

HOUSE No. 3984

Substituted by the House, on motion of Ms. Peisch of Wellesley, for a report of the committee on Education, ought NOT to pass, on the petition (accompanied by bill, House, No. 425) of Russell E. Holmes and others for legislation to improve public schools and narrow the achievement gap. March 26, 2014.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to improving student achievement.

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 1J of chapter 69 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
3 the following two subsections:—

4 (a) Prior to October 1, the commissioner of elementary and secondary education may, on
5 the basis of student performance data collected pursuant to section 1I, a school or district review
6 performed under section 55A of chapter 15, or regulations adopted by the board of elementary
7 and secondary education, designate 1 or more schools in a school district other than a Horace
8 Mann charter school as a challenge, underperforming, or chronically underperforming school.
9 The board shall adopt regulations establishing standards for the commissioner to make such
10 designations on the basis of data collected pursuant to section 1I or information from a school or
11 district review performed under section 55A of chapter 15. Upon the release of the proposed
12 regulations, the board shall file a copy thereof with the clerks of the house of representatives and
13 the senate who shall forward the regulations to the joint committee on education. Within 30 days
14 of the filing, the committee may hold a public hearing and issue a report on the regulations and
15 file the report with the board. The board, pursuant to applicable law, may adopt final regulations
16 making revisions to the proposed regulations as it deems appropriate after consideration of the
17 report and shall forthwith file a copy of the regulations with the chairpersons of the joint
18 committee on education and, not earlier than 30 days from the filing, the board shall file the
19 final regulations with the state secretary. Schools that score in the lowest 20 per cent statewide
20 among schools serving common grade levels on a single measure developed by the department
21 that takes into account student performance data and, beginning on July 1, 2011, improvement in

22 student academic performance, shall be deemed eligible for designation as a challenge,
23 underperforming, or chronically underperforming school, provided that any school designated as
24 a challenge school shall be drawn from those schools most likely to be designated as
25 underperforming. Not more than 4 per cent of the total number of public schools may be
26 designated as a challenge, underperforming or chronically underperforming school at any given
27 time.

28 In adopting regulations allowing the commissioner to designate a school as a challenge,
29 underperforming, or chronically underperforming school, the board shall ensure that such
30 regulations take into account multiple indicators of school quality in making such designations,
31 such as student attendance rates, dismissal rates and exclusion rates, promotion rates, graduation
32 rates or the lack of demonstrated significant improvement for 2 or more consecutive years in
33 core academic subjects, either in the aggregate or among subgroups of students, including
34 designations based on special education, low-income, English language proficiency and racial or
35 ethnic classifications.

36 Before a school is designated chronically underperforming by the commissioner, a school
37 must be designated underperforming and fail to improve.

38 A challenge, underperforming, or chronically underperforming school described in the
39 following subsections shall operate in accordance with laws regulating other public schools,
40 except as such provisions may conflict with this section or any turnaround plans created
41 thereunder. A student who is enrolled in a school at the time it is designated as a challenge,
42 underperforming, or chronically underperforming school shall retain the right to remain enrolled
43 in the school while remaining a resident of the district if the student chooses to do so.

44 (a½) (1) Within 15 days of the commissioner designating a school as a challenge school
45 in accordance with the regulations developed pursuant to this section, the school committee and
46 the local teachers union shall meet to negotiate a waiver agreement, if necessary, which will
47 identify any provisions of the collective bargaining agreement which would be subject to waiver
48 upon a two-thirds vote of the teachers working at least 50% of the time in the challenge school.
49 Such waivers shall be designed to permit a turnaround plan developed pursuant to this subsection
50 to include provisions which might be inconsistent with the waived provisions of the collective
51 bargaining agreement. Such negotiations shall be completed within 30 days of the commissioner
52 designating a school as a challenge school, and shall not be subject to impasse provisions under
53 section 9 of chapter 150E or unilateral implementation after impasse pursuant to chapter 150E.
54 If the school committee and the union fail to reach an agreement, the process provided in this
55 subsection shall be terminated and the commissioner may designate the school as
56 underperforming pursuant to subsection (a).

57 Within 15 days of the completion of the waiver negotiation process, the superintendent
58 shall convene a local stakeholder group for the purpose of developing a turnaround plan for the

59 school. The local stakeholder group shall include: (i) the superintendent, or a designee; (ii) the
60 chair of the school committee, or a designee; (iii) the president of the local teachers' union, or a
61 designee; (iv) an administrator from the school, who may be the principal, chosen by the
62 superintendent; (v) two educators chosen by the faculty of the school, one of whom one shall be
63 a classroom teacher and one of whom shall be a certified non-teaching professional from the
64 school; and (vi) a parent member of the school council chosen by the school council. Meetings of
65 the local stakeholder group shall be open to the public.

