

HOUSE No. 1065

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey Sánchez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act Relative to Enhancing English Opportunities For All Students in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>	<i>1/20/2011</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>	<i>1/21/2011</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>2/3/2011</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>	<i>2/3/2011</i>
<i>James B. Eldridge</i>		<i>2/2/2011</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>	<i>2/3/2011</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>	<i>2/4/2011</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>2/3/2011</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	<i>2/4/2011</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/26/2011</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>	<i>2/4/2011</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>2/4/2011</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>	<i>2/2/2011</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>	<i>1/20/2011</i>

HOUSE No. 1065

By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 1065) of Jeffrey Sánchez and others relative to an English language learner's program in the public schools. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 486 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act Relative to Enhancing English Opportunities For All Students in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The fifth paragraph of section 59C of chapter 71 of the General Laws as
2 appearing in the 2008 official edition, is hereby amended by inserting after the fourth sentence
3 the following sentence: In school districts with limited English proficient students, the plan to
4 improve student performance shall include a description of the opportunities to be provided by
5 the school to ensure the progress of limited English proficient students in developing oral
6 comprehension, speaking, reading and writing of English, and also in meeting academic
7 standards and curriculum frameworks established under sections 1D and 1E of chapter 69.

8 SECTION 2. Chapter 71A, as so appearing, is hereby amended by striking out section
9 1, and inserting in place thereof the following section:

10 Section 1. As used in this chapter, the following words shall, unless the context
11 requires otherwise, have the following meanings:

12 "Academic standards", academic standards established under section 1D of chapter 69
13 of the General Laws.

14 "Commissioner", the commissioner of education.

15 "Curriculum frameworks", curriculum frameworks established under section 1E of
16 chapter 69 of the General Laws.

17 "Department", the department of education.

18 "English as a second language", a part-time program supporting the development of
19 English language and skills for limited English proficient students transitioning or assigned to
20 regular education classes.

21 "English language learners program", any of the following, or any combination
22 hereof: transitional bilingual education, two-way bilingual education, structured English
23 immersion, English as a second language, or other full time innovative program designed to
24 accelerate English language proficiency and academic achievement approved by the department
25 under section 2A.

26 "Limited English proficient student", (1) a student who was not born in the United
27 States whose native language is other than English and who is not able to perform ordinary class
28 work in English; or (2) a student who was born in the United States of non-English speaking
29 parents and who is not able to perform ordinary class work in English.

30 "Office of language acquisition", the office of language acquisition established in
31 section 1A of chapter 69.

32 "Modified bilingual-world language bilingual education", a fulltime program of
33 whole school instruction for limited English proficient students and fully English proficient
34 students that incorporates both the language and the culture of the language minority group to
35 include it in all aspects of the school curricula in an English speaking classroom where teachers
36 are trained in English as a second language techniques.

37 "Structured English immersion", a fulltime program of academic instruction and
38 English language learning for limited English proficient students in which primarily English is
39 the medium of classroom instruction and the native language of such student is used for support
40 and clarification.

41 "Transitional bilingual education", a fulltime program of instruction (1) in all those
42 courses or subjects which are required by the student's school district which shall be given in the
43 native language of the limited English proficient students who are enrolled in the program and
44 also in English, (2) in the reading and writing of the native language of the limited English
45 proficient students who are enrolled in the program and in the oral comprehension, speaking,
46 reading and writing of English, and (3) in the history and culture of the country, territory or
47 geographic area which is the native land of the parents of the limited English proficient students
48 who are enrolled in the program and in the history and culture of the United States.

49 "Two-way bilingual education", a fulltime program in which the curriculum is
50 structured so that limited English proficient students of the same language group and fully
51 English proficient students develop full literacy in 2 languages by being taught in the same

52 classroom in which the medium of instruction is both English and the language of the limited
53 English proficient students.

