

**SENATE . . . . . No. 225**

**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>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>
<i>James T. Welch</i>	<i>Hampden</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>

**SENATE . . . . . No. 225**

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By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 225) of Sal N. DiDomenico, Patricia D. Jehlen, James B. Eldridge, Sonia Chang-Diaz and other members of the General Court for legislation relative to English language programs in the Commonwealth's schools. Education.

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**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

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 2010 official edition, is hereby amended by inserting after the fourth sentence:-

3 In school districts with English Language Learners students, the plan to improve student  
4 performance shall include a description of the educational program models and approaches to be  
5 provided by the school to ensure the progress of English Language Learner students in  
6 developing oral comprehension, speaking, reading and writing of English, and in meeting the  
7 academic standards and curriculum frameworks established under sections 1D and 1E of chapter  
8 69.

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

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

13 "Academic standards", academic standards established under section 1D of chapter 69 of  
14 the General Laws, and Common Core Standards.

15 "Commissioner", the commissioner of education.

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

18 "Department", the department of education.

19 "Research based, scientifically based, or evidence based instructional program ": Any  
20 instructional program or approach that is based on generally accepted research that employs  
21 systematic, empirical methods that draw on observations or experimentation, involves rigorous  
22 data analyses that are adequate to test the stated hypotheses and justify the conclusions drawn,  
23 relies on measurements or observational methods that provide reliable and valid data across  
24 evaluators and observers, across multiple measurements and observations, and across studies by  
25 the same or different investigators, is evaluated using experimental or quasi-experimental  
26 designs in which individuals, entities, programs, or activities are assigned to different conditions  
27 and with appropriate controls to evaluate the effects of the conditions of interest, with a  
28 preference for random-assignment experiments, or other designs to the extent that those designs  
29 contain within-condition or across-condition controls, ensures experimental studies are presented  
30 in sufficient detail and with clarity to allow for replication or, at a minimum, offer the  
31 opportunity to build systematically on their findings, has been accepted by a peer-reviewed  
32 journal or approved by a panel of independent experts through a comparably rigorous, objective  
33 scientific review.

34 "English as a Second Language", English as a Second Language is an instructional  
35 discipline, such as reading, math, or other foreign language. ESL is an academic subject for  
36 students learning English as another language.

37 "English language learners program", any of the following, or any combination hereof:  
38 two-way or dual-language bilingual education, transitional bilingual education (TBE), English as  
39 a Second Language (ESL), Programs for English Language Learner students with interrupted  
40 formal education (SIFE) or other full time innovative program that is research-based and  
41 designed to develop and accelerate English language proficiency and academic achievement as  
42 outlined in the Massachusetts academic standards and frameworks, and approved by the  
43 department under section 2A.

44 "English Language Learner ", a student who was not born in the United States  
45 whose native language is other than English and who is not able to perform ordinary class work  
46 in English; or a student who was born in the United States of non-English speaking parents and  
47 who is not able to perform ordinary class work in English.

48 "Office of language acquisition", the office of language acquisition established in section  
49 1A of chapter 69.

50 "Two-Way or Dual-Language Program", a fulltime program of whole school instruction  
51 for English Language Learner students and fully English proficient students that incorporates  
52 both the language and the culture of the language minority group to include it in all aspects of  
53 the school curricula in an English speaking classroom where teachers are licensed in ESL, TBE,  
54 and/or Foreign/Dual Language.

55 "ESL", a fulltime program of academic instruction and/or English language learning for  
56 English Language Learner students in which primarily English is the medium of classroom  
57 instruction and the native language of such student is used for support and clarification. General  
58 education, vocational and content teachers who have English Language Learners students  
59 assigned to their classroom will be trained in ESL sheltering principles and shall earn a  
60 Sheltered English Immersion (SEI) endorsement under the regulations adopted by the  
61 Department for that purpose, to better support the academic achievement of English language  
62 learner students in English language learning environments. The assignment of any English  
63 Language Learner student to any teacher who does not hold an SEI endorsement, or is not in the  
64 process of obtaining such endorsement within one year from such assignment, is further  
65 prohibited.

