stated by the Urban Superintendents and one of their representatives that they spent a long nine months-- They may have wasted those nine months. But they said it was a product between them and some of their staff. Now, let me just say that. I don't think -- and I may be wrong -- that you can have a dialogue or negotiation between a group of superintendents and staff members. Now maybe you do it with your staff, but I know my superintendent doesn't do it with his staff, and I don't think these superintendents did it with those people. Those people were at a disadvantage. They were not there.

And finally, Mr. Chairman, none of the language minority communities, be it ASPIRA, the Puerto Rican Congress, myself as an elected board member, and I can go on and on and on, have even been contacted or have had any input into this bill. Now I remember when the first bill was put together, it was a broad, comprehensive, enriched coalition of individuals whose focus was the interest of children; not facilitating, not taking care of the problems that superintendents are having, and so forth and so on.

I personally feel that the law should be amended to reflect, again, what the guidelines say, okay? But I don't think that we can sit idly by and say that I, as an elected official, would acquiesce to the proposition that the fate of Hispanic children or language minority children of all ethnic and racial backgrounds should be trusted to boards of education and superintendents who are not reflective of the communities they're dealing with. How many boards of education are, shall we say, controlled by language minority communities? None.

SENATOR FELDMAN: All right. If I may, there is a common thread throughout your presentation -- moving presentation -- that you feel this bill should be amended -- should be modified.

MR. DELGADO: Yes, sir.

SENATOR FELDMAN: I would love to have a copy of those amendments which I have never received. I would love to have a copy of those amendments, because you and I know the bill -- that the current law deserves and demands some improvement.

MR. DELGADO: It does.

SENATOR FELDMAN: Now I want you to present to this Committee the recommendations that you talked about with your peers and colleagues in the field of education.

MR. DELGADO: But--

SENATOR FELDMAN: And let me--

MR. DELGADO: --let me just respond to that, Senator, for a moment.

SENATOR FELDMAN: Yeah.

MR. DELGADO: I know for a fact, Senator Feldman, that you have been on one or two occasions with the proponents, first of the original 1967, and secondly of the current version. And I am also aware that there was a request, and I believe an acquiescence on your part, to put together a task force. And I think that if the next public hearing is going to be in the fall, there's plenty of time for you or whomever to

put together a task force that is reflective of the people who are affected -- to come to you or put together something that is reflective of everyone here, because I don't necessarily represent everyone in this room.

SENATOR FELDMAN: Nothing will be done until we have another public hearing, and then perhaps, out of these public hearings, there will be a task force. But first I want the public to be heard. This meeting is not held in a telephone booth. It's open to the public, and we respect the fact that responsible men and women are here today to discuss this very, very important bill with the acknowledgement that there should be some refinements, amendments, changes, and improvements to the current law. Thank you very much. I want to call one more witness--

MR. DELGADO: Thank you.

SENATOR FELDMAN: --because at 5:00 we're going to wrap it up. Thank you. And I did speak to you by telephone. I've been responsive.

MR. DELGADO: Let the record show that I-- Thank you.

SENATOR FELDMAN: All right, I'm sorry there's one more witness, because members of this Committee have other obligations. Daniel Dantas, Congress of Portuguese American Educators of New Jersey.

D A N I E L D A N T A S: Daniel. (corrects Chairman's pronunciation)

SENATOR FELDMAN: Daniel. The spelling is D-A-N-I-L-L.

MR. DANTAS: It's D-A-N-I-E-L. Like in the Bible.

SENATOR FELDMAN: Oh, I-E. All right. And for those of you that are not listed today, you are listed, but at the next meeting, we're following the list that we have chronologically.

MR. DANTAS: Good afternoon. My name is Daniel Dantas.

SENATOR FELDMAN: Al dente. Continue. Right on.

MR. DANTAS: I'm an Instructional Supervisor for the Newark Board of Education. I'd like to mention also, it was mentioned here that there were administrators that started the bilingual program for the first time in the State. I was one of the first bilingual teachers that were called upon to start the actual teaching of the children, so I speak from that perspective.

Today I also speak as President of the Congress of Portuguese American Educators of the State of New Jersey; an organization which includes teachers -- both ESL and bilingual -- administrators, and parents of Portuguese heritage. I would like to thank this body for the opportunity of coming before you to express the concern of many of the Portuguese immigrant communities regarding the proposed changes in the Bilingual Education Act.