54 SECTION 3. Said chapter 71A, as so appearing, is hereby further amended by
55 striking out section 2 and inserting in place thereof the following section:

56 Section 2. Each school district shall determine annually, not later than the first day of
57 March, under regulations promulgated by the department, the number of limited English
58 proficient students within their school system in grades kindergarten through 12. At the
59 beginning of any school year, the school committee shall establish a policy requiring that the
60 district offer at least 1 English language learners program for all limited English proficient
61 students. Every school district shall assess, using uniform assessment instruments prescribed by
62 the department, the language dominance, level of English proficiency, and ability to perform
63 regular education classroom work in English of a newly enrolled student who may be of limited
64 English proficiency and the academic level of such student, for the purpose of placing the student
65 in an English language learners program. Every limited English proficient student enrolled in a
66 public school system shall participate in an English language learners program established by the
67 school district in which the student resides, unless the parents or legal guardian of the student
68 decide otherwise in accordance with section 3. An English language learners program shall
69 consist of any of the following, or any combination thereof: transitional bilingual education, two-
70 way bilingual education, structured English immersion, English as a second language, or other
71 innovative program designed to accelerate English language proficiency approved by the
72 department under section 2A. No school district with 20 or more limited English proficient
73 students in any 1 language group may offer only English as a second language.

74 In any school district with 50 or more limited English proficient students in any 1
75 language group at the elementary school level, the school committee shall establish a policy
76 requiring that the district offer at least 2 full time English language learners programs for those
77 students. In any school district with 50 or more limited English proficient students in any 1
78 language group at the middle school level, the school committee shall establish a policy
79 requiring that the district offer at least 2 fulltime English language learners programs for those
80 students. In any school district with 50 or more limited English proficient students in any 1
81 language group at the high school level, the school committee shall establish a policy requiring
82 that the district offer at least 2 fulltime English language learners programs for those students.
83 The policy shall be consistent with the school district's course enrollment standards. In
84 determining the types of English language learners programs to be offered, the policy
85 determination of the school committee shall reflect that strong consideration was given to the
86 programs requested by the parents or legal guardians of limited English proficient students.

87 SECTION 4. Said chapter 71A is hereby further amended by inserting after section 2
88 the following two sections:

89 Section 2A. At least once every 3 years, each school district with any limited English
90 proficient students shall submit a district plan to the commissioner for approval in accordance
91 with regulations promulgated by the department. The office of language acquisition shall make
92 recommendations to the commissioner on whether any such plan shall be approved. The district
93 shall provide any limited English proficient student with an appropriate English language
94 learners program to assist such student in becoming proficient in using the English language and
95 to enable the student to participate effectively in the district's regular or advanced educational
96 programs and extracurricular activities. To the extent practical, districts shall make available

97 reasonable enrichment opportunities for interested limited English proficient students, either
98 during or outside the regular school day, including, but not limited to, as part of an English
99 language learners program or through foreign language courses or after school programs, to help
100 them maintain their native language skills. The district plan shall define and address all elements
101 and goals of the program or programs to be chosen by the district. Prior to developing a district
102 plan, the district shall notify parents or legal guardians of limited English proficient students
103 within the district that such a plan is being developed, and shall involve such parents or legal
104 guardians in the development and review of such plan.

105 In a school district with 20 or more limited English proficient students in any 1
106 language group, the district plan shall include, but not be limited to, the following:

107 (1) A description of programs and services currently being provided by the district
108 to limited English proficient students.

109 (2) A description of the range of English language learners programs and services
110 the district will make available to all limited English proficient students with a rationale for each
111 option proposed, and a justification for any proposed changes in existing programs and services.

112 (3) A description of the opportunities the district will make available to limited
113 English proficient students for instruction in maintaining or developing proficiency in their
114 native language, including, but not limited to, as part of an English language learners program or
115 through foreign language classes or after school programs.

116 (4) A description of how English language learners programs or services will be
117 provided to ensure that a student has the opportunity to: (a) become proficient in using the
118 English language for oral communication and literacy in English; (b) master curriculum content

119 according to the district's curriculum guidelines, state academic standards and curriculum
120 frameworks; and (c) be able to participate in the district's regular or advanced educational
121 programs and extracurricular activities.

122 (5) A description of the qualifications and certification status of all staff who will
123 provide English language learners programs and services to limited English proficient students.

124 (6) A description of the uniform assessment instruments, prescribed by the
125 department, to be utilized by the district to determine the language dominance, level of English
126 proficiency and ability to perform regular education classroom work in English of a newly
127 enrolled student who may be of limited English proficiency and the academic level of such
128 student, for the purpose of placing such student in a program established under this chapter.
129 Such description shall include the qualifications of staff administering such assessments.

130 (7) A description of how the student's oral comprehension, speaking, reading and
131 writing of English will be assessed annually by qualified personnel, using uniform assessment
132 instruments prescribed by the department, and how these assessments will be used in conjunction
133 with other evaluation information to determine when the student has achieved a level of English
134 language proficiency that will enable the student to perform regular education class work.