66 "Transitional bilingual education", a fulltime program of instruction (1) in all those  
67 courses or subjects which are required by the Department which shall be given in the native  
68 language of the English Language Learner students who are enrolled in the program and also in  
69 English, (2) in the reading and writing of the native language of the English Language Learner  
70 students who are enrolled in the program and in the oral comprehension, speaking, reading and  
71 writing of English. Any school district that offers a transitional bilingual education program may  
72 include in its curriculum courses the history and culture of the country, territory or geographic  
73 area which is the native land of the parents of the English Language Learner students who are  
74 enrolled.

75 "Two-way bilingual education", a fulltime program in which the curriculum is structured  
76 so that English Language Learner students of the same language group and English proficient  
77 students develop literacy and numeracy in 2 languages by being taught in the same classroom in  
78 which the medium of instruction is both English and the language of the English Language  
79 Learner students.

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

82 Section 2. Each school district shall determine annually, not later than the first day of  
83 March, under regulations promulgated by the department, the number of English Language  
84 Learner students within their school system in grades kindergarten through 12. At the beginning  
85 of any school year, the school committee shall establish a policy requiring that the district offer  
86 English language learners programs for all English Language Learner students, and that such  
87 programs be taught by teachers licensed in ESL and/or TBE/Dual Language. Districts must  
88 provide access to native language development for English Language Learner students who are  
89 not progressing in English-only programs, and further are encouraged to offer at least two  
90 English language learner program options, such as two-way/dual-language, heritage language  
91 and ESL. Programs for English Language Learner students with interrupted formal education  
92 (SIFE) must be offered to those English Language Learners who are recent immigrants and who

93 enter the school system at the secondary level with limited literacy in their native language and  
94 with interrupted formal education.

95 Districts shall assess, using uniform assessment instruments prescribed by the  
96 department, a benchmark of English proficiency for newly-entering students; annual student  
97 progress and growth in English and core subject academic achievement on formative and  
98 summative assessments; evidence of the ability to perform regular education classroom work in  
99 English of identified English Language Learner students.

100 Every English Language Learner student enrolled in a public school system shall  
101 participate in an English language learners program established by the school district in which  
102 the student resides, unless the parents or legal guardian of the student decide otherwise in  
103 accordance with section 3. An English language learners program shall consist of any of the  
104 following, or any combination thereof:, two-way bilingual/dual language education, transitional  
105 bilingual education, English as a Second Language , Programs for English Language Learner  
106 students with interrupted formal education (SIFE) or other research-based innovative program  
107 designed to develop and accelerate English language proficiency approved by the department  
108 under section 2A. No school district may offer only a general education program for a English  
109 Language Learner student.

110 The school committee shall establish a policy requiring that the district offer full time  
111 English Language Learner programs for English Language Learner students. The policy shall be  
112 consistent with the school district's course enrollment standards. In determining the types of  
113 English language learners programs to be offered, the policy determination of the school  
114 committee shall reflect that strong consideration was given to the research- based programs  
115 offered and/or requested by the parents or legal guardians of English Language Learner students.

116 SECTION 4. Said chapter 71A is hereby further amended by inserting after section 2 the  
117 following 2 sections: -

118 Section 2A. At least once every 3 years, each school district with any limited English  
119 proficient students shall submit a district plan to the commissioner for approval in accordance  
120 with regulations promulgated by the department. The office of language acquisition shall make  
121 recommendations to the commissioner on whether any such plan shall be approved. The district  
122 shall provide any English Language Learner student with an appropriate English language  
123 learners program to assist such student in becoming proficient in using the English language and  
124 to enable the student to participate effectively in the district's regular or advanced educational  
125 programs and extracurricular activities. Districts shall make available equitable access to  
126 enrichment and extra-curricular opportunities for interested English Language Learner students,  
127 either during or outside the regular school day. The district plan shall define and address all  
128 elements and goals of the programs chosen by the district. Prior to developing a district plan, the  
129 district shall notify parents or legal guardians of English Language Learner students within the

130 district that such a plan is being developed, and shall involve such parents or legal guardians in  
131 the development and review of such plan. In a school district with a English Language Learner  
132 student or students the district plan shall include, but not be limited to, the following:

133 (a) A description of programs and services currently being provided by the district to  
134 English Language Learner students.

135 (b) A description of research-based English language learner programs and services  
136 the district will make available to all English Language Learner students.

