

SENATE No. 197

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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:
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>James B. Eldridge</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>

SENATE No. 197

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 197) of Sal N. DiDomenico, James B. Eldridge and Denise Provost for legislation 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. Section 1I of chapter 69 of the General Laws, is hereby amended by
2 striking out the thirteenth paragraph and inserting in place thereof the following paragraph:

3 Each school district required to provide an English language learners program under
4 chapter 71A shall file the following information with the department annually:

5 (a) the type of English language learners programs provided;

6 (b) with regard to limited English proficient students (i) the number enrolled in each
7 type of English language learners program; (ii) the number enrolled in English as a second
8 language who are not enrolled in another English language learners program; (iii) the results of
9 basic skills, curriculum assessment, achievement and language proficiency testing, whether

10 administered in English or in the native language; (iv) the absentee, suspension, expulsion,
11 dropout and promotion rates; and (v) the number of years each limited English proficient student
12 has been enrolled in an English language learners program;

13 (c) the number of students each year who have enrolled in institutions of higher
14 education and were formerly enrolled in an English language learners program;

15 (d) the academic progress in regular education of students who have completed an
16 English language learners program;

17 (e) for each limited English proficient student receiving special education, the
18 number of years in the school district prior to special education evaluation and the movement in
19 special education programs by program placement;

20 (f) the number of limited English proficient students enrolled in programs of
21 occupational or vocational education;

22 (g) the name, national origin, native language, certificates held, language
23 proficiency, grade levels and subjects taught by each teacher of an English language learners
24 program, bilingual aides or paraprofessionals, bilingual guidance or adjustment counselors and
25 bilingual school psychologists;

26 (h) the per pupil expenditures for each full time equivalent student enrolled in an
27 English language learners program;

28 (i) the sources and amounts of all funds expended on students enrolled in English
29 language learners programs, broken down by local, state and federal sources, and whether any

such funds expended supplanted, rather than supplemented, the local school district obligation; the participation of parents through parent advisory councils; and

(j) whether there were any complaints filed with any federal or state court or administrative agency, since the program's inception, concerning the compliance with federal or state minimum legal requirements; the disposition of such complaint and the monitoring and evaluation of any such agreement or court order relative to such complaint.

SECTION 2. Said section 1I of said chapter 69, as so appearing, is hereby further amended by adding the following paragraph:

The commissioner annually shall analyze and publish data reported by school districts under this section regarding English language learners programs and limited English proficient students. Publication shall include, but need not be limited to, availability on the department's worldwide web site. The commissioner shall submit annually a report to the joint committee on education, arts and humanities on such data on a statewide and school district basis, including, but not limited to, by language group and type of English language learners program.

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

SECTION 4. Chapter 71A, as appearing in the 2006 Official Edition, is hereby amended by striking out section 1, and inserting in place thereof the following section:

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

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

"Commissioner", the commissioner of education.

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

"Department", the department of education.

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

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

"Limited English proficient student", (1) a student who was not born in the United States whose native language is other than English and who is not able to perform ordinary class

work in English; or (2) a student who was born in the United States of non-English speaking parents and who is not able to perform ordinary class work in English.

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

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

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

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

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

SECTION 5. Said chapter 71A, as so appearing, is hereby further amended by striking out section 2 and inserting in place thereof the following section:

Section 2. Each school district shall determine annually, not later than the first day of March, under regulations promulgated by the department, the number of limited English proficient students within their school system in grades kindergarten through 12. At the beginning of any school year, the school committee shall establish a policy requiring that the district offer at least 1 English language learners program for all limited English proficient students. Every school district shall assess, using uniform assessment instruments prescribed by the department, the language dominance, level of English proficiency, and ability to perform regular education classroom work in English of a newly enrolled student who may be of limited English proficiency and the academic level of such student, for the purpose of placing the student in an English language learners program. Every limited English proficient student enrolled in a public school system shall participate in an English language learners program established by the school district in which the student resides, unless the parents or legal guardian of the student decide otherwise in accordance with section 3. An English language learners program shall consist of any of the following, or any combination thereof: transitional bilingual education, two-way bilingual education, structured English immersion, English as a second language, or other innovative program designed to accelerate English language proficiency approved by the

department under section 2A. No school district with 20 or more limited English proficient students in any 1 language group may offer only English as a second language.

