

HOUSE No. 01065

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 passage of the accompanying bill:

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

PETITION OF:

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

HOUSE No. 01065

By Mr. Jeffrey Sánchez of Boston, petition (accompanied by bill, House, No. 01065) of Alice K. Wolf and others relative to an English language learner's program in the public schools. Joint Committee on 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 AN ACT RELATIVE TO ENHANCING ENGLISH OPPORTUNITIES FOR ALL STUDENTS
2 IN THE COMMONWEALTH .

3

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

6

7 SECTION 1. The fifth paragraph of section 59C of chapter 71 of the General Laws as
8 appearing in the 2008 official edition, is hereby amended by inserting after the fourth sentence

9 the following sentence: In school districts with limited English proficient students, the plan to
10 improve student performance shall include a description of the opportunities to be provided by
11 the school to ensure the progress of limited English proficient students in developing oral
12 comprehension, speaking, reading and writing of English, and also in meeting academic
13 standards and curriculum frameworks established under sections 1D and 1E of chapter 69.

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

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

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

20 "Commissioner", the commissioner of education.

21 "Curriculum frameworks", curriculum frameworks established under section 1E of chapter
22 69 of the General Laws.

23 "Department", the department of education.

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

27 "English language learners program", any of the following, or any combination hereof:
28 transitional bilingual education, two-way bilingual education, structured English immersion,
29 English as a second language, or other full time innovative program designed to accelerate

30 English language proficiency and academic achievement approved by the department under
31 section 2A.

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

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

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

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

47 "Transitional bilingual education", a fulltime program of instruction (1) in all those courses
48 or subjects which are required by the student's school district which shall be given in the native
49 language of the limited English proficient students who are enrolled in the program and also in
50 English, (2) in the reading and writing of the native language of the limited English proficient
51 students who are enrolled in the program and in the oral comprehension, speaking, reading and

52 writing of English, and (3) in the history and culture of the country, territory or geographic area
53 which is the native land of the parents of the limited English proficient students who are enrolled
54 in the program and in the history and culture of the United States.

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

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

62 Section 2. Each school district shall determine annually, not later than the first day of March,
63 under regulations promulgated by the department, the number of limited English proficient
64 students within their school system in grades kindergarten through 12. At the beginning of any
65 school year, the school committee shall establish a policy requiring that the district offer at least
66 1 English language learners program for all limited English proficient students. Every school
67 district shall assess, using uniform assessment instruments prescribed by the department, the
68 language dominance, level of English proficiency, and ability to perform regular education
69 classroom work in English of a newly enrolled student who may be of limited English
70 proficiency and the academic level of such student, for the purpose of placing the student in an
71 English language learners program. Every limited English proficient student enrolled in a public
72 school system shall participate in an English language learners program established by the school
73 district in which the student resides, unless the parents or legal guardian of the student decide

74 otherwise in accordance with section 3. An English language learners program shall consist of
75 any of the following, or any combination thereof: transitional bilingual education, two-way bili
76 ngual education, structured English immersion, English as a second language, or other
77 innovative program designed to accelerate English language proficiency approved by the
78 department under section 2A. No school district with 20 or more limited English proficient
79 students in any 1 language group may offer only English as a second language.

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

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

95 Section 2A. At least once every 3 years, each school district with any limited English
96 proficient students shall submit a district plan to the commissioner for approval in accordance
97 with regulations promulgated by the department. The office of language acquisition shall make
98 recommendations to the commissioner on whether any such plan shall be approved. The district
99 shall provide any limited English proficient student with an appropriate English language
100 learners program to assist such student in becoming proficient in using the English language and
101 to enable the student to participate effectively in the district's regular or advanced educational
102 programs and extracurricular activities. To the extent practical, districts shall make available
103 reasonable enrichment opportunities for interested limited English proficient students, either
104 during or outside the regular school day, including, but not limited to, as part of an English
105 language learners program or through foreign language courses or after school programs, to help
106 them maintain their native language skills. The district plan shall define and address all elements
107 and goals of the program or programs to be chosen by the district. Prior to developing a district
108 plan, the district shall notify parents or legal guardians of limited English proficient students
109 within the district that such a plan is being developed, and shall involve such parents or legal
110 guardians in the development and review of such plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

177 (4) A description of the uniform assessment instruments, prescribed by the department, to
178 be utilized by the district to determine the language dominance, level of English proficiency, and

179 ability to perform regular education classroom work in English of a newly enrolled student who
180 may be of limited English proficiency and the academic level of such student, for the purpose of
181 placing such student in an English language learners program. Such description shall include the
182 qualifications of staff administering such assessments.