137 (c) A description of the opportunities the district will make available to limited  
138 English proficient students for instruction in maintaining or developing proficiency in their  
139 native language, including, but not limited to, as part of an English language learners programs  
140 and through foreign or heritage language classes.

141 (d) A description of how English language learners programs or services will be  
142 provided to ensure that a student has the opportunity to: (a) become proficient in using the  
143 English language for oral communication, literacy, and numeracy in English; (b) master  
144 curriculum content according to the district's curriculum guidelines and state academic standards  
145 and curriculum frameworks; and (c) be able to participate in the district's regular or advanced  
146 educational programs and extracurricular activities.

147 (e) A description of the qualifications and licensure status of all staff who will  
148 provide English language learners programs and remedial services to English Language Learner  
149 students, including a description of qualifications and licensure status of the administrative staff  
150 responsible for oversight of the district's English Language Learners programs.

151 (f) A description of the uniform assessment instruments, prescribed by the  
152 department, to be utilized by the district to determine the level of English proficiency and ability  
153 to perform regular education classroom work in English of a newly enrolled student who is of  
154 limited English proficiency and the academic grade level of such student, for the purpose of  
155 placing such student in a program established under this chapter. Such description shall include  
156 the qualifications of staff administering such assessments.

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

162 (h) A description of how the school district will evaluate the effectiveness of English  
163 Language Learners programs and services provided to English Language Learner students in  
164 terms of helping such students attain English language proficiency and master academic

165 standards outlined in the Common Core Standards and curriculum frameworks and a description  
166 of all the steps that the school district will take to overcome any deficiency encountered.

167 (i) A description of the measures that will be used to ensure that former limited  
168 English proficient students in regular education classrooms continue to progress in all areas of  
169 the curriculum, including English, native language development, and compliance with the  
170 academic standards and curriculum frameworks.

171 (j) School districts will offer parents or legal guardians English Language Learner  
172 programs based on students' English language proficiency and academic progress, including  
173 enrichment, instructional, and remedial programs, which may be two-way, ESL, heritage  
174 language, and programs inclusive of native English speakers. All English Language Learner  
175 students enrolled fulltime in a general education setting shall have a licensed teacher with an  
176 ESL endorsement. In cases where parents or guardians have refused English language learner  
177 programming, the ESL endorsed general education teacher shall assume responsibility for  
178 providing access to the curriculum for English Language Learner students, and opportunities for  
179 said students to continue to progress in all areas of the curriculum, including compliance with the  
180 academic standards and curriculum frameworks. This student will continue to participate in  
181 annual English language proficiency assessments. The district shall communicate the student's  
182 progress on district and state assessments in a language comprehensible to parents and legal  
183 guardians. In cases where the student is not making academic progress, district administrators or  
184 their delegates shall meet with the student's parent or legal guardian to make improved  
185 programming recommendations. The district will keep a record of parent meetings for this  
186 purpose.

187 (k) A description of the training to be provided for all staff in working with culturally  
188 and linguistically diverse student populations. Such description shall also include a department  
189 approved staff development plan that describes how the district will build capacity among all  
190 staff in the school district to serve English Language Learner students.

191 (l) A description and documentation of how principals, teachers, parents or legal  
192 guardians of English Language Learner students, parent advisory councils and the general public  
193 were included in the development and review of the district plan.

194 (m) A description of how parents or legal guardians of English Language Learner  
195 students will be informed when it is determined through assessments prescribed by the  
196 department that their child can participate fully in the English language curriculum without  
197 native language or other language support services.

198 (n) A description of how parents or legal guardians of English Language Learner  
199 students will be provided the opportunity to continue to remain involved in English Language  
200 Learners programs.

201           Regardless of the number of English Language Learner students, districts will plan  
202 programming for English Language Learner students, including, but not limited to, the  
203 following:

204           (a)     A description of how the district complies with English Language Learner  
205 identification and parent and legal guardian communication of program options.

206           (b)     A description of research-based instructional programs offered to enable a  
207 English Language Learner student achieve English language proficiency.

208           (c)     Master curriculum content according to the district's curriculum guidelines and  
209 state academic standards and curriculum frameworks.