And just to reemphasize the point, many times this issue was popularly conceived as an issue that involves just Hispanics. But I want to assure you that our community, which is quite large and growing, as evidenced by Sunday's festivities on Ferry Street, Newark where The Star-Ledger estimated a crowd of between 100,000 and 120,000 Portuguese coming together to celebrate our heritage. It's a growing community, and we are vitally concerned with the issues that are presented by this change in the Bilingual Education Act.

Our people have a reputation in the State of New Jersey as being hard working. Our men are often cited. They build the bridges, they build the highways, they're involved in construction. The women work in the factories and the shops of the cities. But our parents realize that the world of the future is not the world of the pick and shovel or the world of the sewing factory. The world of the future is the microchip and the computer terminal, and we realize the importance of schooling. That's really why we're here before you today; because we know if our children don't succeed in the school

today they will not succeed in our society. And we, as a community of immigrants and as educators of immigrant children, would like to explain to you why we oppose the changes in the proposal 2967. We want you to know some facts about us and about our community.

First of all, we want you to know that the entering Portuguese children represent the second largest group of limited English proficient children in the State of New Jersey. We want you to know that during the past year there were 2100 children of Portuguese descent identified as LEPs in the schools of our city. And we want you to know that more are arriving from Portugal, Brazil, the islands, parts of Africa, Asia, and they will continue to arrive.

Let me be specific of the reason I am speaking to you: Our concern is basically with the language of the bill, and I'd like to focus in on the issue that has been mentioned before, regarding this broad and very vague language in the area of alternative programs. Our concern is there is no specificity in that bill. You can see it for yourselves. There's nothing there that talks about time; whether it should be ESL, how much ESL; whether it should be bilingual, how much of that? Unfortunately, it also puts, I would imagine, the people at the State Department of Education at a great disadvantage, because what you're going to be asking them to do is basically make a judgment call, when districts approach them with whatever alternative plan they have concocted. We have heard the words that it was a phase-in program or, "We make decisions regarding the appropriateness of an alternative program whether it was reasonable or not reasonable." But there is no specificity to that, and there is our concern, because it allows for a great number of abuses.

But you should look at this in a historical context, because we want you to know that bilingual education before it was compulsory in the State did amount to what was called

alternative programs, but it came in different packages and was called by different names. It would have been under the names of immigrant education; or special programs; or citizenship; or education of foreigners; sometimes speech; and unfortunately, sometimes special education. And we want you to know that when you look at the record carefully you will-- And both in the school reports and in the lives of the children, it reveals that these programs, these alternative programs, no matter how well-meaning or well intended they were at their inception, left a terrible and hidden legacy of failed and frustrated children.

Now we heard in this chamber today accounts of, well, "I have one of my bilingual students that's the valedictorian of the class." And we do hear these reports, but the few that have succeeded are always portrayed as an example, while the thousands who dropped out are forgotten. And while a few went on to excel in the schools and reap the rewards, there were thousands who only managed to struggle through and unwittingly conform to the very low expectations of the system.

And this was the real life legacy of part-time and so-called alternative programs. And this is the prospect that we are concerned that Senate 2967 is reintroducing to the schools of our State. We would like you to consider that our experience as Portuguese teachers and parents, is that the full bilingual program is the best way to get kids involved in all the subjects from the first day that they set foot in our schools.

As was very eloquently said, ESL only just does what that says it does. It just gives English instruction. It doesn't involve any of the subject areas, and that's really an important critical part of what school is all about. If it weren't, we would send kids home in our regular programs after they finish their reading and spelling, and that's the end of their day.

But we know that in a full bilingual program, there really are no wasted months waiting for the child's own English to catch up to the English in the textbook. And we don't have to wait -- to delay the kid, to push him into new concepts and new ideas because the comprehension and understanding that that is the very heart of learning and teaching, is right there from day one.

It was also mentioned that it's unfair to justify and say there's only one way of teaching because in science and health and other subjects, we don't talk like that. But the fact is, that in those subjects, the critical element of comprehension is already built-in, because the language is known. So that argument really is inappropriate in our setting because the whole concern about comprehending subject matter is a critical concern.

We want you to also know from our experience as Portuguese educators, and parents, and children in the schools that the programs were not coming into the schools unless it were the fact that there was legislation to back it up and mandate it. We have you to thank for that, and we hope that your efforts here in this Committee will continue to support that, but our concern with the language and other issues are very strong.

We want you to know that there are some hard questions we all have to ask ourselves. And I think the easiest one to comprehend is that what would we want from our own children if they were involved in trying to get an education in another country or in another language? What would we want for them? What kind of school program would we, in good conscience accept; a halfhearted effort on the part of school administrators in the name of flexibility or practicality or economy? The term was even used here that it was "burdensome" to find teachers. But sometimes this State has to accept the burden of seeking the best, not just what is practical or what is economical, for the students.