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

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

193 In a school district with 20 or more limited English proficient students in any 1 language
194 group, no district plan or updated district plan shall be submitted to the commissioner until after
195 a public hearing, with due notice to interested parties, has been held on such plan. The district
196 shall make any such plan available for public inspection at least 10 days prior to any public
197 hearing. Due notice shall include notification published in a newspaper of general circulation in
198 the district, and other reasonable steps to notify parents of limited English proficient students
199 within the district and other interested parties of such hearing, not less than 15 days prior to any
200 such hearing. Any such notification shall include a brief description of the plan, the date, time

201 and place of the hearing, and shall indicate the place where the plan is available for public
202 inspection. Notices to parents or legal guardians of limited English proficient students required
203 by this section shall, to the maximum extent possible, be in a language understandable by the
204 parents or legal guardians.

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

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

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

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

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

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

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

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

245 Section 2B. School districts shall assess annually all limited English proficient students in the
246 oral comprehension, speaking, reading, and writing of English by means of English proficiency
247 uniform assessment instruments intended for limited English proficient students, which have
248 been prescribed by the department. Except as provided in this section, any limited English
249 proficient student may remain in an English language learners program for a period of 2 years, or
250 until such time as the student achieves a level of English language proficiency that will enable
251 the student to perform successfully in classes in which instruction is given only in English as
252 determined by scores on English proficiency assessments as set forth in this section, whichever
253 occurs first. Only full-day kindergarten shall be counted toward the time limitations set forth in
254 this section. School districts shall develop an intensive English learning success plan for any
255 limited English proficient student whom the district determines fails to achieve scores on English
256 proficiency assessments that, in the determination of the department, reflect sufficient progress
257 toward achieving English language proficiency following the student's first year in any English
258 language learners program. Any such plan shall be developed with the participation and approval
259 of the student's parents or legal guardian. The plan shall concentrate on the needs of the student
260 to master English language literacy skills and shall specify such instruction or services as
261 intensive English classes, intensive tutoring, after or before school programs, summer programs,
262 literacy mentoring, and other academic support s that will assist the student in the rapid
263 acquisition of English necessary to access academic standards and curriculum frameworks at
264 grade level. Any student who fails to achieve scores on English proficiency assessments that, in
265 the determination of the department, reflect sufficient proficiency that will enable the student to
266 perform successfully in classes in which instruction is given only in English, may remain in such

267 intensive plan for up to 1 additional year, with the approval of the student's parents or legal
268 guardian.

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

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

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

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

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

287 Section 3. School districts shall notify, in writing, the parents or legal guardian of a limited
288 English proficient student of the English language learners program that are available within the
289 district, and shall recommend a specific program for the student. Such notice shall be sent by
290 mail not later than 10 days after the enrollment of the student in the school district. The notice
291 shall contain a simple, non technical description of the purposes, method and content of the
292 various programs, reasons for the school district's recommendation of a specific program, and
293 shall inform the parents or legal guardian that they have the right to visit English language
294 learners program classes in the school district, and to come to the school for a conference to
295 explain the nature of the various English language learners programs. The notice shall further
296 inform such parents or legal guardian that they have the absolute right, if they so desire, to
297 choose any English language learners program for the student from among those provided by the
298 school district, to prevent the student from being placed in an English language learners program,
299 or to withdraw the student from a program, in the manner as hereinafter provided in this section.
300 The notice shall also inform such parents or legal guardian of the existence of any parent
301 advisory council established within the district under this section. Any such notice shall be
302 written in English and in the language of which the parents or legal guardians so notified
303 possesses a primary speaking ability.