210           (d)     The ability to participate in the district's regular or advanced educational  
211 programs and extracurricular activities.

212           (e)     A description of ESL licensed and/or TBE/Dual language licensed staff.

213           (f)     ESL endorsed teachers and capacity-building professional development plan.

214           (g)     A description of the methods the district uses to communicate with the parent and  
215 legal guardians regarding critical elements of aforesaid plan, including student progress, on an  
216 annual or more frequent basis.

217           This plan shall be valid for 3 years. In the third year, a school district shall submit an  
218 updated district plan to the commissioner for approval in the manner provided herein for  
219 submission of a district plan. In addition to the requirements of this section for a district plan, the  
220 updated district plan shall also include documentation evidencing the academic outcomes for  
221 English Language Learner students served under the prior district plan.

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

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

234 English Language Learner students in any English language learners program shall be  
235 taught to the same academic standards and curriculum frameworks as all students, and shall be  
236 provided the same opportunities to master such standards and frameworks as other students.  
237 Districts shall regularly assess mastery of academic standards and curriculum frameworks in  
238 English and in the target language where applicable to designated language development  
239 programs, such as in two-way or dual language programs, TBE, heritage language, Students  
240 with Interrupted Formal Education (SIFE), or other research-based English language learners  
241 program.

242 In order to encourage innovation and best practices, school districts may develop or  
243 utilize innovative research-based programs designed to accelerate English and/or target language  
244 development. Any such program shall provide English Language Learner students with the  
245 opportunity to develop oral comprehension, speaking, reading, and writing of English and to  
246 meet the academic standards and curriculum frameworks. Such programs may include, but not  
247 be limited to, two-way or dual language education programs. All such programs shall be  
248 submitted to the department for review and approval. The office of language acquisition shall  
249 review and make recommendations on all such programs.

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

254 The evaluation shall include, but not be limited to, a review of individual student records  
255 of all English Language Learner students, a review of the programs and services provided to  
256 English Language Learner students to determine if they are in accordance with the district plan,  
257 and a review of the dropout rate of English Language Learner students formerly enrolled in the  
258 district's English language learners program or programs within the prior 3 years.

259 In the event a review and evaluation undertaken under this section demonstrates that a  
260 district is substantially out of compliance with the district plan, or is failing to adequately  
261 improve educational outcomes for English Language Learner students enrolled in English  
262 language learners programs, the commissioner may recommend to the board of education that  
263 any school within the district be declared underperforming under sections 1J and 1K of chapter  
264 69.

265 Section 2B. School districts shall assess annually all English Language Learner students  
266 in the oral comprehension, speaking, reading, and writing of English by means of English  
267 proficiency uniform assessment instruments intended for English Language Learner students,  
268 which have been prescribed by the department. Except as provided in this section, any English  
269 Language Learner student may remain in an English language learners program until such time  
270 as the student achieves a level of English language proficiency that will enable the student to

271 perform successfully in classes in which instruction is given only in English as determined by  
272 scores on English proficiency assessments as set forth in this section, whichever occurs first.  
273 School districts shall develop an intensive English learning success plan for any English  
274 Language Learner student whom the district determines fails to achieve scores on English learner  
275 proficiency assessments that, in the determination of the department, reflect sufficient progress  
276 toward achieving English language proficiency.

277 Any such plan shall be developed with the participation and approval of the student's  
278 parents or legal guardian. The plan shall concentrate on the needs of the student to master  
279 English language literacy skills and shall specify such instruction or services as intensive English  
280 or other language development classes, intensive tutoring, after or before school programs,  
281 summer programs, literacy mentoring, and other academic supports that will assist the student in  
282 the acquisition of English necessary to access academic standards and curriculum frameworks at  
283 grade level. Any student who fails to achieve growth scores on English proficiency and  
284 academic content assessments that, in the determination of the department, reflect sufficient  
285 progress, or that will enable the student to perform successfully in classes in which instruction is  
286 given in English, may remain in such an intensive program until adequate progress is made such  
287 that students may fully participate and academically succeed in the standard program without  
288 additional support. Student progress with intensive instruction and/or remediation shall be  
289 reported annually, or more frequently, in language comprehensible to parents and legal  
290 guardians.