We would like to remind you and introduce to you our conviction that the bilingual education works best for the Portuguese immigrant child. It benefits them. It benefits the schools. Full programs benefit the State when academic success and emotional support is generated and maintained from the very first day that a child walks into an American school.

So we would like to just end this by saying that we cannot support any plan that would give a district the option to choose less than the best for a Portuguese child or for any child, wherever that child happens to be, in any school in the State of New Jersey. The force of State law must continue to mandate excellence in instructional methodology. To do less would be an injustice to both the future of thousands of children, as well as the future of our State. We are certain -- I'm rushing -- that you will give all due consideration to the testimony presented here and our opposition to the current form of Senate 2967.

We urge you to leave the Bilingual Act, S-811 as it stands because we are convinced that alternative programs, part-time programs, and ESL only are not, not acceptable when such superior results are obtained by the mandated programs that exist. And we would invite you to visit the Portuguese bilingual programs in the State of New Jersey, to see for yourself why we so strongly support full bilingual programs in this State. And I'm sure my colleagues who don't have an opportunity to speak today would do the same. Come and see for yourselves what's happening in the schools.

And we'd like to thank you again for this opportunity to address this issue which is so critical for the future of the State in this forum.

SENATOR FELDMAN: Thank you, Mr. Dantas. Those that agree with you feel there should be some modification and refinements to the bill. So, I mean we really-- We have your point of view very clearly. Anyone on this list here--

SENATOR EWING: I have a question. I have a question.

SENATOR FELDMAN: Yes, Jack?

SENATOR EWING: What do they do in Portugal for foreign students?

MR. DANTAS: What do they do in Portugal for foreign students? Okay, Portugal has established-- Most of the foreign students-- Quite honestly, most of the foreign students that came into Portugal-- There were literally millions that came in 1974-1976 when Portugal relinquished its colonies in Africa-- They established programs, basically, of bilingual education. They tried to find teachers that have the language fluency because they realized that education is not simply teaching Portuguese or PSL to kids. It was also subject matter. Unfortunately the state of education in Portugal, as I put here, has the lowest literacy rate in all of Europe. And unfortunately, the State of Portuguese education as a whole leaves much to be desired.

But they did make an attempt. And Brazil-- That is a country that is analogous to our country -- Portuguese speaking country -- that receives thousands of immigrants from Italy, Japan, even the United States, does have an association -- they don't call it TESL, they call it-- Well, I don't know what is the Portuguese equivalent, but they teach that.

SENATOR EWING: If I went there today with my family, what would happen with the children?

MR. DANTAS: What would happen to the children? They would try to do--

SENATOR EWING: Do they have programs for them?

MR. DANTAS: They would have programs for them. Not as extensive as ours, okay? And unfortunately, you would probably only find them in the cities that have resources to support those programs and the teaching staff.

SENATOR EWING: Thank you.

SENATOR FELDMAN: May I-- Send me a card when you get there, Jack. Let me know how you're doing.

SENATOR EWING: You're my child. You're going with me.

SENATOR FELDMAN: Anyone who is not on the list -- is on the list, please give your home address and your phone number to Dr. Schorr when our next meeting-- Also, let me congratulate the audience here. You've been very ladylike and gentlemenlike during this testimony period. (applause)

(HEARING CONCLUDED)

APPENDIX

Testimony presented to Senate Education Committee
on June 15, 1989 on behalf of the
State Advisory Committee on Bilingual Education

I am Annette Lopez, co-chair of the State Advisory Committee on Bilingual Education which is a legislatively constituted body appointed by Chancellor Hollander and Commissioner Cooperman. It is comprised of representatives of the language communities served, institutions of higher education, local school boards, school administrators, teachers, and lay persons knowledgeable of the educational needs of limited English proficient students. As co-chair of this committee, I wish to present our concerns about the proposed amendments to the 1975 Bilingual Education Act.

The 1975 Act is a comprehensive law enacted to mandate genuine equal education opportunity for children whose primary language is other than English. The Legislature chose to establish bilingual programs based on its findings that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. If any changes to the present law are made, these should be to further improve and strengthen it.

The amendments proposed oppose the premises upon which this law was founded by broadening the definition of bilingual instruction to include four types of programs: full-time bilingual program, part-time bilingual programs, alternative instructional programs and English as a Second Language. Only two of these may permit instruction in the native language and only if there are 20 or more LEP children in any one language in one school and in two consecutive grades. Such restrictions limit the opportunities for language minority children to participate in a sound and equitable instructional program which addresses the critical issues of use of the native language for instruction and the length of time that it takes language minority children to learn English for academic purposes. The recent findings of outstanding researchers in the field of second language acquisition provide evidence to substantiate that a program which includes instruction in the native language is best for these students.