135 (8) A description of how the school district will evaluate the effectiveness of
136 English language learners programs and services provided to limited English proficient students
137 in terms of helping such students attain English language proficiency and master academic
138 standards and curriculum frameworks.

139 (9) A description of the measures that will be used to ensure that former limited
140 English proficient students in regular education classrooms have the opportunity to continue their

141 progress in all areas of the curriculum, including compliance with the academic standards and
142 curriculum frameworks.

143 (10) A description of the measures that will be used to ensure that limited English
144 proficient students whose parents or legal guardians have chosen to enroll them in a regular
145 education classroom and not in an English language learners program will be provided the
146 opportunity to continue to progress in all areas of the curriculum, including compliance with the
147 academic standards and curriculum frameworks.

148 (11) A description of the training to be provided for all staff in working with
149 culturally and linguistically diverse student populations. Such description shall also include a
150 staff development plan that describes how the district will build capacity among all staff in the
151 school district to serve limited English proficient students.

152 (12) A description and documentation of how principals, teachers, parents or legal
153 guardians of limited English proficient students, parent advisory councils and the general public
154 were included in the development and review of the district plan.

155 (13) A description of how parents or legal guardians of limited English proficient
156 students will be informed when it is determined through assessments prescribed by the
157 department that their child can participate fully in the English language curriculum without
158 native language or other language support services.

159 (14) A description of how parents or legal guardians of limited English proficient
160 students will be provided the opportunity to continue to remain involved in English language
161 learners programs.

162 In a school district with fewer than 20 limited English proficient students in any 1
163 language group, the district plan shall include, but not be limited to, the following:

164 (1) A description of the programs and services currently being provided by the
165 district to limited English proficient students.

166 (2) A description of the range of English language learners programs and services
167 the district will make available to all limited English proficient students with a rationale for each
168 option proposed, and a justification for any proposed changes in existing programs and services.

169 (3) A description of the qualifications and certification status of all staff who will
170 provide English language learners programs and services to limited English proficient students.

171 (4) A description of the uniform assessment instruments, prescribed by the
172 department, to be utilized by the district to determine the language dominance, level of English
173 proficiency, and ability to perform regular education classroom work in English of a newly
174 enrolled student who may be of limited English proficiency and the academic level of such
175 student, for the purpose of placing such student in an English language learners program. Such
176 description shall include the qualifications of staff administering such assessments.

177 (5) A description of how the student's oral comprehension, speaking, reading and
178 writing of English will be assessed annually by qualified personnel, using uniform assessment
179 instruments prescribed by the department, and how these assessments will be used in conjunction
180 with other evaluation information to determine when the student has achieved a level of English
181 language proficiency that will enable the student to perform regular education class work.

182 A district plan shall be valid for 3 years. In the third year, a school district shall
183 submit an updated district plan to the commissioner for approval in the manner provided herein
184 for submission of a district plan. In addition to the requirements of this section for a district plan,
185 the updated district plan shall also include documentation evidencing the academic outcomes for
186 limited English proficient students served under the prior district plan.

187 In a school district with 20 or more limited English proficient students in any 1
188 language group, no district plan or updated district plan shall be submitted to the commissioner
189 until after a public hearing, with due notice to interested parties, has been held on such plan. The
190 district shall make any such plan available for public inspection at least 10 days prior to any
191 public hearing. Due notice shall include notification published in a newspaper of general
192 circulation in the district, and other reasonable steps to notify parents of limited English
193 proficient students within the district and other interested parties of such hearing, not less than 15
194 days prior to any such hearing. Any such notification shall include a brief description of the plan,
195 the date, time and place of the hearing, and shall indicate the place where the plan is available for
196 public inspection. Notices to parents or legal guardians of limited English proficient students
197 required by this section shall, to the maximum extent possible, be in a language understandable
198 by the parents or legal guardians.

199 If the commissioner determines that a district is not in compliance with this section,
200 or that a district plan cannot be approved as submitted, the office of language acquisition shall
201 provide advice and technical assistance to the district and shall set a date certain for the
202 submission of a revised district plan. Regulations promulgated by the department to implement
203 this chapter shall include, but not be limited to, measures to deal with districts that fail to submit
204 district plans, or that submit district plans that the commissioner does not approve.

205 The district shall send report cards and progress reports, including, but not limited to,
206 progress in becoming proficient in using the English language, and other school communications
207 to the parents or legal guardians of students enrolled in English language learners programs in
208 the same manner and frequency as report cards and progress reports of other students enrolled in
209 the district. The reports shall, to the maximum extent possible, be written in a language
210 understandable to the parents and legal guardians of such students.