291 Any English Language Learner student enrolled in a two-way or dual-language  
292 education program who has achieved sufficient growth scores on English proficiency  
293 assessments that, in the determination of the department, reflect a level of English progress  
294 appropriate to the student's grade level, may remain enrolled in such programs.

295 If later evidence suggests, as determined by the school district, that a English Language  
296 Learner student transferred from an English language learner program to a regular education  
297 program, or never previously enrolled in an English language learner program, is still  
298 disadvantaged by a lack of English proficiency or academic progress and may benefit from being  
299 reenrolled in an English language learners program offered by the district, such student, with the  
300 approval of the student's parents or legal guardian, may be so reenrolled.

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

304 In the event of any conflict between this chapter and an individual educational plan  
305 developed for a school age child with a disability under chapter 71B, the provisions of such plan  
306 shall prevail. A English Language Learner student requiring both special education services and  
307 English and/or native language development in order to meet academic expectations shall receive

308 all necessary services regardless of and including native and target language of delivery of said  
309 services.

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

312 Section 3. School districts shall notify, in writing, the parents or legal guardian of a  
313 limited English proficient student of the English language learners programs that are available  
314 within the district, and shall recommend specific programs for the student. Such notice shall be  
315 sent by mail not later than 10 days after the enrollment of the student in the school district. The  
316 notice shall contain a simple, non-technical description of the purposes, method and content of  
317 the various programs, reasons for the school district's recommendation of a specific program, and  
318 shall inform the parents or legal guardian that they have the right to visit English language  
319 learners program classes in the school district, and to come to the school for a conference to  
320 explain the nature of the various English language learners programs. The notice shall further  
321 inform such parents or legal guardian that they have the absolute right, if they so desire, to  
322 choose any English language learners program for the student from among those provided by the  
323 school district, or to withdraw the student from a program, in the manner as hereinafter provided  
324 in this section.

325 The notice shall also inform such parents or legal guardian of the existence of any parent  
326 advisory council established within the district under this section. Any such notice shall be  
327 written in English and in the language of which the parents or legal guardians so notified  
328 possesses a primary speaking ability, or request communication.

329 In any case where a district recommends that a student be placed in an English language  
330 learners program, the parents or legal guardian of such student shall have the right, either at the  
331 time of the original notification under this section, or at the close of any marking period  
332 thereafter, to choose an English language learners program for the student from among those  
333 provided by the school district, or to withdraw the student from such program by sending written  
334 notice of such decision by mail to the school authorities of the school district in which the  
335 student is enrolled. Such written notice shall be sent not later than 10 school days after receipt of  
336 the notice sent by the school district, under this section. In the case of a student who is to be  
337 withdrawn from an English language learners program, the written notice shall be sent not later  
338 than 10 school days after the close of any marking period.

339 Each school district operating English language learners programs shall establish a parent  
340 advisory council. The parent advisory council shall be comprised of parents or legal guardians of  
341 students who are enrolled in English language learners programs within the district. Each parent  
342 advisory council shall have at least 1 representative from every language group in which a two-  
343 way/dual language, TBE, heritage language, SIFE, or ESL program is conducted in a given  
344 district. Membership shall be restricted to parents or legal guardians of students enrolled in

345 English language learners programs within the district. In cases where there are multilingual  
346 language groups within a program, efforts to recruit among all parents and legal guardian will be  
347 made, with at least 1 representative among language groups serving.

348 The duties of the parent advisory council shall include, but not be limited to, advising the  
349 school district on matters that pertain to the education of students in English language learners  
350 programs, meeting regularly with school officials to participate in the planning, development,  
351 implementation, and evaluation of the district plan required by this chapter, and to participate in  
352 the review of school improvement plans established under section 59C of chapter 71 as they  
353 pertain to English Language Learner students. Any parent advisory council may, at its request,  
354 meet at least once annually with the school council. The parent advisory council shall establish  
355 by-laws regarding officers and operational procedures. In the course of its duties under this  
356 section, the parent advisory council shall receive assistance from the director of English language  
357 learners programs for the district or other appropriate school personnel as designated by the  
358 superintendent.

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

361 Section 4. A school district may allow a nonresident English Language Learner student to  
362 enroll in or attend its English language learners programs, and the tuition for such student shall  
363 be paid by the school district in which the student resides. Any school district may join with any  
364 other school district or districts to provide English language learners programs required or  
365 permitted by this chapter.