66 (2) In creating the turnaround plan, the local stakeholder group shall, to the extent
67 practicable, base the plan on student outcome data, including, but not limited to: (i) data
68 collected pursuant to section 1I or information from a school or district review performed under
69 section 55A of chapter 15; (ii) student achievement on the statewide assessment system approved
70 by the board under section 1I of this chapter; (iii) other measures of student achievement,
71 approved by the commissioner; (iv) student promotion and graduation rates; (v) achievement
72 data for different subgroups of students, including low-income students as defined in chapter 70,
73 limited English-proficient students and students receiving special education; and (vi) student
74 attendance, dismissal rates and exclusion rates.

75 The local stakeholder group shall also consider, in the creation of the turnaround plan,
76 whether to include the following: (i) steps to address social service and health needs of students
77 at the school and their families, to help students arrive and remain at school ready to learn;
78 provided, however, that this may include mental health and substance abuse screening; (ii) steps
79 to improve or expand child welfare services and, as appropriate, law enforcement services in the
80 school community, in order to promote a safe and secure learning environment; (iii) steps to
81 improve workforce development services provided to students and their families at the school, to
82 provide students and families with meaningful employment skills and opportunities; (iv) steps to
83 address achievement gaps for limited English-proficient, special education and low-income
84 students; and (v) alternative English language learning programs for limited English proficient
85 students, notwithstanding chapter 71A. The secretaries of health and human services, labor and
86 workforce development, public safety and other applicable state and local social service, health
87 and child welfare officials shall coordinate with the superintendent regarding the implementation
88 of strategies under clauses (i) to (iii), inclusive, of this paragraph that are included in a final
89 turnaround plan and shall, subject to appropriation, reasonably support such implementation
90 consistent with the requirements of state and federal law applicable to the relevant programs that
91 each such official is responsible for administering. The secretary of education shall assist the
92 superintendent in facilitating the coordination.

93 To assess the school across multiple measures of school performance and student
94 success, the turnaround plan shall include measurable annual goals including, but not limited to:
95 (i) student attendance, dismissal rates and exclusion rates; (ii) student safety and discipline; (iii)
96 student promotion and graduation and dropout rates; (iv) student achievement on the statewide
97 assessment system approved by the board under section 1I of this chapter; (v) progress in areas

98 of academic underperformance; (vi) progress among subgroups of students, including low-
99 income students as defined by chapter 70, limited English proficient students and students
100 receiving special education; (vii) reduction of achievement gaps among different groups of
101 students; (viii) student acquisition and mastery of twenty-first century skills; (ix) development of
102 college and career readiness, including at the elementary and middle school levels; (x) parent and
103 family engagement; (xi) building a culture of academic success among students; (xii) building a
104 culture of student support and success among school faculty and staff; and (xiii) developmentally
105 appropriate child assessments from pre-kindergarten through third grade, if applicable.

106 (3) The plan shall include provisions intended to maximize the rapid achievement of
107 students at the school by addressing the conditions for school effectiveness as determined by the
108 department. The plan may identify the specific provisions of the collective bargaining agreement
109 which must be waived in order to implement the plan in accordance with the process set forth in
110 paragraph (1) of this subsection, and shall describe the process and schedule for seeking approval
111 of the plan by the teachers in the school pursuant to paragraph (5) of this subsection.

112 Notwithstanding any general or special law to the contrary, the turnaround plan may also
113 include provisions that allow the superintendent to: (i) expand, alter or replace the curriculum
114 and program offerings of the school, including the implementation of research-based early
115 literacy programs, early interventions for struggling readers and the teaching of advanced
116 placement courses or other rigorous nationally or internationally recognized courses, if the
117 school does not already have such programs or courses; (ii) reallocate the uses of the existing
118 budget of the school; (iii) provide additional funds to the school from the budget of the district, if
119 the school does not already receive funding from the district at least equal to the average per
120 pupil funding received for students of the same classification and grade level in the district; (iv)
121 provide funds, subject to appropriation, to expand the school day or school year or both of the
122 school; (v) limit, suspend or change 1 or more school district policies or practices, as such
123 policies or practices relate to improved student performance and achievement at the school; (vi)
124 for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school
125 does not already have such classes; (vii) include a provision of job-embedded professional
126 development for teachers at the school, with an emphasis on strategies that involve teacher input
127 and feedback; (viii) provide for increased opportunities for teacher planning time and
128 collaboration, including professional learning communities, focused on improving student
129 instruction; (ix) establish a plan for professional development for administrators at the school,
130 with an emphasis on strategies that develop leadership skills and use the principles of distributive
131 leadership; (x) redesign and refocus the use of existing teacher preparation periods in the school
132 to ensure that such preparation period is utilized to improve student instruction with an emphasis
133 on improved student performance and achievement at the school; (xi) develop a strategy to
134 search for and study best practices in areas of demonstrated deficiency in the school; (xii)
135 establish strategies to address student attendance, mobility and transiency among the student
136 population of the school; and (xiii) use formative and summative assessments to track student

137 progress and to inform the instructional strategies employed in the classroom. The plan may also
138 include a financial plan for the school based on additional funds to be provided by the district,
139 commonwealth, federal government, private foundations, or other sources to provide additional
140 resources, and may include a process for modifying the plan.

