

HOUSE No. 529

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz

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 promoting public school success.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Thomas M. Menino</i>	<i>1 City Hall Square, Suite 500, Boston, MA 02201</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>

HOUSE No. 529

By Ms. Walz of Boston, a petition (accompanied by bill, House, No. 529) of Martha M. Walz and others for legislation to promote public school success and close the achievement gap by extending the strong academic results of some schools to serve a greater number of students. Education.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act promoting public school success.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote public school success, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 4E of chapter 40 of the General Laws, as appearing in section 1 of
2 chapter 43 of the acts of 2012, is hereby amended by striking out subsection (b) and inserting in
3 place thereof the following:-

4 (b) Two or more school committees of cities, towns and regional school districts, two or
5 more boards of trustees of charter schools, or a combination of two or more such school
6 committees and boards of trustees may enter into a written agreement to provide shared
7 programs and services, including instructional, administrative, facility, community or any other
8 services; provided that a primary purpose of such programs and services shall be to complement
9 the educational programs of member school committees or charter schools in a cost-effective
10 manner. The association of school committees or charter school boards which is formed to
11 deliver the programs and services shall be known as an education collaborative.

12 SECTION 2. Chapter 69 of the General Laws is hereby amended by striking out section
13 1G, as appearing in the 2010 Official Edition, and inserting in place thereof the following
14 section: -

15 Section 1G. (a) The board shall establish the minimum length for a school day and the
16 minimum number of days in the school year.

17 (b) School districts may elect to extend the length for a school day by a majority vote of
18 the school committee and by a majority vote of the city council with the approval of the mayor,
19 in the case of a city with a Plan A, Plan B, or Plan F charter; by a majority vote of the city
20 council, in the case of a city with a Plan C, Plan D, or Plan E charter; by a majority vote of the
21 annual town meeting or a special meeting called for the purpose, in the case of a municipality
22 with a town meeting form of government; or by a majority vote of the town council, in the case
23 of a municipality with a town council form of government. In districts in which a school or
24 schools have been designated underperforming, compensation for additional hours for any non-
25 charter school shall not be subject to collective bargaining under chapter 150E and shall be set at
26 the same rates as established in the turnaround plan or determined by the joint resolution
27 committee under section 1J of chapter 69.

28 SECTION 3. Section 1J of chapter 69 of the General Laws, as appearing in the 2010
29 Official Edition, is hereby amended by striking out the first paragraph in subsection (a) and
30 inserting in place thereof the following paragraph:-

31 The commissioner of elementary and secondary education may, on the basis of student
32 performance data collected pursuant to section 1I, a school or district review performed under
33 section 55A of chapter 15, or regulations adopted by the board of elementary and secondary
34 education, designate 1 or more schools in a school district other than a Horace Mann charter
35 school as underperforming or chronically underperforming. The board shall adopt regulations
36 establishing standards for the commissioner to make such designations on the basis of data
37 collected, pursuant to section 1I, or information from a school or district review performed under
38 section 55A of chapter 15. Upon the release of the proposed regulations, the board shall file a
39 copy thereof with the clerks of the house of representatives and the senate who shall forward the
40 regulations to the joint committee on education. Within 30 days of the filing, the committee may
41 hold a public hearing and issue a report on the regulations and file the report with the board. The
42 board, pursuant to applicable law, may adopt final regulations making revisions to the proposed
43 regulations as it deems appropriate after consideration of the report and shall forthwith file a
44 copy of the regulations with the chairpersons of the joint committee on education and, not earlier
45 than 30 days of the filing, the board shall file the final regulations with the state secretary.
46 Schools that score in the lowest 20 per cent statewide among schools serving common grade
47 levels on a single measure developed by the department that takes into account student
48 performance data and, beginning on July 1, 2011, improvement in student academic
49 performance, shall be designated as underperforming or chronically underperforming. Not more
50 than 20 per cent of the total number of public schools may be designated as underperforming or
51 chronically underperforming at any given time.