A review of psychoeducational data regarding bilingual academic development shows that a theoretical and research basis for at least some policy decisions regarding minority students education does exist. Policy makers can predict with considerable reliability the probable effects of educational programs for minority students implemented in very different sociopolitical contexts.

First, they can be confident that if the program is effective in continuing to develop students academic skills in both languages, no cognitive confusion or handicap will result; in fact, students may benefit in subtle ways from access to two linguistic systems.

Second, they can be confident that spending instructional time through the minority language will not result in lower levels of academic performance in the majority language, in this case English, provided of course, the instructional program is effective in developing academic skills in the minority language. This is because at deeper levels of conceptual and academic functioning there is considerable overlap or interdependence across languages. Conceptual knowledge learned in one language helps to make input in the other language comprehensible.

These two psychoeducational principles open up significant possibilities for the planning of bilingual programs by showing that, when programs are well-implemented, students will not suffer academically either as a result of bilingualism per se or as a result of spending less instructional time through English. If academic development of minority students is the goal then students must be encouraged to acquire the conceptual foundation in their native language, to facilitate the acquisition of English academic skills, (Cummins, 1989).

The Association for Supervision and Curriculum Development conducted a review of bilingual education policy (1987) which expresses the interdependence of bilingual language proficiency as follows:

Having a strong foundation in the native language makes learning a second language both easier and faster...there is general agreement that knowledge transfers readily from one language to another, so that students do not have to relearn in a second language what they already learned in a first. In fact, it is clear that the ability to transfer to English what is learned

in the native language applies not only to context area subjects like science and math, but also to skills in reading and writing—even when the orthographic system is quite different from the Roman alphabet.

Additionally, research evidence suggests that although there are large individual differences between children in the rapidity with which they acquire different aspects of English proficiency (Wong Fillmore, 1983) verbal tests of psychological functioning or achievement tend to underestimate minority students' academic potential until they have been learning the school language for at least 4 to 5 years.

Finally, the research suggests that very different time periods are required for minority students to achieve peer-appropriate levels in conversational skills in the second language as compared to academic skills. Specifically, conversational skills often approach native-like levels within about two years of exposure to English whereas a period of five years or more may be required for minority students to achieve as well as native speakers in academic aspects of language proficiency (Collier, 1987; Collier and Thomas 1988; Cummins, 1981, 1984; Wong Fillmore, 1983). Academic language proficiency refers to both reading and writing abilities and to content areas where students are required to use their language abilities for learning (e.g. science, social studies, etc.).

The pattern is well illustrated in Collier's studies. These involved more than 2,000 LEP students and were carried out in an affluent suburban school district where all instruction was through English. She reported that it took 4 to 9 years for these students to attain grade norms in different aspects of English academic skills. It is noteworthy that these figures represent the time period required for the most advantaged LEP students to perform as well as their native English-speaking peers and a longer time period can be expected for less advantaged students. Educators often fail to take into account the difference between communicative and cognitive language proficiency. Cummins (1984) found that because students often appeared to be fluent in English, psychologists tended to assume that they had overcome all problems in learning English and consequently administered IQ tests in English. The students were frequently labeled "learning disabled" or retarded on the basis of tests administered within one or two years of the students' exposure to English...In fact, the data show that students were performing at the equivalent of 15 points below grade norms as a direct result of insufficient time to catch up with their native English-speaking peers. (Cummins, 1981, 84)

The amendments proposed run contrary to what the research evidence suggests is a theoretically sound and equitable approach to the instruction of language minority students. We must not abrogate our responsibility to all children in the state of New Jersey, regardless of color or language origin, to a thorough, effecient and quality education. With the exception of the full time bilingual program, the other three options proffered school districts are administratively facile, but educationally unsound. The Law as it presently exists meets the needs of limited English proficient students and facilitates their integration into the regular public school curriculum and should not be changed to accommodate potentially deleterious options which will impact primarily on the educational opportunities of the poor and underpriveleged.

Thank you for allowing me the opportunity to render testimony against the proposed amendments.

TESTIMONY - JAMES H. MURPHY, PRESIDENT - NJASA

BEFORE THE SENATE EDUCATION COMMITTEEJUNE 15, 1989

Both as President of the New Jersey Association of School Administrators and as an urban superintendent, I am here today to ask the members of the Senate Education Committee to support the proposed substitute for S-2967 sponsored by Senator Feldman. During the past nine months, a very valuable dialogue has taken place among several of the interested educational organizations with the result that a very workable substitute bill has been drawn.