141 For a school with limited English proficient students, the professional development and
142 planning time for teachers and administrators shall include specific strategies and content
143 designed to maximize the rapid academic achievement of limited English proficient students at
144 the school.

145 (4) The local stakeholder group shall submit an initial turnaround plan to the school
146 committee within 30 days of its initial meeting. The school committee may propose
147 modifications to the turnaround plan and shall submit any proposed modifications to the
148 superintendent within 10 days of receiving the initial plan. The superintendent shall consider and
149 may incorporate, alter, or reject the proposed modifications submitted by the school committee,
150 and may propose additional modifications to the plan. Within 15 days of receiving any proposed
151 modifications from the school committee, the superintendent shall issue the final turnaround plan
152 for the school; provided, however, that if the plan requires any waiver of provisions of the
153 collective bargaining agreement beyond those authorized by the negotiated agreement pursuant
154 to paragraph (1) of this subsection, the school committee and the local teachers union shall meet
155 to negotiate over additional waivers. Such negotiations shall be completed within 15 days and
156 shall not be subject to impasse provisions under section 9 of chapter 150E or unilateral
157 implementation after impasse pursuant to chapter 150E. If the school committee and the union
158 fail to reach an agreement, the process provided in this subsection shall be terminated and the
159 commissioner may designate the school as underperforming pursuant to subsection (a).

160 (5) The superintendent shall submit the final turnaround plan to the school committee and
161 the teachers in the school for approval, and shall forward a copy of said plan to the
162 commissioner. A two-thirds vote of the teachers shall be required to approve the plan and shall
163 be conducted by the local teachers union. A copy of the plan shall be provided to the faculty at
164 least five days in advance of an informational meeting which shall be held at least five days in
165 advance of the vote. The vote shall be by secret ballot. For the purposes of this vote, a teacher is
166 any person working half-time or more in the challenge school under a license listed in 603 CMR
167 7.04 (3) (a), (b) or (d). A teacher on an approved leave at the time of the election may vote in
168 such election. A teacher who is retiring or who knows that he or she will not be employed at the
169 school in the following year shall not vote in such election.

170 If a final turnaround plan is not approved within the time frame provided in this
171 subsection, the process provided in this subsection shall be terminated and the commissioner
172 may designate the school as underperforming pursuant to subsection (a). Each turnaround plan
173 shall be authorized for a period of not more than 2 years. The superintendent, as applicable, shall
174 be responsible for meeting the goals of the plan.

175 (6) Each school designated by the commissioner as a challenge school under this
176 subsection shall be reviewed by the superintendent, in consultation with the principal of the
177 school, at least annually. The purpose of the review shall be to determine whether the school has
178 met the annual goals in its turnaround plan and to assess the overall implementation of the plan.
179 The review shall be in writing and shall be submitted to the relevant school committee not later
180 than July 1 for the preceding school year and shall be available to the public on the school
181 district's website.

182 If the superintendent, in consultation with the principal of the school, determines that the
183 school has met the annual performance goals stated in the turnaround plan, the review shall be
184 considered sufficient and the implementation of the turnaround plan shall continue. If the
185 superintendent determines that the school has not met 1 or more goals in the turnaround plan and
186 that the failure to meet the goals may be corrected through reasonable modification of the plan,
187 the superintendent may reconvene the local stakeholder group which may amend the turnaround
188 plan in a manner consistent with the requirements of paragraphs (1) to (5), inclusive; provided ,
189 however, that if a turnaround plan includes a process for modifying the plan, such modifications
190 shall be implemented in accordance with the provisions of the plan.

191 (7) At a point not more than two years after the designation of a school as a challenge
192 school, the commissioner shall determine whether the school has improved sufficiently, requires
193 further improvement or has failed to improve. The commissioner may determine that: (i) the
194 school has improved sufficiently for the designation of the school as a challenge school to be
195 removed; (ii) the school has improved, but has not improved sufficiently for the designation of
196 the school as a challenge school to be removed, in which case the superintendent may, with the
197 approval of the commissioner, reconvene the local stakeholder group for the purposes of
198 renewing the plan or creating a new or modified plan for an additional period of not more than 2
199 years, consistent with the requirements of paragraphs (1) to (5), inclusive; or (iii) consistent with
200 the requirements of subsection (a), the school is underperforming.

201 SECTION 2. Subsection (c) of said section 1J of said chapter 69, as so appearing, is
202 hereby amended by inserting after the word "System", in line 94, the following words:— " , or
203 any successor statewide assessment system approved by the board under section 1I of this
204 chapter".

205 SECTION 3. Said subsection (c) of said section 1J of said chapter 69, as so appearing, is
206 hereby further amended by inserting after the word "government", in line 117, the following
207 words:—" , private foundations,".

208 SECTION 4. Said subsection (c) of said section 1J of said chapter 69, as so appearing, is
209 hereby further amended by inserting after the word "System", in line 134, the following
210 words:—" , or any successor statewide assessment system approved by the board under section 1I
211 of this chapter".