52 SECTION 4. Subsection (f) of said section 1J of chapter 69 of the General Laws, as so
53 appearing, is hereby further amended by inserting at the end of the third paragraph the following
54 paragraph:-

55 If the superintendent determines during the annual review process described in
56 subsections (k) and (v), or during the review of the school upon the expiration of the turnaround
57 plan described in subsections (l) and (w), that one or more of the resolutions contained in the
58 decision of the joint resolution committee should be renegotiated, the superintendent shall submit
59 the written request for renegotiation to the commissioner along with an explanation of the
60 reasons why such a renegotiation is necessary, including a description of any changes in
61 circumstances that require a change in the initial decision. The commissioner shall have 10 days
62 to respond to this request. If this request is approved, the superintendent and the bargaining unit
63 shall have 30 days from the time of approval to bargain in good faith for a resolution. If the
64 parties are unable to reach an agreement within 30 days, then the commissioner will resolve all
65 outstanding issues. If the request is denied, the commissioner shall transmit to the superintendent
66 an explanation of the reasons for the denial.

67 SECTION 5. Subsection (l) of said section 1J of the General Laws, as so appearing, is
68 hereby further amended by inserting, after the second sentence, the following sentence:-

69 Renewing a turnaround plan shall not require renegotiating any decision with a collective
70 bargaining unit pursuant to subsection (f).

71 SECTION 6. Subsection (w) of said section 1J of the General Laws, as so appearing, is
72 hereby further amended by inserting, after the second sentence, the following sentence:-

73 Renewing a turnaround plan shall not require renegotiating any decision with a collective
74 bargaining unit pursuant to subsection (f).

75 SECTION 7. Subsection (y) of said section 1J of the General Laws, as so appearing, is
76 hereby further amended by inserting, at the end of the third sentence, the following:-

77 ; provided, however, that this transitional period shall extend for a minimum of 5 years
78 after the school's designation as underperforming or chronically underperforming terminates.
79 Any decision with a collective bargaining unit pursuant to subsection (f) shall continue in effect
80 during such transitional period.

81 SECTION 8. Subsection (c) of section 89 of chapter 71 of the General Laws, as
82 appearing in the 2010 Official Edition, is hereby amended by inserting after the word
83 "minimum" in the second sentence of the second paragraph the following words:-

84 describes whether the charter school or the district has ultimate responsibility for
85 complying with laws regulating special education,

86 SECTION 9. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby
87 amended by inserting after the sentence ending “other non-charter public schools” in subsection
88 (e) the following sentence:-

89 This section shall not preclude the establishment of single-sex schools and programs to
90 the extent that such programs are consistent with the constitution of the commonwealth and
91 federal law.

92 SECTION 10. Said section 89 of chapter 71 of the General Laws, as so appearing, is
93 hereby further amended by inserting, after the word “achievement” in the first sentence of
94 subsection (m), the following:-

95 ; provided, however, that nothing in this section shall be construed to prevent charter
96 schools from offering separate admissions, as authorized in subsection (n), to: (i) students with
97 severe or low-incidence disabilities; or (ii) English learners, as defined in section 2 of chapter
98 71A.

99 SECTION 11. Said section 89 of chapter 71 of the General Laws, as so appearing, is
100 hereby further amended by inserting after the fourth sentence in subsection (m) the following
101 sentence:-

102 This section shall not preclude the establishment of single-sex schools and programs to
103 the extent that such programs are consistent with the constitution of the commonwealth and
104 federal law.

105 SECTION 12. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby
106 amended by inserting after the second paragraph of subsection (n) the following paragraphs:-

107 When a commonwealth or Horace Mann charter school is located in a district in which 50
108 per cent or more of the students who attend district schools qualify for the free or reduced price
109 lunch program, it may choose to offer an enrollment preference to students who reside in a
110 specific geographical area within that district; provided, however, that within this geographical
111 preference area, the percentage of students who qualify for the free or reduced price lunch
112 program is equal to or higher than the district’s overall percentage of students who qualify for
113 this program. Any school that chooses to offer this preference must be located within its
114 designated geographical preference area.

115 In addition to providing the information that is required pursuant to subsection (e), any
116 charter school wishing to offer a geographical preference must include in its application for
117 approval: (i) a definition of the geographical area for which it will offer an enrollment
118 preference; (ii) an explanation of how this preference will support the mission of the charter
119 school and the academic performance of its students; (iii) evidence that within this geographical
120 area there resides an equal or higher percentage of low-income students, as measured by

121 qualification for the free or reduced price lunch program, as the district as a whole; and (iv) an
122 explanation of how the charter school will target its recruitment and retention efforts for students
123 within this geographical area. When any charter school that chooses to offer a geographical
124 preference seeks charter renewal and intends to continue applying the geographical preference,
125 the board shall consider whether the preference area continues to support the mission of the
126 charter school and the academic performance of its students, as well as whether the preference
127 area continues to serve an adequate percentage of low-income students to qualify as a
128 geographical preference area under this subsection.