The situation in school districts today is very different from 1974 when the Bilingual Education Act became law. Unlike 1974 when school districts were dealing with one major non-English speaking population, the Hispanic child, today, many communities have student populations who speak dozens of languages. The very diverse needs of these students demand that school districts develop educational programs tailored to meet the needs of the individual child. The key word is "flexibility". It is not sensible to require a full fledged bilingual program for individual students whose educational needs may be better met through a different instructional program to meet the same goals.

We must recognize that some populations of students bring to school with them different levels of previous education and experiences. The lock step current regulations must be revised to make way for the changing times.

The compromise bill will guarantee that the individual educational needs of every "limited-English proficiency" child is met through an appropriate program approved by the State Department of Education. Safeguards have been built into the substitute bill before you to assure maximum educational opportunity for every student.

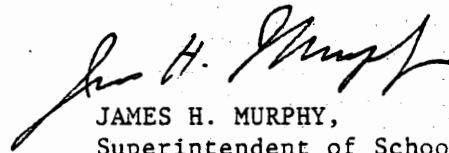
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I wish to emphasize again that the substitute bill is the result of dozens of hours of discussions with many educational groups of varying opinions. All opinions were seriously considered and dozens of language changes were made to accommodate objections. The finished product is a considerable improvement over the existing statute and in my opinion will increase educational opportunity.

The Executive Committee of NJASA, composed of representatives of each of the twenty-one counties, has enthusiastically endorsed the bill. In addition, the Urban Superintendents' Committee gave its endorsement once several language changes were incorporated.

I urge you to support this bill and work for timely approval in both the Senate and Assembly.

Thank you very much for your time and consideration this afternoon.



JAMES H. MURPHY,
Superintendent of Schools - Bayonne

President, New Jersey Association
of School Administrators

PUBLIC HEARING
N.J. SENATE EDUCATION COMMITTEE

PROPOSED AMENDMENTS TO THE BILINGUAL EDUCATION LAW.

JUNE 15, 1989
JOSE E. DELGADO JR.

I WOULD LIKE TO THANK SENATOR FELDMAN AND THE MEMBERS OF THE COMMITTEE FOR GIVING US ALL AN OPPORTUNITY TO PRESENT THE CHILDREN'S CASE. MY HOPE IS THAT MY TESTIMONY AND THAT OF OTHERS WILL CONVINCE THE COMMITTEE THAT THESE AMENDMENTS ARE NOT IN THE BEST INTEREST OF THE CHILDREN OR OUR STATE. WE CAN ACCOMPLISH MUCH TODAY IF WE MAINTAIN OUR FOCUS ON THE CHILDREN'S WELFARE.

THE MEMBERS MAY RECALL THAT I PRESENTED TESTIMONY WHEN S-2967 WAS FIRST CONSIDERED BY THIS COMMITTEE ON OCTOBER 20 OF THIS YEAR. AT THAT TIME I OUTLINED MY PERSONAL EDUCATIONAL EXPERIENCE AS A LEP STUDENT; MY UNDERSTANDING OF THE RESEARCH LITERATURE; THE HISTORICAL RECORD OF THE EXPERIENCE OF LEP STUDENTS PRIOR TO PASSAGE OF THIS STATE'S BILINGUAL EDUCATION LAW; AND, THE CURRENT LEVEL OF FLEXIBILITY FOUND IN DOE GUIDELINES.

THAT TESTIMONY, UNFORTUNATELY, IS AS RELEVANT TODAY AS IT WAS WHEN I FIRST PRESENTED IT TO THIS COMMITTEE. THE CURRENT VERSION OF S-2967 IS MERELY A CAMOUFLAGED VERSION OF THE ORIGINAL. THESE AMENDMENTS WOULD HAVE US DENY THE TERRIBLE EXPERIENCES OF LEP STUDENTS PRIOR TO PASSAGE OF THE B.E.L.; THEY WOULD HAVE US IGNORE THE RESEARCH DATA WHICH

DEMONSTRATES THE EFFECTIVENESS OF BILINGUAL EDUCATION AND THE INEFFECTIVENESS OF MONOLINGUAL ENGLISH INSTRUCTION; AND, THEY WOULD HAVE US ACCEPT THE DANGEROUS ASSERTION THAT EDUCATION LEGISLATION SHOULD BE TAILORED TO MEET ALLEGED CULTURAL AND RACIAL DIFFERENCES, AS OPPOSED TO EDUCATIONAL NEEDS. UNFORTUNATELY, SOME INDIVIDUALS ARE PREPARED TO DO EXACTLY THAT IN ORDER TO FURTHER THEIR PARTICULAR AGENDA.