212 SECTION 5. Subsection (d) of said section 1J of said chapter 69, as so appearing, is
213 hereby amended by striking out, in line 203, the words “or chronically underperforming”.

214 SECTION 6. Subsection (g) of said section 1J of said chapter 69, as so appearing, is
215 hereby amended by inserting after the word “issues”, in line 272, the following word:—“to”.

216 SECTION 7. Subsection (l) of said section 1J of said chapter 69, as so appearing, is
217 hereby amended by adding the following sentence:— “Until the commissioner makes the
218 determination required under this section, and any new or amended turnaround plan is approved,
219 the terms of the expired turnaround plan will remain in effect.”

220 SECTION 8. Subsection (n) of said section 1J of said chapter 69, as so appearing, is
221 hereby amended by inserting after the word “System”, in line 422, the following words:—“, or
222 any successor statewide assessment system approved by the board under section 1I of this
223 chapter”.

224 SECTION 9. Said subsection (n) of said section 1J of said chapter 69, as so appearing, is
225 hereby further amended by inserting after the word “government”, in line 445, the following
226 words:—“, private foundations,”.

227 SECTION 10. Said subsection (n) of said section 1J of said chapter 69, as so appearing,
228 is hereby further amended by inserting after the word “System”, in line 461, the following
229 words:—“, or any successor statewide assessment system approved by the board under section 1I
230 of this chapter”.

231 SECTION 11. Said subsection (o) of said section 1J of said chapter 69, as so appearing,
232 is hereby further amended by inserting after the word “superintendent”, in line 502, the following
233 words:— “or, if one has been appointed pursuant to subsection (r), the school’s receiver”.

234 SECTION 12. Said subsection (o) of said section 1J of said chapter 69, as so appearing,
235 is hereby further amended by striking out, in line 524, the word “commissioner” and inserting in
236 place thereof the following words:— “superintendent or, if one has been appointed pursuant to
237 subsection (r), the school’s receiver”.

238 SECTION 13. Said subsection (o) of said section 1J of said chapter 69, as so appearing,
239 is hereby further amended by striking out, in line 525, the figure “(7)” and inserting in place
240 thereof the following figure:— “(8)”.

241 SECTION 14. Said subsection (o) of said section 1J of said chapter 69, as so appearing,
242 is hereby further amended by striking out, in line 533, the words “underperforming or”.

243 SECTION 15. Said subsection (o) of said section 1J of said chapter 69, as so appearing,
244 is hereby further amended by striking out, in line 536, the words “commissioner or

245 superintendent” and inserting in place thereof the following words:— “superintendent or
246 receiver”.

247 SECTION 16. Subsection (s) of said section 1J of said chapter 69, as so appearing, is
248 hereby amended by inserting after the second sentence the following sentence:—“Following the
249 appropriation of the district's operating budget for the fiscal year, and consistent with the
250 turnaround plan required for the chronically underperforming school under this section, the
251 amount approved for the operation of each chronically underperforming school shall be available
252 for expenditure by the superintendent or, if a receiver has been appointed pursuant to subsection
253 (r), the school’s receiver for any lawful purpose without further approval by the superintendent
254 or school committee. A chronically underperforming school shall not expend or incur obligations
255 in excess of its budget; provided, however, that a chronically underperforming school may spend
256 federal and state grants and other funds received independent of the school district not accounted
257 for in the chronically underperforming school's budget without prior approval from the school
258 committee and if a receiver has been appointed, by the superintendent.

259 SECTION 17. Said section 1J of said chapter 69, as so appearing, is hereby further
260 amended by striking out subsection (y) and inserting in place thereof the following subsection:—

261 (y) The board of elementary and secondary education shall adopt regulations regarding:
262 (1) the conditions under which a challenge, underperforming, or chronically underperforming
263 school shall no longer be designated as a challenge, underperforming, or chronically
264 underperforming school; and (2) the transfer of the operation of an underperforming or a
265 chronically underperforming school from a superintendent or an external receiver, as applicable,
266 to the school committee. The regulations shall include provisions to allow a school to retain
267 measures adopted in a turnaround plan for a transitional period if, in the judgment of the
268 commissioner, the measures would contribute to the continued improvement of the school. Such
269 regulations shall also include provisions that clearly identify the conditions under which such a
270 transitional period shall end and the powers granted to the commissioner and board under this
271 section shall cease to apply to a school previously designated as underperforming or chronically
272 underperforming.

273 SECTION 18. Subsection (z) of said section 1J of said chapter 69, as so appearing, is
274 hereby amended by inserting after the word “as”, in line 714, the following words:—
275 “challenge,”.

276 SECTION 19. The second paragraph of subsection (a) of section 1K of said chapter 69,
277 as appearing in the 2012 Official Edition, is hereby amended by adding the following
278 sentence:—“At the request of the commissioner, the Secretary of Administration and Finance
279 shall appoint a chief procurement officer for a district designated as chronically
280 underperforming.”