211 Limited English proficient students in any English language learners program shall be
212 taught to the same academic standards and curriculum frameworks as all students, and shall be
213 provided the same opportunities to master such standards and frameworks as other students.
214 Districts shall regularly assess mastery of academic standards and curriculum frameworks;
215 provided, that such assessments may be conducted in a language other than English so long as
216 the student remains in an English language learners program.

217 In order to encourage innovation and best practices, school districts may develop
218 innovative programs designed to accelerate English language proficiency. Any such program
219 shall provide limited English proficient students with the opportunity to develop oral
220 comprehension, speaking, reading, and writing of English and to meet academic standards and
221 curriculum frameworks.

222 Such programs may include, but not be limited to, modified bilingual world language
223 bilingual education. All such programs shall be submitted to the department for review and
224 approval. The office of language acquisition shall review and make recommendations on all such
225 programs.

226 The office of educational quality and accountability shall conduct onsite visits to
227 school districts with approved district plans, established under this section, at least once every 5
228 years for the purpose of evaluating the effectiveness of such plan and to validate evidence of
229 educational outcomes.

230 The evaluation shall include, but not be limited to, a review of individual student
231 records of all limited English proficient students, a review of the programs and services provided
232 to limited English students to determine if they are in accordance with the district plan, and a
233 review of the drop out rate of limited English proficient students formerly enrolled in the
234 district's English language learners program or programs within the prior 3 years.

235 In the event a review and evaluation undertaken under this section demonstrates that a
236 district is substantially out of compliance with the district plan, or is failing to adequately
237 improve educational outcomes for limited English proficient students enrolled in English
238 language learners programs, the commissioner may recommend to the board of education that
239 any school within the district be declared underperforming under sections 1J and 1K of chapter
240 69.

241 Section 2B. School districts shall assess annually all limited English proficient
242 students in the oral comprehension, speaking, reading, and writing of English by means of
243 English proficiency uniform assessment instruments intended for limited English proficient
244 students, which have been prescribed by the department. Except as provided in this section, any
245 limited English proficient student may remain in an English language learners program for a
246 period of 2 years, or until such time as the student achieves a level of English language
247 proficiency that will enable the student to perform successfully in classes in which instruction is

248 given only in English as determined by scores on English proficiency assessments as set forth in
249 this section, whichever occurs first. Only full-day kindergarten shall be counted toward the time
250 limitations set forth in this section. School districts shall develop an intensive English learning
251 success plan for any limited English proficient student whom the district determines fails to
252 achieve scores on English proficiency assessments that, in the determination of the department,
253 reflect sufficient progress toward achieving English language proficiency following the student's
254 first year in any English language learners program. Any such plan shall be developed with the
255 participation and approval of the student's parents or legal guardian. The plan shall concentrate
256 on the needs of the student to master English language literacy skills and shall specify such
257 instruction or services as intensive English classes, intensive tutoring, after or before school
258 programs, summer programs, literacy mentoring, and other academic support s that will assist the
259 student in the rapid acquisition of English necessary to access academic standards and
260 curriculum frameworks at grade level. Any student who fails to achieve scores on English
261 proficiency assessments that, in the determination of the department, reflect sufficient
262 proficiency that will enable the student to perform successfully in classes in which instruction is
263 given only in English, may remain in such intensive plan for up to 1 additional year, with the
264 approval of the student's pa rents or legal guardian.

265 Any limited English proficient student enrolled in a two-way bilingual education
266 program who has achieved sufficient scores on English proficiency assessments that, in the
267 determination of the department, reflect a level of English proficiency appropriate to the student's
268 grade level, may remain enrolled in such programs for longer than 3 years.

269 If later evidence suggests, as determined by the school district, that a limited English
270 proficient student transferred from an English language learners program to a regular education

271 program prior to his third year in such English language learners program is still disadvantaged
272 by a lack of English proficiency and may benefit from being reenrolled, under an intensive
273 English learning success plan, in an English language learners program offered by the district,
274 such student, with the approval of the student's parents or legal guardian, may be so reenrolled
275 for a length of time equal to that which remained at the time he was transferred.

276 Nothing in this chapter shall be construed to prohibit, limit, restrict or prevent, an
277 educational agency, as defined in 20 U.S.C. 1720 from complying with the provisions of 20
278 U.S.C. 1703 (f).