129 In commonwealth charter schools that choose to offer a geographical preference, students
130 who reside within the geographical preference area shall have priority for enrollment in any open
131 seats over students who reside in the city or town in which the charter school is located but
132 outside of the geographical preference area. In Horace Mann charter schools that choose to offer
133 a geographical preference, priority for enrollment shall be given first to students actually enrolled
134 in the school on the date the application is filed with the board and their siblings; second to
135 students who reside within the geographical preference area and are enrolled in the public
136 schools of the district where the Horace Mann charter school is to be located; third to other
137 students who reside within the geographical preference area; fourth to other students enrolled in
138 the public schools of the district where the Horace Mann charter school is to be located but who
139 reside outside of the geographical preference area; and fifth to other students who reside outside
140 of the geographical preference area but within the city or town in which the charter school is
141 located.

142 SECTION 13. Said section 89 of chapter 71 of the General Laws, as so appearing, is
143 hereby further amended by inserting, after the sixth paragraph of subsection (n), the following
144 paragraphs:-

145 Notwithstanding this subsection, a charter school, including a Horace Mann charter
146 school, may choose to offer a separate admissions process to: (i) students with severe or low-
147 incidence disabilities; or (ii) English learners, as defined in section 2 of chapter 71A; provided,
148 however, that such separate admissions process is necessary to ensure that the charter school is
149 able to provide the necessary instructional placements and services that these students with
150 disabilities or English learners would require. Charter schools that choose to establish such a
151 separate admissions process may also choose to restrict eligibility for this process so that only
152 students with a particular severe or low-incidence disability, or English learners with language
153 proficiency in one or more particular language, are eligible; provided, however, that no student
154 with any disability or limited proficiency in the English language seeking admissions to the
155 charter school through the general admissions process, as described in the second paragraph of
156 subsection (n), shall be denied admission on the basis of that disability or language proficiency.

157 In addition to providing the information that is required pursuant to subsection (e), any
158 charter school wishing to offer such a separate admissions process must include in its application

159 for approval or proposed charter amendment: (i) an explanation of why this separate admissions
160 process is necessary to provide necessary instructional placements and services; (ii) the target
161 ratio of number of students with severe or low-incidence disabilities or English learners to
162 number of non-disabled students or students who are not English learners in the school's
163 population; (iii) the total number of spaces available for students with severe or low-incidence
164 disabilities or English learners through the separate admissions process; (iv) a description of the
165 educational program that will be offered to these students with disabilities or English learners;
166 and (v) a description of the recruitment plan by which the charter school will seek eligible
167 applicants for this separate admissions process.

168 If the total number of students with severe or low-incidence disabilities or English
169 learners who are eligible to participate in the separate admissions process established under this
170 subsection by reason of their disabilities or English learning needs, who apply to participate in
171 this separate admissions process, and who reside in the city or town in which the charter school
172 is located, is greater than the number of spaces available through this separate admissions
173 process, an admissions lottery, including all eligible students applying, shall be held to fill all of
174 the spaces available through this separate admission process. First priority for enrollment
175 through this separate admissions process shall be given to siblings of students currently enrolled
176 in the charter school, and second priority to students residing within the charter school's
177 geographical preference area, if such area has been established; provided, however, that the
178 students seeking to apply such priorities have severe or low-incidence disabilities or are English
179 learners, and would therefore be independently eligible to participate in this separate admissions
180 process.

181 SECTION 14. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby
182 amended by striking out the first paragraph of subsection (i) and inserting in place thereof the
183 following paragraph:-

184 (1) Not more than 120 charter schools shall be allowed to operate in the commonwealth
185 at any time, excluding those approved pursuant to paragraph (3); provided, however, that of the
186 120 charter schools, not more than 48 shall be Horace Mann charter schools; provided, however,
187 notwithstanding subsection (c) new Horace Mann charter schools shall not be subject to the
188 requirement of an agreement with the local collective bargaining unit prior to board approval;
189 provided, further, that after the charter for these new Horace Mann charter schools have been
190 granted by the board, the schools shall develop a memorandum of understanding with the school
191 committee and the local union regarding any waivers to applicable collective bargaining
192 agreements; provided, further, that if an agreement is not reached on the memorandum of
193 understanding at least 30 days before the scheduled opening of the school, the charter school
194 shall operate under the terms of its charter until an agreement is reached; provided, further, that
195 not less than 16 of the Horace Mann charter schools shall be located in a municipality with more
196 than 500,000 residents; and not more than 72 shall be commonwealth charter schools.
197 Notwithstanding any subsequent changes in the total number of charter schools allowed to