281 SECTION 20. Subsection (b) of said section 1K of said chapter 69, as appearing in the
282 2012 Official Edition, is hereby amended by striking out, in line 42, the word “an” and inserting
283 in place thereof the following word:—“a”.

284 SECTION 21. Subsection (c) of said section 1K of said chapter 69, as so appearing, is
285 hereby amended by inserting after the word “System”, in line 85, the following words:—“, or
286 any successor statewide assessment system approved by the board under section 1I of this
287 chapter”.

288 SECTION 22. Said subsection (c) of said section 1K of said chapter 69, as so appearing,
289 is hereby further amended by striking out, in line 114, the word “an” and inserting in place
290 thereof the following word:—“a”.

291 SECTION 23. Said subsection (c) of said section 1K of said chapter 69, as so appearing,
292 is hereby further amended by inserting after the word “System”, in line 124, the following
293 words:—“, or any successor statewide assessment system approved by the board under section 1I
294 of this chapter”.

295 SECTION 24. Subsection (d) of said section 1K of said chapter 69, as so appearing, is
296 hereby amended by striking out, in line 163, the words “. turnaround plan”.

297 SECTION 25. Said subsection (d) of said section 1K of said chapter 69, as so appearing,
298 is hereby further amended by striking out, in line 184, the word “commissioner” and inserting in
299 place thereof the following word:—“receiver”.

300 SECTION 26. Said subsection (d) of said section 1K of said chapter 69, as so appearing,
301 is hereby further amended by striking out, in line 196, the word “commissioner/superintendent”
302 and inserting in place thereof the following word—“receiver”.

303 SECTION 27. Subsection (e) of said section 1K of said chapter 69, as so appearing, is
304 hereby amended by striking out, in line 217, the word “if” and inserting in place thereof the
305 following word:—“If”.

306 SECTION 28. Said subsection (e) of said section 1K of said chapter 69, as so appearing,
307 is hereby amended by striking out, in line 218, the word “commissioner” and inserting in place
308 thereof the following word:—“receiver”.

309 SECTION 29. Subsection (f) of said section 1K of said chapter 69, as so appearing, is
310 hereby amended by striking out, in line 268, the word “subsection (g)” and inserting in place
311 thereof the following word:—“subsection (h)”.

312 SECTION 30. Subsection (g) of said section 1K of said chapter 69, as so appearing, is
313 hereby amended by striking out, in line 277, the word “subsection (g)” and inserting in place
314 thereof the following word:—“subsection (h)”.

315 SECTION 31. Subsection (j) of said section 1K of said chapter 69, as so appearing, is
316 hereby amended by striking out, in line 328, the word “subsection (h)” and inserting in place
317 thereof the following word:—“subsection (i)”.

318 SECTION 32. Subsection (b) of section 15 of chapter 70B of the General Laws, as
319 appearing in the 2012 Official Edition, is hereby amended by striking out, in line 62, the word
320 “may” and inserting in place thereof the following word:—“shall”.

321 SECTION 33. Said subsection (b) of said section 15 of said chapter 70B, as so appearing,
322 is hereby further amended by inserting after the word “lease”, in line 64, the following words:—
323 “in whole or in part”.

324 SECTION 34. Subsection (c) of section 89 of chapter 71 of the General Laws, as
325 appearing in the 2012 Official Edition, is hereby amended by striking out the second paragraph
326 and inserting in place thereof the following paragraphs:—

327 A Horace Mann charter school shall be a public school or part of a public school operated
328 under a charter approved by the school committee in the district in which the school is located
329 and, in the case of a Horace Mann I charter school, also by the local collective bargaining unit in
330 which the school is located; provided that all charters shall be granted by the board of elementary
331 and secondary education. A Horace Mann charter school shall be operated and managed by a
332 board of trustees independent of the school committee which approved the school. The board of
333 trustees may include a member of the school committee.

334 A Horace Mann I charter school shall be a new school operated under a charter approved
335 by the school committee and the local collective bargaining unit in the district in which the
336 school is located. A Horace Mann I charter school shall have a memorandum of understanding
337 with the school committee of the district in which the charter school is located which, at a
338 minimum, defines the services and facilities to be provided by the district to the charter school
339 and states the funding of the charter school by the district.

340 A Horace Mann II charter school shall be a conversion of an existing public school
341 operated under a charter approved by the school committee in the district in which the school is
342 located. A Horace Mann II charter school shall not require approval of the local collective
343 bargaining unit, but shall require a memorandum of understanding with the local collective
344 bargaining unit and the school committee of the district in which the charter school is located
345 regarding any waivers to applicable collective bargaining agreements; provided further, that the
346 memorandum of understanding shall be approved by a majority of the school faculty; and
347 provided further, that Horace Mann II charter schools shall not count towards the maximum
348 number of Horace Mann charter schools stated in paragraph (1) of subsection (i). A vote by the
349 school faculty shall be held and finalized within 30 days of submission of the charter school
350 application to the board of elementary and secondary education. School faculty who have, prior
351 to such vote, given notice that they will be leaving the school the following year because of

352 retirement, resignation, voluntary transfer, or any other reason, or who have received notice that
353 they will be leaving the school the following year because of involuntary transfer, dismissal, or
354 any other reason, shall not be eligible to vote to approve the memorandum of understanding.