279 In the event of any conflict between this chapter and an individual educational plan
280 developed for a school age child with a disability under chapter 71B, the provisions of such plan
281 shall prevail.

282 SECTION 5. Said chapter 71A, as so appearing, is hereby further amended by
283 striking out section 3, and inserting in place thereof the following section: -

284 Section 3. School districts shall notify, in writing, the parents or legal guardian of a
285 limited English proficient student of the English language learners program that are available
286 within the district, and shall recommend a specific program for the student. Such notice shall be
287 sent by mail not later than 10 days after the enrollment of the student in the school district. The
288 notice shall contain a simple, non technical description of the purposes, method and content of
289 the various programs, reasons for the school district's recommendation of a specific program, and
290 shall inform the parents or legal guardian that they have the right to visit English language
291 learners program classes in the school district, and to come to the school for a conference to
292 explain the nature of the various English language learners programs. The notice shall further

293 inform such parents or legal guardian that they have the absolute right, if they so desire, to
294 choose any English language learners program for the student from among those provided by the
295 school district, to prevent the student from being placed in an English language learners program,
296 or to withdraw the student from a program, in the manner as hereinafter provided in this section.
297 The notice shall also inform such parents or legal guardian of the existence of any parent
298 advisory council established within the district under this section. Any such notice shall be
299 written in English and in the language of which the parents or legal guardians so notified
300 possesses a primary speaking ability.

301 In any case where a district recommends that a student be placed in an English
302 language learners program, the parents or legal guardian of such student shall have the right,
303 either at the time of the original notification under this section, or at the close of any marking
304 period thereafter, to choose an English language learners program for the student from among
305 those provided by the school district, to prevent the student from being placed in an English
306 language learners program, or to withdraw the student from such program by sending written
307 notice of such decision by mail to the school authorities of the school district in which the
308 student is enrolled. Such written notice shall be sent not later than 10 school days after receipt of
309 the notice sent by the school district, under this section. In the case of a student who is to be
310 withdrawn from an English language learners program, the written notice shall be sent not later
311 than 10 school days after the close of any marking period.

312 Each school district operating an English language learners program or programs for
313 20 or more limited English proficient students in any 1 language group shall establish a parent
314 advisory council. The parent advisory council shall be comprised of parents or legal guardians
315 of students who are enrolled in English language learners programs within the district. Each

316 parent advisory council shall have at least 1 representative from every language group in which a
317 program is conducted in a given district. Membership shall be restricted to parents or legal
318 guardians of students enrolled in English language learners programs within the district. The
319 duties of the parent advisory council shall include, but not be limited to, advising the school
320 district on matters that pertain to the education of students in English language learners
321 programs, meeting regularly with school officials to participate in the planning, development,
322 implementation, and evaluation of the district plan required by this chapter, and to participate in
323 the review of school improvement plans established under section 59C of chapter 71 as they
324 pertain to limited English proficient students. Any parent advisory council may, at its request,
325 meet at least once annually with the school council. The parent advisory council shall establish
326 by-laws regarding officers and operational procedures. In the course of its duties under this
327 section, the parent advisory council shall receive assistance from the director of English language
328 learners programs for the district or other appropriate school personnel as designated by the
329 superintendent.

330 SECTION 6. Said chapter 71A, as so appearing, is hereby further amended by
331 striking out section 4, and inserting in place thereof the following section: -

332 Section 4. A school district may allow a nonresident limited English proficient student
333 to enroll in or attend its English language learners programs, and the tuition for such student
334 shall be paid by the school district in which the student resides.

335 Any school district may join with any other school district or districts to provide
336 English language learners programs required or permitted by this chapter.

337 SECTION 7. Said chapter 71A, as so appearing, is hereby further amended by
338 striking out section 5, and inserting in place thereof the following section:-

339 Section 5. In order to ensure daily opportunities for speaking English and for contact
340 with English speaking peers, limited English proficient students shall participate fully with their
341 English-speaking peers in those regular education classrooms, subjects or activities in which
342 verbalization in English is not essential to understanding, including, but not necessarily limited
343 to, homeroom, art, music, physical education, recess and lunch . Each school district shall ensure
344 that limited English proficient students have practical and meaningful opportunity to participate
345 fully in the extra-curricular activities of the regular education programs in the district.

346 English language learners programs shall be located, whenever feasible, in the regular
347 public schools of the district rather than separate facilities.

