

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO **SENATE, No. 2459**

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2459.

As amended by the committee, this bill requires State government entities to provide vital documents and translation services in the 15 most common non-English languages spoken by individuals with limited-English proficiency in this State, based on United States Census Bureau American Community Survey data, and relevant to the services offered by the State government entity.

Under the bill, any State department or agency in the Executive Branch and any commission, board, bureau, division, office, or instrumentality thereof providing direct services to the public would be required to provide these language access services and interpretation services between the State government entity and an individual in that person's primary language with respect to the provision of services or benefits. Each State government entity would be required to produce an informational poster describing the available interpretation and translation services in multiple languages for display in a visible location.

The bill requires each State government entity to publish a language access plan within 180 days of its effective date, and to update the plan every two years thereafter. At a minimum, each plan would describe (1) when and how the State government entity will provide or is already providing language assistance services; (2) how the government entity intends to keep track of the limited English proficient population and how the need for translations is determined; (3) a report on the frequency of requests, how the requests were met, whether language assistance services were requested in languages other than the required 15, and how the entity will notify the eligible population; (4) how the entity documents the actual service provision; (5) a training plan for government entity employees who will be involved in the implementation of the bill which includes, at minimum, annual training on the language access policies of the government entity, how to provide language assistance services, and follow any applicable State and federal confidentially protocols; (6) a

plan for how the entity will ensure the provision of language assistance services of the highest quality and in a culturally competent manner; (7) the name and contact information of an employee at the government entity who would be the point of contact; (8) the titles of all available translated documents and the languages into which they have been translated; (9) a website and document content describing the required translation services, processes, and documents; and (10) a plan for annually monitoring internal compliance.

Under the bill, if a State government entity already has a language access plan, the State government entity may continue to use that language access plan and may adjust that plan in accordance with the bill. A State government entity would be permitted to retain any additional languages already included in an existing language access plan. The bill directs the Secretary of State to oversee, coordinate, and provide guidance to State government entities in their implementation. The Secretary of State would be required to develop a language access plan template for distribution to all State government entities for their use in developing, implementing, and reporting on their language access plans, and must ensure that each State government entity submits a language access plan when due that contains the required content. The Secretary of State would also be responsible for the development of the list of 15 languages that all State government entities must use in their implementation of the bill, based on American Community Survey data.

Various provisions of current law may already require certain State government entities to provide certain documents and translation services to the public, most commonly in the Spanish language. However, under this bill, its provisions would not be interpreted to remove any requirements by any State entity to provide for direct in-person translation services to a member of the public, or for the translation of any materials in the Spanish language or any additional languages, as may be required by law. The bill would also not be interpreted to prevent a State government entity from providing interpretation and translation services to any limited-English proficient individuals who speak any language, even if that language is not among the 15 most common non-English languages covered by the bill. Under the bill, a State government entity may require that an applicant for its benefits or services or any person assisting such applicant in seeking benefits or services provide only the information strictly necessary to determine eligibility for or to administer such benefits or services.

Under the bill, there is appropriated from the funds received by the State from the federal government under the “American Rescue Plan Act of 2021,” Pub. L. 117-2, to each State government entity the sums necessary to implement its provisions, and such additional sums from the General Fund as the State Treasurer and the Director of the

Division of Budget and Accounting in the Department of the Treasury deem necessary.

The bill takes effect immediately, but the required translations would be implemented on a rolling basis and would be completed no later than one year after the effective date of the bill for the five most common languages, not later than two years for the next five most common languages, and not later than three years for the remaining five most common languages, except that applications, notices of rights, or privacy protections would be translated immediately. If an application or form has not been translated, the State government entity or contractor would provide oral translation of the application or form and a certification by the limited-English proficient individual indicating that the application or form was translated and completed by an interpreter.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) require the Department of State to update the list of 15 languages every year or every five years, upon the release of the American Community Survey data;

(2) require the document translations to be completed no later than one year after the bill's effective date for the five most common languages required by the bill, not later than two years for the next five most common languages, and not later than three years for the remaining five most common languages;

(3) provide that "translation" may include professional translation software, provided the State government entity conducts a quality control to ensure that the software has correctly translated the documents;

(4) define "vital documents" as documents that affect access to, retention of, termination of, or exclusion from program services or benefits; which are required by law; or which explain legal rights. "Vital documents" include, but are not limited to: applications; consent forms; complaint forms; intake forms; letters or notices pertaining to eligibility for services or benefits; and letters or notices pertaining to rights or to the reduction, denial, or termination of services or benefits or that require a response from the person who has limited English proficiency;

(5) allow each State government entity to provide interpretation services in the manner specified in the entity's language access plan, which may include in person by a qualified interpreter, interpretation by phone, or video interpretation services;

(6) require each State government entity to issue the language access plan within 180 days of the bill's effective date;

(7) require each State government entity to post the language access plan on its website;

(8) delete language that would have required the language access plan to contain a description of the limited-English proficient population in each geographic service area of the government entity, and the number of limited-English proficient individuals who speak any language even if that language is not among the 15 most common non-English languages;

(9) require the language access plan to specify how the government entity intends to keep track of the limited-English proficient population requesting interpretation and translation services;

(10) require the language access plan to include a report on the frequency of requests for language assistance services, and how the requests were met, and whether language assistance services were requested in languages other than the required 15;

(11) delete language that would have required the language access plan to include the number of public contact positions in the government entity, and the qualified bilingual or multi-lingual employees in public contact positions, including the languages they speak;

(12) delete the requirement for each State government entity to have a language access coordinator;

(13) require each State government entity to designate an employee as the entity's point of contact;

(14) provide that, if a State government entity already has a language access plan, the entity may continue to use that language access plan and may adjust that plan in accordance with the bill, and specify that a State government entity would be permitted to retain any additional languages already included in an existing language access plan;

(15) designate the Secretary of State as the entity to oversee, coordinate, and provide guidance to State government entities in their implementation of the bill;

(16) require the Secretary of State to develop a language access plan template for distribution to all State government entities for their use in developing, implementing, and reporting on their language access plans, and ensure that each State government entity submits a language access plan when due that contains the required content; and

(17) require the Secretary of State to develop the list of 15 languages that all State government entities must use in their implementation of the bill, which list would be based on American Community Survey data.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill would result in a State cost increase of at least \$76,493 per 1,000 hours of video remote interpretation and per 10,000 words of document translation services in the first three years of the bill's implementation and at least \$53,400 in subsequent years. The additional annual cost of

this bill is indeterminate and will depend on what interpretation and translation services are already being provided by State government entities.

The OLS estimate uses a State contractor's quoted price of \$0.89 per minute for video remote interpretation services, \$0.15 per word for document translation services, and \$39.50 per hour for desktop publishing services for translated documents. The additional cost of the bill for posters, training, and website information would likely be minimal, or could potentially be implemented with existing resources.