355 A Horace Mann III charter school shall be a new school operated under a charter
356 approved by the school committee in the district in which the school is located. A Horace Mann
357 III charter school shall not not require approval of the local collective bargaining unit; provided,
358 that after the charter for a Horace Mann III charter school has been granted by the board, the
359 school shall develop a memorandum of understanding with the school committee of the district
360 in which the charter school is located and the local collective bargaining unit regarding any
361 waivers to applicable collective bargaining agreements; provided, further, that if an agreement is
362 not reached on the memorandum of understanding at least 30 days before the scheduled opening
363 of the school, the charter school shall operate under the terms of its charter until an agreement is
364 reached.

365 SECTION 35. Subsection (i) of said section 89 of said chapter 71, as so appearing, is
366 hereby amended by striking out the first paragraph and inserting in place thereof the following
367 paragraph:—

368 “(1) Not more than 120 charter schools shall be allowed to operate in the commonwealth
369 at any time, excluding those approved pursuant to paragraph (3) of this subsection; provided,
370 however, that of the 120 charter schools, not more than 48 shall be Horace Mann charter schools
371 and not more than 72 shall be commonwealth charter schools. Of the 48 Horace Mann charter
372 schools, not more than 14 shall be Horace Mann III charter schools; provided, further, that not
373 less than 4 of the 14 Horace Mann III charter schools shall be located in a municipality with
374 more than 500,000 residents. The board shall not approve a new commonwealth charter school in
375 any community with a population of less than 30,000 as determined by the most recent United
376 States Census estimate, unless it is a regional charter school.”

377 SECTION 36. Said subsection (i) of said section 89 of said chapter 71, as so appearing, is
378 hereby further amended by inserting after the word “year”, in line 174, the following words:—“;
379 provided that applications to establish a Horace Mann III charter school may be submitted and
380 granted at any time during the year”.

381 SECTION 37. Paragraph (2) of said subsection (i) of said section 89 of said chapter 71,
382 as so appearing, is hereby amended by striking out, in line 179, the words “shall not exceed 18”
383 and inserting in place thereof the following words:—“may exceed 9”.

384 SECTION 38. Said paragraph (2) of said subsection (i) of said section 89 of said chapter
385 71, as so appearing, is hereby further amended by striking out, in lines 184 to 185, inclusive, the
386 words “9 per cent of the school district’s net school spending or 18 per cent for those districts
387 that qualify under said paragraph (3)” and inserting in place thereof the following words:—“the
388 net school spending cap in such district”.

389 SECTION 39. Paragraph (3) of said subsection (i) of said section 89 of said chapter 71,
390 as so appearing, is hereby amended by inserting after the word “performance”, in line 204, the
391 following words:— “and growth”.

392 SECTION 40. Said paragraph (3) of said subsection (i) of said section 89 of said chapter
393 71, as so appearing, is hereby further amended by inserting after the word “per cent”, in line 208,
394 the following words:—“; provided, however, that for a district qualifying under this paragraph,
395 the board may approve an application for the establishment or expansion of a commonwealth
396 charter school that has the effect of increasing the district’s total charter tuition payments above
397 18 per cent of the district’s net school spending if the charter applicant meets one or more of the
398 criteria described in paragraph (4); and provided further that no public school district’s total
399 charter tuition payments to commonwealth charter schools shall exceed 23 per cent of said
400 district’s net school spending”.

401 SECTION 41. Said paragraph (3) of said subsection (i) of said section 89 of said chapter
402 71, as so appearing, is hereby further amended by striking out, in line 239, the word “or” and
403 inserting in place thereof the following word:— “and”.

404 SECTION 42. Said subsection (i) of said section 89 of said chapter 71, as so appearing, is
405 hereby further amended by inserting at the end thereof the following:—

406 (4) For a district qualifying under paragraph (3) whose charter school tuition payments
407 exceed 18 per cent of the school district’s net school spending, the board shall only approve an
408 application for the establishment or expansion of a commonwealth charter school that meets one
409 or more of the following criteria:

410 (i) the school enrolls students using an opt-out admissions lottery process that
411 automatically includes the names of all eligible students, without any required application
412 process for the school; or

413 (ii) the school’s primary purpose is to establish alternative education programs designed
414 to serve at-risk students or students who have dropped out of school; provided that, for the
415 purposes of this section, the term “at-risk student” shall mean any student enrolled in grades
416 seven through twelve who is identified as “at-risk” according to the early warning indicator
417 index system, or any successor data collection and tracking system, developed by the department
418 to identify and track students at risk of not graduating on time; and provided further, that not less
419 than 75 per cent of students enrolled at the school shall qualify as at-risk students or students
420 who have dropped out of school.