198 operate in the commonwealth, the maximum number of Horace Mann charter schools shall
199 remain 40 per cent of that total, and the minimum number of Horace Mann charter schools
200 located in a municipality with more than 500,000 residents shall remain one-third of the total
201 allowable number of Horace Mann charter schools. The board shall not approve a new
202 commonwealth charter school in any community with a population of less than 30,000 as
203 determined by the most recent United States Census estimate, unless it is a regional charter
204 school.

205 SECTION 15. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby
206 amended by striking out subsection (s) and inserting in place thereof the following subsection:-

207 (s) A charter school shall operate in accordance with its charter and the provisions of law
208 regulating other public schools; provided, however, that sections 41 and 42 shall not apply to
209 employees of commonwealth charter schools. Charter schools shall comply with the chapters
210 71A and 71B; provided, however, that the fiscal responsibility of a special needs student
211 currently enrolled in or determined to require a private day or residential school shall remain
212 with the school district where the student resides. If a charter school expects that a special needs
213 student currently enrolled in the charter school may be in need of the services of a private day or
214 residential school, it shall convene an individual education plan team meeting for the student.
215 Notice of the team meeting shall be provided to the special education department of the school
216 district in which the child resides at least 5 days in advance. Personnel from the school district in
217 which the child resides shall participate in the team meeting concerning future placement of the
218 child, unless the special education department of the school district elects not to participate in the
219 meeting and communicates this decision in writing to the charter school. At any time after
220 notification and before the team meeting, and again at the team meeting, personnel from the
221 school district in which the child resides shall be allowed to share with team members any in-
222 district programs that could provide the services recommended by the team.

223 If the team determines that the child requires a private day or residential school
224 placement, the child is still considered part of the charter school population. The charter school
225 must reserve a seat for the child, who continues to be part of the total enrollment count in the
226 charter school. However, the district shall not owe any part of the tuition for this child to the
227 charter school, nor shall this child's tuition amount be part of the total tuition amount the charter
228 school receives from the district where the child resides.

229 SECTION 16. Subsection (cc) of section 89 of chapter 71 of the General Laws, as
230 appearing in the 2010 Official Edition, is hereby amended by striking out subsection (cc) and
231 inserting in place thereof the following subsection:-

232 (cc) The students who reside in the school district in which the charter school is located
233 shall be provided transportation to the charter school by the resident district's school committee
234 on similar terms and conditions as transportation is provided to students attending local district

235 schools if the transportation is requested by the charter school. In providing the transportation,
236 the school committee shall accommodate the particular school day and school year of the charter
237 school; provided, however, that in the event that a school committee limits transportation for
238 district school students in a particular grade at 75 per cent or more of schools serving that grade
239 level, the school district shall not be required to provide transportation to any commonwealth
240 charter school students of that grade level beyond the limitations. When a student at a charter
241 school has an individual education plan requiring that a monitor be placed on the student's bus,
242 the charter school shall be financially responsible for providing that monitor. A charter school
243 and the sending district shall meet to plan bus routes and charter school starting and ending times
244 in order to assist the district with cost effective means of transportation. Schools operating under
245 a charter granted after January 1, 1997, and all charter schools operating during fiscal year 1999
246 and thereafter, shall not receive funds for transportation above the amount actually required by
247 such charter school for the provision of transportation services to eligible students. If the sending
248 district provides an alternative method of transportation for students enrolled in the sending
249 district's public schools, it shall not be assessed for transportation costs which exceed the per
250 pupil cost of said alternative. Costs for transportation shall be included only if transportation is
251 provided for students in the same program and grade level as those in the charter school.
252 Students who do not reside in the district in which the charter school is located shall be eligible
253 for transportation in accordance with section 12B of chapter 76. A regional charter school as
254 designated by the board, and whose charter provides for transportation of all students from
255 charter municipalities shall also be reimbursed by the commonwealth under section 16C of
256 chapter 71 for transportation provided to pupils residing outside the municipality where the
257 charter school is located, but no reimbursement for transportation between the charter school and
258 home shall be made on account of any pupil who resides less than 1.5 miles from the charter
259 school, measured by a commonly traveled route. If a charter school provides its own
260 transportation, the school shall coordinate and collaborate with the sending district to provide
261 cost effective means of transportation. All such transportation shall be determined in advance of
262 the approval of the district's final budget for a fiscal year; provided, however, that a
263 commonwealth charter school shall be required to determine such transportation in the first year
264 of its operation as soon as practicable.