304 In any case where a district recommends that a student be placed in an English language
305 learners program, the parents or legal guardian of such student shall have the right, either at the
306 time of the original notification under this section, or at the close of any marking period
307 thereafter, to choose an English language learners program for the student from among those
308 provided by the school district, to prevent the student from being placed in an English language
309 learners program, or to withdraw the student from such program by sending written notice of

310 such decision by mail to the school authorities of the school district in which the student is
311 enrolled. Such written notice shall be sent not later than 10 school days after receipt of t he
312 notice sent by the school district, under this section. In the case of a student who is to be
313 withdrawn from an English language learners program, the written notice shall be sent not later
314 than 10 school days after the close of any marking period.

315 Each school district operating an English language learners program or programs for 20 or
316 more limited English proficient students in any 1 language group shall establish a parent
317 advisory council. The parent advisory council shall be comprised of parent s or legal guardians
318 of students who are enrolled in English language learners programs within the district. Each
319 parent advisory council shall have at least 1 representative from every language group in which a
320 program is conducted in a given district. Membership shall be restricted to parents or legal
321 guardians of students enrolled in English language learners programs within the district. The
322 duties of the parent advisory council shall include, but not be limited to, advising the school
323 district on matters that pertain to the education of students in English language learners
324 programs, meeting regularly with school officials to participate in the planning, development,
325 implementation, and evaluation of the district plan required by this chapter, and to participate in
326 the review of school improvement plans established under section 59C of chapter 71 as they
327 pertain to limited English proficient students. Any parent advisory council may, at its request,
328 meet at least once annually with the school council. The parent advisory council shall establish
329 by-laws regarding officers and operational procedures. In the course of its duties under this
330 section, the parent advisory council shall receive assistance from the director of English language
331 learners programs for the district or other appropriate school personnel as designated by the
332 superintendent.

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

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

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

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

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

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

351 Students enrolled in an English language learners program, whenever possible, shall be
352 placed in classes with students of approximately the same age and level of educational
353 attainment. If students of different age groups or educational levels are combined, the school

354 district so combining shall ensure that the instruction given each student is appropriate to the
355 student's level of educational attainment and the school district shall keep adequate records of the
356 educational level and progress of each student enrolled in a program. The maximum student-
357 teacher ratio and age span shall be set by the department and shall reflect the unique educational
358 needs of children enrolled in English language learners programs.

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

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

370 In cases of shortages of certified teachers of bilingual education or English as a second
371 language, as determined by the commissioner, the commissioner may grant a waiver to a teacher
372 of bilingual education or English as a second language who is not certified with respect to the
373 type of position for which he seeks employment, if he presents the commissioner with
374 satisfactory evidence indicating he: (1) possesses a speaking and reading ability in a language,
375 other than English, in which English language learners programs are offered and is proficient in

376 written and oral English; (2) is of sound moral character; (3) possesses a bachelor's degree or
377 earned a higher academic degree; (4) meets such requirements as to courses of study, semester
378 hours therein, experience and training as may be required by the board of education that will
379 enable him to become a certified teacher of bilingual education, or English as a second language
380 in the state; and (5) is legally present in the United States and possess legal authorization for
381 employment. Any waiver shall be subject to annual renewal by the commissioner; provided, that
382 the waiver may be renewed not more than 4 times. In granting a waiver under this section, the
383 commissioner shall give preference to persons who have been certified as teachers in their
384 country or place of national origin.

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

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

394 SECTION10. Notwithstanding any general or special law to the contrary, each school district
395 shall, within 5 years of the effective date of this act, have at least 1 teacher who is certified in
396 English as a second language, bilingual education or other English language learners program
397 under section 38G of chapter 71 or regulations promulgated thereto.

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

403 SECTION 12. Notwithstanding any general or special law to the contrary, any limited
404 English proficient student, as defined in section 1 of chapter 71A of the General Laws, who was
405 enrolled in a public secondary school in the commonwealth directly from a country other than
406 the United States of America, and who was unable to achieve proficiency in the English
407 language, as determined by English proficiency assessments established under section 2B of said
408 chapter 71A, prior to leaving such public secondary school, to the extent possible shall be given
409 access to English language and literacy skill instruction courses offered through the adult basic
410 education program established under section 1H of chapter 69 of the General Laws.

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

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

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