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

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

375 English language learners programs shall be located in the regular public schools of the  
376 district.

377 Students enrolled in an English language learners program shall be placed in classes with  
378 students of approximately the same age and level of English language proficiency and  
379 educational attainment.

380 In cases where the district is unable to comply due to low numbers of English Language  
381 Learner students students of no more than a grade span of two years may be grouped for  
382 English language development instruction as part of the daily instructional program.

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

385 Section 6. The commissioner shall grant English language learner endorsements  
386 to general education teachers who have undergone department approved training or professional  
387 development programs under section 38G of chapter 71; teachers of English language learner  
388 programs approved by the department under section 2A shall be licensed in bilingual  
389 education/dual language education, or English as a second language. No person shall be eligible  
390 for employment by a school district as a teacher of bilingual education/dual language education,  
391 or English as a second language, except as provided in this section, unless he has been granted a  
392 license by the commissioner under said section 38G with respect to the type of position for  
393 which he seeks employment. Nothing in this section shall be construed to prevent a school  
394 committee from prescribing additional qualifications.

395 In cases of shortages of licensed teachers of bilingual education or English as a second  
396 language, as determined by the commissioner, the commissioner may grant a waiver to a teacher  
397 of bilingual education or English as a second language who is not certified with respect to the  
398 type of position for which he seeks employment, if he presents the commissioner with  
399 satisfactory evidence indicating he: (1) possesses a speaking and reading ability in a language,  
400 other than English, in which English language learners programs are offered and is proficient in  
401 written and oral English; (2) is of sound moral character; (3) possesses a bachelor's degree or  
402 earned a higher academic degree; (4) meets such requirements as to courses of study, semester  
403 hours therein, experience and training as may be required by the board of education that will  
404 enable him to become a certified teacher of bilingual education, or English as a second language  
405 in the state; and (5) is legally present in the United States and possess legal authorization for  
406 employment. Any waiver shall be subject to annual renewal by the commissioner; provided, that  
407 the waiver may be renewed not more than 4 times. In granting a waiver under this section, the  
408 commissioner shall give preference to persons who have been certified as teachers in their  
409 country or place of national origin.

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

412 Section 7. A school district may establish, on a full or part-time basis, preschool or  
413 summer school English language learners programs for English Language Learner students or  
414 join with the other school districts in establishing such preschool or summer programs.  
415 Preschool or summer programs shall not substitute for English language learners programs  
416 required to be provided during the regular school year. A school district may establish after

417 school programs to assist English Language Learner student s in developing and maintaining  
418 native language proficiency.

419 SECTION10. Notwithstanding any general or special law to the contrary, each school  
420 district shall, within 5 years of the effective date of this act, have teachers who are certified in  
421 English as a Second Language, TBE, and/or other English language learners program, such as  
422 two-way/dual-language required to meet the needs of English Language Learner students in  
423 district and department endorsed general education teachers under section 38G of chapter 71 or  
424 regulations promulgated thereto.

425 SECTION 11. Notwithstanding any general or special law to the contrary, any school  
426 district with 200 or more English Language Learner students enrolled in the school system that  
427 appoints a person to be its director of English language learners programs shall appoint a person  
428 who is certified in English as a second language, bilingual education or other English language  
429 learners program under section 38G of chapter 71 or regulations promulgated thereto.

430 SECTION 12. Notwithstanding any general or special law to the contrary, any English  
431 Language Learner student, as defined in section 1 of chapter 71A of the General Laws, who was  
432 enrolled in a public secondary school in the commonwealth directly from a country other than  
433 the United States of America, and who was unable to achieve proficiency in the English  
434 language, as determined by English proficiency assessments established under section 2B of said  
435 chapter71A, prior to leaving such public secondary school, to the extent possible shall be given  
436 access to English language and literacy skill instruction courses offered through the adult basic  
437 education program established under section 1H of chapter 69 of the General Laws.

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

441 SECTION 14. Sections 1 and 11 shall take effect on January 1, 2014.

442 SECTION 15. Sections 2 through 10, inclusive, and 18 through 27, inclusive, shall take  
443 effect on July 1, 2014.