I THINK IT IMPORTANT THAT THE COMMITTEE UNDERSTAND THAT I AM HERE AS AN ADVOCATE OF ALL, AND I REPEAT, ALL CHILDREN WHO ARE OF LIMITED ENGLISH PROFICIENCY (LEP), AND, I SPEAK ON BEHALF OF THE PARENTS OF THESE CHILDREN. I AM NOT HERE TO ADVOCATE FOR ADMINISTRATORS, BUREAUCRATS, SCHOOL BOARD MEMBERS, TEACHER ORGANIZATIONS, NOR POLITICIANS MASQUERADING AS EDUCATORS. MY MISSION IS SIMPLY TO INSURE THAT THIS STATE DOES NOT MOVE BACKWARDS TO THOSE PRE-1975 DAYS WHICH SAW SO MANY THOUSANDS OF LEP STUDENTS DESTROYED BY A SYSTEM UNWILLING TO ACKNOWLEDGE OR MEET THEIR EDUCATIONAL NEEDS.

I WOULD LIKE TO ONLY SPEAK TWO AMENDMENTS FOUND IN THE BILL. THE FIRST WOULD ELIMINATE THE "FINDING" OR "CONDITION" WHICH THE B.E.L. WAS ENACTED TO CORRECT, NAMELY, "EXPERIENCE HAS SHOWN THAT PUBLIC SCHOOL CLASSES IN WHICH INSTRUCTION IS GIVEN ONLY IN ENGLISH ARE OFTEN INADEQUATE FOR THE EDUCATION OF CHILDREN WHOSE NATIVE TONGUE IS ANOTHER LANGUAGE". THIS STATEMENT REPRESENTS THIS COMMITTEE'S ORIGINAL "FINDING" THAT ENGLISH-AS-A-SECOND LANGUAGE (ESL) AND REMEDIAL CLASSES WERE

INEFFECTIVE IN PROVIDING LEP STUDENTS WITH A "THOROUGH AND EFFICIENT" EDUCATION. MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, NOTHING HAS CHANGED. THIS IS STILL TRUE.

THE COMMITTEE MAY WANDER WHAT THE DELETION OF THIS STATEMENT HAS TO DO WITH EXPANDING FLEXIBILITY. THE ANSWER IS NOTHING AND EVERYTHING. NOTHING BECAUSE FLEXIBILITY COULD BE HAD WITHOUT THIS DELETION. EVERYTHING, BECAUSE IT IS FIRST NECESSARY TO DENY OR IGNORE THE PAST BEFORE WE CAN RE-VISIT IT. IT IS PERHAPS THE BEST EVIDENCE THAT THE INTERESTS OF THE CHILDREN ARE NOT THE MAIN MOTIVATION BEHIND THESE AMENDMENTS. TO ACCEPT THIS PARTICULAR AMENDMENT IS TO ACQUIESCE TO THE PROPOSITION THAT IT IS FIRST NECESSARY TO CONTRADICT THE PAST, IGNORE THE NEED, BEFORE WE CAN MOVE TO ALLEVIATE, OR BETTER SAID, PREVENT PAIN. I AM POSITIVE THAT THIS COMMITTEE DOES NOT WISH TO BE A PARTY TO THIS TRAVESTY.

FINALLY, SPEAKING AS A FORMER LEP STUDENT, I FIND THIS AMENDMENT TO BE PARTICULARLY REPUGNANT BECAUSE IT IS AN ATTEMPT TO MAKE LIGHT OF MY EXPERIENCE IN A MONOLINGUAL ENGLISH CLASSROOM. THE LAW, AS IT STANDS NOW, IS A BELATED BUT APPRECIATED APOLOGY FOR WHAT THIS STATE DID TO THOUSANDS OF LEP STUDENTS.

THE SECOND AMENDMENTS TINKERS WITH THE ENGLISH LANGUAGE BY OFFERING A NEW DEFINITION OF "BILINGUAL EDUCATION". THE NEW DEFINITION PROPOSES THAT THIS TERM WOULD NOW MEAN,

"PROGRAMS THAT AFFORD THE OPPORTUNITY TO STUDENTS OF LIMITED ENGLISH PROFICIENCY TO ACQUIRE ENGLISH PROFICIENCY, MASTER SUBJECT AND COURSE CONTENT AND MEET PROMOTION AND GRADUATION REQUIREMENTS". THIS IS A BEAUTIFUL EXPRESSION OF THE OUT-COME GOAL OF BILINGUAL EDUCATION, BUT IT IS NOT A DEFINITION OF ANYTHING, LET ALONE BILINGUAL EDUCATION. IN FACT, THIS STATEMENT DESCRIBES WHAT WE EXPECT EDUCATION TO ACCOMPLISH FOR ALL OF NEW JERSEY'S STUDENTS.