265 SECTION 17. Said section 89 of chapter 71 of the General Laws, as so appearing, is
266 hereby further amended by striking out, in the second sentence of subsection (dd), the following
267 words:- and local collective bargaining unit

268 SECTION 18. Said section 89 of chapter 71 of the General Laws, as so appearing, is
269 hereby further amended by striking out the first four paragraphs of subsection (ff) and inserting
270 in place thereof the following paragraphs:-

271 (ff) Commonwealth charter schools shall be funded as follows: the commonwealth shall
272 pay a tuition amount to the charter school, which shall be based on the tuition amounts for each

273 student attending the charter school in the current fiscal year, as calculated by the department
274 using the formula set forth herein.

275 The department is authorized to adopt a standard set of weights for various student
276 categories based on the educational needs of students in those categories. In determining
277 categories and weights, the department may consider the following criteria: 1) class sizes; 2)
278 staffing needs; 3) instructional needs and materials, including assistive technology or other
279 specialized tools; 4) additional support that may be necessary for schools to address students'
280 social, behavioral or emotional needs; and 5) any other needs that the board considers relevant to
281 determining an adequate and appropriate level of financial support for students. The department
282 shall examine and, as necessary, modify these weights and categories once annually.

283 In calculating the tuition amount for each student, the department shall first calculate a
284 base per pupil amount for each charter school. A charter school's foundation budget shall be
285 calculated pursuant to the provisions of section 2 of chapter 70 and the enrollment of students at
286 that charter school in the previous fiscal year. The base per pupil amount shall be the charter
287 school's foundation budget, as so calculated, divided by the total number of students attending
288 that school in the previous fiscal year.

289 To calculate a student's tuition amount, the department shall multiply this base per pupil
290 amount by the sum of the weights of all categories to which the student belongs. The total tuition
291 amount owed by a sending district to a charter school shall be the sum of the tuition amounts for
292 each student attending the charter school from that district in the current fiscal year. The sending
293 district's total charter school tuition amount for purposes of the following paragraphs shall be the
294 sum of the district's tuition amounts for each charter school to which the district sends students,
295 calculated using the provisions of this section. The receiving charter school's total charter school
296 tuition amount shall be the sum of the tuition amounts calculated for the charter school for each
297 district sending students to the charter school.

298 SECTION 19. Section 92 of chapter 71 of the General Laws, as appearing in the 2010
299 Official Edition, is hereby amended by striking out the first paragraph of subsection (l) and
300 inserting in place thereof the following paragraph:-

301 In the case of a school conversion, upon completion of the innovation plan in subsection
302 (j), the applicant shall submit the innovation plan to teachers in the school that is proposed for
303 conversion for approval by secret ballot within 30 days. A majority vote of the eligible teachers
304 shall be required to approve the plan. Teachers shall only be eligible to vote on the plan if they
305 have not, prior to the vote, given notice that they will be leaving the school the following year
306 because of retirement, resignation, voluntary transfer, or any other reason, and if they have not
307 received notice that they will be leaving the school the following year because of involuntary
308 transfer, dismissal, or any other reason. Upon approval of an innovation plan by the applicable
309 union members the plan shall, within 7 days, be submitted to the school committee. If a majority

310 vote is not achieved, the innovation plan committee may revise the innovation plan as necessary
311 and submit the revised plan to the teachers for a subsequent vote.

312 SECTION 20. Section 5 of chapter 76 of the General Laws, as appearing in the 2010
313 Official Edition, is hereby amended by inserting, after the fourth sentence the following
314 sentence:-

315 This section shall not preclude the establishment of single-sex schools and programs to
316 the extent that such programs are consistent with the constitution of the commonwealth and
317 federal law.

318 SECTION 21. Section 17 of chapter 268A of the General Laws, as appearing in the 2010
319 Official Edition, is hereby amended by inserting, at the end of subsection (a), the following
320 sentence:-

321 A teacher or other school-based professional shall not be subject to this subsection in
322 relation to compensation received from district-affiliated educational partners in order to provide
323 instruction or other services outside of contract hours in an extended learning setting.