421 The board shall give preference to applications for expansions under clause (i) or clause
422 (ii) of this paragraph for existing charter schools that have an average 3-year student attrition rate
423 that is equal to or less than the average 3-year student attrition rate of the schools within the
424 sending district. If an existing charter school applying for an expansion under clause (i) or

425 clause (ii) of this paragraph has an average 3-year student attrition rate that is greater than the
426 average 3-year student attrition rate of the schools within the sending district, such charter school
427 shall include in its application for expansion a plan to reduce its attrition rates.

428 Existing charter schools that apply for an expansion under clause (i) or clause (ii) of this
429 paragraph shall be required to meet the criteria set forth in said clauses through a phased-in
430 process established by the board. Existing Horace Mann or commonwealth charter schools that
431 apply for an expansion under clause (i) and are approved for new seats in higher grades than they
432 currently serve may assign students already enrolled in the school to those new seats.

433 Nothing in this section shall prevent the board from approving other Horace Mann or
434 commonwealth charter school applications that meet the criteria in clause (i) or clause (ii) of this
435 paragraph in districts where the net school spending cap has not been reached.

436 SECTION 43. Subsection (m) of said section 89 of said chapter 71, as so appearing, is
437 hereby amended by adding the following paragraph:—

438 For a charter school qualifying under clause (i) of said paragraph (4) of said subsection
439 (i), all students who would be eligible to attend the school under the district’s assignment policy
440 if it were a district school, shall be deemed eligible for enrollment in said charter school without
441 any required application process for the school. An admissions lottery, including the names of all
442 eligible students, shall be held to fill all of the spaces in that school. In the event that the parents
443 or guardians of a student who is selected for admission to the charter school through the lottery
444 determine not to enroll the student in the charter school, then the charter school shall fill that
445 enrollment space with a student from the waiting list maintained pursuant to this subsection.
446 Parents or guardians of a student may elect for that student to not participate in such enrollment
447 lottery.

448 Notwithstanding the provisions of subsection (n), charter schools qualifying under clause
449 (i) of said paragraph (4) of said subsection (i) shall attempt to fill vacant seats throughout the
450 school year for all grade levels offered by the school.

451 SECTION 44. Subsection (n) of said section 89 of said chapter 71, as so appearing, is
452 hereby amended by inserting after the second paragraph the following paragraphs:—

453 Charter schools qualifying under clause (ii) of said paragraph (4) of said subsection (i)
454 may offer enrollment preferences to at-risk students or students who have dropped out of school.
455 In charter schools that offer such enrollment preferences, priority for enrollment shall be given
456 first to at-risk students or students who have dropped out of school, and second to other students
457 who reside within the city or town in which the charter school is located but are not at-risk
458 students or students who have dropped out of school. Notwithstanding the provisions of
459 subsection (m) or any general or special law to the contrary, a charter school qualifying under

460 clause (ii) of said paragraph (4) of said subsection (i) may limit admissions to students who
461 qualify as at-risk students or students who have dropped out of school.

462 Subject to approval by the board, school districts or municipalities that rent classroom
463 space to commonwealth charter schools under lease agreements with terms of at least ten years
464 may require such schools to offer enrollment preferences to students who reside in a specific
465 geographical area in which such school buildings are located as a condition of such lease
466 agreements; provided, however, that within this geographical preference area, the percentage of
467 students who qualify for the free or reduced price lunch program is equal to or higher than the
468 district's overall percentage of students who qualify for this program.

469 Subject to approval by the board, commonwealth or Horace Mann charter schools may
470 voluntarily offer enrollment preferences to students who reside in a specific geographical area
471 within the district in which the school is located; provided, however, that within this
472 geographical preference area, the percentage of students who qualify for the free or reduced price
473 lunch program is equal to or higher than the district's overall percentage of students who qualify
474 for this program.

475 In addition to providing the information that is required pursuant to subsection (e), any
476 charter school that offers geographical enrollment preferences must include in its application for
477 approval: (i) a definition of the geographical area for which it will offer an enrollment
478 preference; (ii) an explanation of how this preference will support the mission of the charter
479 school and the academic performance of its students; (iii) evidence that within this geographical
480 area there resides an equal or higher percentage of low-income students, as measured by
481 qualification for the free or reduced price lunch program, as the district as a whole; and (iv) an
482 explanation of how the charter school will target its recruitment and retention efforts for students
483 within this geographical area. When any charter school that chooses to offer a geographical
484 preference seeks charter renewal and intends to continue applying the geographical preference,
485 the board shall consider whether the preference area continues to support the mission of the
486 charter school and the academic performance of its students, as well as whether the preference
487 area continues to serve an adequate percentage of low-income students to qualify as a
488 geographical preference area under this subsection.