348 Students enrolled in an English language learners program, whenever possible, shall
349 be placed in classes with students of approximately the same age and level of educational
350 attainment. If students of different age groups or educational levels are combined, the school
351 district so combining shall ensure that the instruction given each student is appropriate to the
352 student's level of educational attainment and the school district shall keep adequate records of the
353 educational level and progress of each student enrolled in a program. The maximum student-
354 teacher ratio and age span shall be set by the department and shall reflect the unique educational
355 needs of children enrolled in English language learners programs.

356 SECTION 8. Said chapter 71A, as so appearing, is hereby further amended by
357 striking out section 6 and inserting in place thereof the following section:

358 Section 6. The commissioner shall grant certificates to teachers of bilingual education
359 or English as a second language under section 38G of chapter 71; provided, that teachers of
360 structured English immersion, or innovative programs approved by the department under section
361 2A shall be certified in bilingual education or English as a second language. No person shall be
362 eligible for employment by a school district as a teacher of bilingual education, or English as a
363 second language, except as provided in this section, unless he has been granted a certificate by
364 the commissioner under said section 38G with respect to the type of position for which he seeks
365 employment. Nothing in this section shall be construed to prevent a school committee from
366 prescribing additional qualifications.

367 In cases of shortages of certified teachers of bilingual education or English as a
368 second language, as determined by the commissioner, the commissioner may grant a waiver to a
369 teacher of bilingual education or English as a second language who is not certified with respect
370 to the type of position for which he seeks employment, if he presents the commissioner with
371 satisfactory evidence indicating he: (1) possesses a speaking and reading ability in a language,
372 other than English, in which English language learners programs are offered and is proficient in
373 written and oral English; (2) is of sound moral character; (3) possesses a bachelor's degree or
374 earned a higher academic degree; (4) meets such requirements as to courses of study, semester
375 hours therein, experience and training as may be required by the board of education that will
376 enable him to become a certified teacher of bilingual education, or English as a second language
377 in the state; and (5) is legally present in the United States and possess legal authorization for
378 employment. Any waiver shall be subject to annual renewal by the commissioner; provided, that
379 the waiver may be renewed not more than 4 times. In granting a waiver under this section, the

380 commissioner shall give preference to persons who have been certified as teachers in their
381 country or place of national origin.

382 SECTION 9. Said chapter 71A, as so appearing, is hereby further amended by
383 striking out section 7 and inserting in place thereof the following section:

384 Section 7. A school district may establish, on a full or part-time basis, preschool or
385 summer school English language learners programs for limited English proficient students or
386 join with the other school districts in establishing such preschool or summer programs. Preschool
387 or summer programs shall not substitute for English language learners programs required to be
388 provided during the regular school year. A school district may establish after school programs to
389 assist limited English proficient student s in developing and maintaining native language
390 proficiency.

391 SECTION 10. Notwithstanding any general or special law to the contrary, each school
392 district shall, within 5 years of the effective date of this act, have at least 1 teacher who is
393 certified in English as a second language, bilingual education or other English language learners
394 program under section 38G of chapter 71 or regulations promulgated thereto.

395 SECTION 11. Notwithstanding any general or special law to the contrary, any school
396 district with 200 or more limited English proficient students enrolled in the school system that
397 appoints a person to be its director of English language learners programs shall appoint a person
398 who is certified in English as a second language, bilingual education or other English language
399 learners program under section 38G of chapter 71 or regulations promulgate thereto.

400 SECTION 12. Notwithstanding any general or special law to the contrary, any limited
401 English proficient student, as defined in section 1 of chapter 71A of the General Laws, who was

402 enrolled in a public secondary school in the commonwealth directly from a country other than
403 the United States of America, and who was unable to achieve proficiency in the English
404 language, as determined by English proficiency assessments established under section 2B of said
405 chapter 71A, prior to leaving such public secondary school, to the extent possible shall be given
406 access to English language and literacy skill instruction courses offered through the adult basic
407 education program established under section 1H of chapter 69 of the General Laws.

408 SECTION 13. Notwithstanding any general or special law to the contrary, within 5
409 years of the effective date of this act, if the department of education implements any foreign
410 language requirement on school districts, such requirement shall be mandatory for elementary
411 schools.

412 SECTION 14. Sections 1 and 17 shall take effect on January 1, 2012.

413 SECTION 15. Sections 2 through 16, inclusive, and 18 through 27, inclusive, shall
414 take effect on July 1, 2012.