THE DEFINITION OF BILINGUAL EDUCATION IS NOT NEGOTIABLE. ANYONE INTERESTED IN PUSHING FOR A NEW DEFINITION SHOULD PETITION PUBLISHERS OF DICTIONARIES, NOT THIS COMMITTEE. BUT, FOR THE RECORD, BILINGUAL EDUCATION REFERS TO THE USE OF TWO LANGUAGES FOR INSTRUCTIONAL PURPOSES.

AGAIN, IT MAY BE ASKED, WHAT DOES THIS AMENDMENT HAVE TO DO WITH EXPANDING FLEXIBILITY? AGAIN THE ANSWER IS, NOTHING AND EVERYTHING. NOTHING, BECAUSE FLEXIBILITY COULD BE HAD WITHOUT TORTURING AND ABUSING THE ENGLISH LANGUAGE. EVERYTHING, IF ONE'S INTENTION IS TO FACILITATE THE IMPLEMENTATION OF EDUCATIONAL APPROACHES WHICH ARE NOT BILINGUAL EDUCATION AND WHOSE INEFFECTIVENESS IS AN ACCEPTED FACT.

THESE AMENDMENTS, AND OTHERS THAT I DID NOT MENTION, REQUIRE THAT WE ACCEPT THE PROPOSITION THAT MONOLINGUAL

ENGLISH APPROACHES ARE EFFECTIVE FOR PROVIDING A "THOROUGH AND EFFICIENT" EDUCATION TO LEP STUDENTS. I WOULD BE SURPRISED IF SOMEONE DOES NOT COME BEFORE YOU AND ATTEST, USING ANECDOTAL "EVIDENCE", TO THE EFFECTIVENESS OF THEIR MONOLINGUAL ENGLISH APPROACH. BUT THE RESEARCH LITERATURE AND OUR OWN EXPERIENCE DOES NOT SUPPORT THIS POPULAR MISCONCEPTION. ESL CLASSES MAY BE "EFFECTIVE" AT FACILITATING ACQUISITION OF ENGLISH, BUT THEY ARE NOT "THOROUGH" IN THAT THEY ARE NOT DESIGNED TO CONTRIBUTE TO THE COGNITIVE AND ACADEMIC GROWTH OF LEP STUDENTS.

PROponents OF THESE AMENDMENTS ATTEMPT TO SIDE STEP REALITY BY PROPOSING SOME RATHER TROUBLING OPINIONS. THEY SUGGEST THAT THE CURRENT LAW WAS ENACTED IN RESPOND TO HISPANIC LEP STUDENTS. THEY COMPOUND THIS ERROR BY ASSERTING THAT "ASIAN AMERICANS, INDIANS, AND OTHER ETHNIC GROUPS ... PRESENT DIFFERENT NEEDS AND REQUIRE DIFFERENT APPROACHES THAN THE REQUIRED TRANSITIONAL BILINGUAL TECHNIQUE" . [GALINSKY, 1987]

THESE STATEMENTS ARE NOT ONLY PREPOSTEROUS, THEY ARE DANGEROUS. THEY SUGGEST THAT CULTURAL AND ETHNIC DIFFERENCES SHOULD BE USED WHEN DEVELOPING EDUCATION LEGISLATION. WHERE WOULD THIS LEAD US?

IN A RECENT ARTICLE (KIM/BYSSEBBAYNM 1987) ENTITLED, "ASSESSMENT OF LINGUISTIC NEEDS OF KOREAN AMERICAN STUDENTS

IN NORTHERN NEW JERSEY: IMPLICATION FOR FUTURE DIRECTIONS", IT WAS OBSERVED THAT, "WHILE SCHOOL OFFICIALS STATE THAT, 'IN THEIR EXPERIENCE WITH ASIAN STUDENTS, BILINGUAL EDUCATION HAS LIMITED VALUE' ASIAN STUDENTS SAY THAT SOME HOME LANGUAGE INSTRUCTION WOULD BE HELPFUL". ONE STUDENT WAS QUOTED AS SAYING THAT, "I HAD A SCIENCE CLASS. I DIDN'T KNOW ANYTHING. I WAS JUST SITTING THERE DRAWING AND IT WAS A WASTE OF TIME."