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

SECTION 6. Said chapter 71A is hereby further amended by inserting after section 2 the following two sections:

Section 2A. At least once every 3 years, each school district with any limited English proficient students shall submit a district plan to the commissioner for approval in accordance with regulations promulgated by the department. The office of language acquisition shall make recommendations to the commissioner on whether any such plan shall be approved. The district shall provide any limited English proficient student with an appropriate English language

learners program to assist such student in becoming proficient in using the English language and to enable the student to participate effectively in the district's regular or advanced educational programs and extracurricular activities. To the extent practical, districts shall make available reasonable enrichment opportunities for interested limited English proficient students, either during or outside the regular school day, including, but not limited to, as part of an English language learners program or through foreign language courses or after school programs, to help them maintain their native language skills. The district plan shall define and address all elements and goals of the program or programs to be chosen by the district. Prior to developing a district plan, the district shall notify parents or legal guardians of limited English proficient students within the district that such a plan is being developed, and shall involve such parents or legal guardians in the development and review of such plan.

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

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

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

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

159 (4) A description of how English language learners programs or services will be
160 provided to ensure that a student has the opportunity to: (a) become proficient in using the
161 English language for oral communication and literacy in English; (b) master curriculum content
162 according to the district's curriculum guidelines, state academic standards and curriculum
163 frameworks; and (c) be able to participate in the district's regular or advanced educational
164 programs and extracurricular activities.

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

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

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

178 (8) A description of how the school district will evaluate the effectiveness of
179 English language learners programs and services provided to limited English proficient students

180 in terms of helping such students attain English language proficiency and master academic
181 standards and curriculum frameworks.

182 (9) A description of the measures that will be used to ensure that former limited
183 English proficient students in regular education classrooms have the opportunity to continue their
184 progress in all areas of the curriculum, including compliance with the academic standards and
185 curriculum frameworks.

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

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

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

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

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

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

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

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

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

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

(5) A description of how the student's oral comprehension, speaking, reading and writing of English will be assessed annually by qualified personnel, using uniform assessment instruments prescribed by the department, and how these assessments will be used in conjunction

with other evaluation information to determine when the student has achieved a level of English language proficiency that will enable the student to perform regular education class work.

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

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

If the commissioner determines that a district is not in compliance with this section, or that a district plan cannot be approved as submitted, the office of language acquisition shall provide advice and technical assistance to the district and shall set a date certain for the

submission of a revised district plan. Regulations promulgated by the department to implement this chapter shall include, but not be limited to, measures to deal with districts that fail to submit district plans, or that submit district plans that the commissioner does not approve.

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

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

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

Such programs may include, but not be limited to, modified bilingual world language bilingual education. All such programs shall be submitted to the department for review and

267 approval. The office of language acquisition shall review and make recommendations on all such
268 programs.

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

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

278 In the event a review and evaluation undertaken under this section demonstrates that a
279 district is substantially out of compliance with the district plan, or is failing to adequately
280 improve educational outcomes for limited English proficient students enrolled in English
281 language learners programs, the commissioner may recommend to the board of education that
282 any school within the district be declared underperforming under sections 1J and 1K of chapter
283 69.

284 Section 2B. School districts shall assess annually all limited English proficient students in
285 the oral comprehension, speaking, reading, and writing of English by means of English
286 proficiency uniform assessment instruments intended for limited English proficient students,
287 which have been prescribed by the department. Except as provided in this section, any limited
288 English proficient student may remain in an English language learners program for a period of 2

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

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

312 If later evidence suggests, as determined by the school district, that a limited English
313 proficient student transferred from an English language learners program to a regular education
314 program prior to his third year in such English language learners program is still disadvantaged
315 by a lack of English proficiency and may benefit from being reenrolled, under an intensive
316 English learning success plan, in an English language learners program offered by the district,
317 such student, with the approval of the student's parents or legal guardian, may be so reenrolled
318 for a length of time equal to that which remained at the time he was transferred.

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

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

325 SECTION 7. Said chapter 71A, as so appearing, is hereby further amended by striking
326 out section 3, and inserting in place thereof the following section: -

327 Section 3. School districts shall notify, in writing, the parents or legal guardian of a
328 limited English proficient student of the English language learners program that are available
329 within the district, and shall recommend a specific program for the student. Such notice shall be
330 sent by mail not later than 10 days after the enrollment of the student in the school district. The
331 notice shall contain a simple, non technical description of the purposes, method and content of
332 the various programs, reasons for the school district's recommendation of a specific program, and
333 shall inform the parents or legal guardian that they have the right to visit English language

334 learners program classes in the school district, and to come to the school for a conference to
335 explain the nature of the various English language learners programs. The notice shall further
336 inform such parents or legal guardian that they have the absolute right, if they so desire, to
337 choose any English language learners program for the student from among those provided by the
338 school district, to prevent the student from being placed in an English language learners program,
339 or to withdraw the student from a program, in the manner as hereinafter provided in this section.
340 The notice shall also inform such parents or legal guardian of the existence of any parent
341 advisory council established within the district under this section. Any such notice shall be
342 written in English and in the language of which the parents or legal guardians so notified
343 possesses a primary speaking ability.

344 In any case where a district recommends that a student be placed in an English language
345 learners program, the parents or legal guardian of such student shall have the right, either at the
346 time of the original notification under this section, or at the close of any marking period
347 thereafter, to choose an English language learners program for the student from among those
348 provided by the school district, to prevent the student from being placed in an English language
349 learners program, or to withdraw the student from such program by sending written notice of
350 such decision by mail to the school authorities of the school district in which the student is
351 enrolled. Such written notice shall be sent not later than 10 school days after receipt of the notice
352 sent by the school district, under this section. In the case of a student who is to be withdrawn
353 from an English language learners program, the written notice shall be sent not later than 10
354 school days after the close of any marking period.

355 Each school district operating an English language learners program or programs for 20
356 or more limited English proficient students in any 1 language group shall establish a parent

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

SECTION 8. Said chapter 71A, as so appearing, is hereby further amended by striking out section 4, and inserting in place thereof the following section: -

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

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

SECTION 9. Said chapter 71A, as so appearing, is hereby further amended by striking out section 5, and inserting in place thereof the following section:-

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

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

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

SECTION 10. Said chapter 71A, as so appearing, is hereby further amended by striking out section 6 and inserting in place thereof the following section:

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

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

the waiver may be renewed not more than 4 times. In granting a waiver under this section, the commissioner shall give preference to persons who have been certified as teachers in their country or place of national origin.

SECTION 11. Said chapter 71A, as so appearing, is hereby further amended by striking out section 7 and inserting in place thereof the following section:

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

SECTION 12. Notwithstanding any general or special law to the contrary, each school district shall, within 5 years of the effective date of this act, have at least 1 teacher who is certified in English as a second language, bilingual education or other English language learners program under section 38G of chapter 71 or regulations promulgated thereto.

SECTION 13. Notwithstanding any general or special law to the contrary, any school district with 200 or more limited English proficient students enrolled in the school system that appoints a person to be its director of English language learners programs shall appoint a person who is certified in English as a second language, bilingual education or other English language learners program under section 38G of chapter 71 or regulations promulgated thereto.

SECTION 14. Notwithstanding any general or special law to the contrary, any limited English proficient student, as defined in section 1 of chapter 71A of the General Laws, who was enrolled in a public secondary school in the commonwealth directly from a country other than the United States of America, and who was unable to achieve proficiency in the English language, as determined by English proficiency assessments established under section 2B of said chapter 71A, prior to leaving such public secondary school, to the extent possible shall be given access to English language and literacy skill instruction courses offered through the adult basic education program established under section 1H of chapter 69 of the General Laws.

SECTION 15. Notwithstanding any general or special law to the contrary, within 5 years of the effective date of this act, if the department of education implements any foreign language requirement on school districts, such requirement shall be mandatory for elementary schools.

SECTION 16. Sections 1 and 17 shall take effect on January 1, 2010.

SECTION 17. Sections 2 through 16, inclusive, and 18 through 27, inclusive, shall take effect on July 1, 2010.