I HOPE THAT THE COMMITTEE WILL CONSIDER AND APPROVE A SERIES OF AMENDMENTS PROPOSED BY THE VARIOUS LANGUAGE MINORITY COMMUNITIES WHICH SIGNIFICANTLY INCREASE FLEXIBILITY WHILE RESPECTING THE NEEDS OF THE STUDENT.

THANK YOU.

June 15, 1989

Dear Senator Matthew Feldman,

My name is Marienne Moro, and I am one of the many people who have benefited from the Bilingual Education Program. I am writing you to express my gratitude for your support of this program in the past, and to urge you to continue doing so. In the nine years that I have spent in this country, I have seen a great deal of young people like myself go through the Bilingual Program, and emerge with a full grasp of the English language, as well as a feeling of accomplishment and self-worth. The possibility that a program which has helped so many may be altered or totally abolished is a very frightening thought. My time in the Bilingual Program ended seven years ago, but for the sake of the many others who will surely need it, I hope that it will remain unchanged and offering the many benefits which it granted me.

I came to the United States with the Mariel Immigration from Cuba in 1980, and entered the fourth grade without any knowledge of the English language. Thanks to the Bilingual Program, I was able to receive classes in my native language, while at the same time learning to speak English. In a matter of two years, I had completed my time in Bilingual classes and been accepted into a Gifted and Talented Program at Jefferson Magnet School. After graduating as Valedictorian, I came to attend Emerson High School, where I have been able to partake in activities such as The National Honor Society and Student Government. This summer, I will have the honor of representing Hudson County in the Governor's School of the Sciences at Drew University.

If it wasn't for the Bilingual Program, I believe that things might have turned out differently. Primarily, it is unlikely that a teacher with whom I can hardly communicate would have recognized me as a candidate for the gifted program. Like prior students, I could have been shoved into a corner, and treated as if I was not intelligent enough to understand. In Union City, 88% of the students are Hispanic as of September 30, 1988. These youngsters come into this country and are forced to face numerous changes in their lives and their surroundings, as well as having to deal with the language barrier. A deprivation of Bilingual Education could result in frustration, a loss of self-worth, and even an increase in the drop-out rate.

The Department of Education states that 85% of the students exit the Bilingual Program in 3 years or less. This statistic shows that bilingual education is effective. I truly hope that the benefits which I have derived from the Bilingual Program will continue to be available, not only for the sake of the individual students, but because they will be the future businessmen and women of America. The abolishment of the Bilingual Program would clearly be a disservice to our country, by hindering the education of persons who might otherwise be assets to our future society. I believe that there are many other young people who are capable of accomplishing what I have and much more, if only they are given a chance through the Bilingual Education Program. Please continue to support Bilingual Education. Our future is at stake.

Thank you,

Marienne Moro

Marienne Moro

Union City

Bilingual Gifted Student



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EUGENE C. CAMPBELL
EXECUTIVE SUPERINTENDENT

Statement of Mr. Eugene C. Campbell

Executive Superintendent of the

Newark Board of Education

to the Senate Education Committee.

June 15, 1989

The Newark school district has a Bilingual population of approximately 6,000. The district intends to provide a comprehensive program of instruction for all its students. That is the choice of the Newark school district. It is also presently mandated by legislation.

The proposed legislation under review today would implement choice and options as the standard for school districts. Some districts will continue to provide a meaningful program for their limited English Proficient. Others will not. Our lawmakers should be concerned about students who will not be provided the maximum quality education.

There is also a concern that the allowance of a diverse set of options may result in violations of federal law. The classic Lau vs Nichols case provided for students the right to receive instruction in a language they could understand. Provisions of the Equal Education Opportunity Act may be violated if a district fails to initiate effective procedures to overcome language barriers that might deny equal participation to Limited English Proficient students.

There is another consideration that I offer you as well. the present Bilingual program works. Students who participate in our district's Bilingual program perform better in English and Reading related skills when their native language skills are proficient. Just consider the difficulty you would have learning French, or Spanish if you had difficulty with your native language English. I also offer you the lessons of a past example to rush hastily into change without ample consideration of the consequences. The recent change to a single exit criterion for Limited English Proficient students, which was expected to increase the exit rate of Bilingual students, is, based on initial results, having the opposite effect - more students are remaining in the program.

The State of New Jersey has gained a national reputation as an Education State. That reputation is well deserved and is the product of our enlightened lawmakers and educators working together to promote excellence. Let's continue to maintain that excellence by providing the best quality education for our Bilingual students.