489 In commonwealth charter schools that offer geographical enrollment preferences,
490 students who reside within the geographical preference area shall have priority for enrollment in
491 any open seats over students who reside in the city or town in which the charter school is located
492 but outside of the geographical preference area. In Horace Mann charter schools that offer
493 geographical enrollment preferences, priority for enrollment shall be given first to students
494 actually enrolled in the school on the date the application is filed with the board and their
495 siblings; second, to students who reside within the geographical preference area and are enrolled
496 in the public schools of the district where the Horace Mann charter school is to be located; third,
497 to other students who reside within the geographical preference area; fourth, to other students

498 enrolled in the public schools of the district where the Horace Mann charter school is to be
499 located but who reside outside of the geographical preference area; and fifth, to other students
500 who reside outside of the geographical preference area but within the city or town in which the
501 charter school is located.

502 Subject to approval by the board, charter schools located within the same municipality
503 may voluntarily establish a common lottery, which may provide student applicants with a single
504 offer for admission.

505 SECTION 45. Said subsection (n) of said section 89 of said chapter 71, as so appearing,
506 is hereby further amended by inserting after the word “vacant”, in line 378, the following
507 word:—“seats”.

508 SECTION 46. The fifth paragraph of said subsection (n) of said section 89 of said chapter
509 71, as so appearing, is hereby amended by striking out the last sentence.

510 SECTION 47. The sixth paragraph of said subsection (n) of said section 89 of said
511 chapter 71, as so appearing, is hereby amended by striking out the first two sentences and
512 inserting in place thereof the following sentences:— “The names of students who entered the
513 lottery but did not gain admission shall be maintained on a waitlist or waitpool, which shall be
514 forwarded to the department not later than June 1 in the year in which the lottery is held, and
515 which shall be updated not later than December 1 of said year. In addition to the names of
516 students, the school shall supply such other information as the department deems necessary.”

517 SECTION 48. Subsection (p) of said section 89 of said chapter 71, as so appearing, is
518 hereby amended by striking out, in line 411, the words “and 37H½” and inserting in place
519 thereof the following words:— “, 37H½, and 37H¾”.

520 SECTION 49. Subsection (dd) of said section 89 of said chapter 71, as so appearing, is
521 hereby amended by striking out the second sentence and inserting in place thereof the following
522 sentence:— “The board shall develop procedures and guidelines for revocation, amendment, and
523 renewal of a school's charter; provided, however, that an amendment or renewal of a charter for
524 a Horace Mann charter school shall be subject to approval by majority vote of the school
525 committee and local collective bargaining unit in the district where said charter school is located
526 only to the extent that its initial charter required such approval; and provided, further, that a
527 commonwealth charter shall not be renewed unless the board of trustees of the charter school has
528 documented in a manner approved by the board that said commonwealth charter school has
529 provided models for replication and best practices to the commissioner and to other public
530 schools in the district where the charter school is located.”

531 SECTION 50. Subsection (kk) of said section 89 of said chapter 71, as so appearing, is
532 hereby amended by striking the last sentence and inserting in place thereof following sentences:-
533 The commissioner shall also collect attrition data, including, but not limited to, the number of

534 students leaving each charter school and the reasons for leaving, pursuant to regulations
535 promulgated by the board. The commissioner shall make said data publicly available online on
536 an annual basis not later than December 1 and may file said data annually with the clerks of the
537 house and senate and the joint committee on education not later than December 1.

538 SECTION 51. Beginning in 2016, the commissioner of elementary and secondary
539 education shall comply with the October 1 deadline for making designations pursuant to Section
540 1 of this act.

541 SECTION 52. The board of elementary and secondary education shall promulgate rules
542 and regulations to implement the provisions under this act.

543 SECTION 53. For the school districts qualifying under paragraph (3) of subsection (i) of
544 section 89 of chapter 71 in which net school spending on charter school tuition does not exceed
545 23 percent, the following shall apply: (1) in fiscal year 2018, a public school district's total
546 charter school tuition payment to commonwealth charter schools shall be limited to 19 per cent
547 of the district's net school spending; (2) in fiscal year 2019, a public school district's total charter
548 school tuition payment to commonwealth charter schools shall be limited to 20 per cent of the
549 district's net school spending; (3) in fiscal year 2020, a public school district's total charter
550 school tuition payment to commonwealth charter schools shall be limited to 21 per cent of the
551 district's net school spending; (4) in fiscal year 2021, a public school district's total charter
552 school tuition payment to commonwealth charter schools shall be limited to 22 per cent of the
553 district's net school spending; and (5) in fiscal year 2022, a public school district's total charter
554 school tuition payment to commonwealth charter schools shall be limited to 23 per cent of the
555 district's net school spending.

556 SECTION 54. The department of elementary and secondary education shall convene a
557 working group on charter school transportation within 30 days of the effective date of this act.
558 The working group shall include but not be limited to: the commissioner of elementary and
559 secondary education, or his designee, who shall serve as chair of the working group; 3
560 representatives from commonwealth charter schools, 1 of whom shall be from a charter school
561 located in a municipality with more than 500,000 residents, 1 of whom shall be from a charter
562 school located in a municipality with less than 100,000 residents, and 1 of whom shall be from a
563 regional charter school; and 3 representatives from school districts that provide transportation to
564 1 or more commonwealth charter schools, 1 of whom shall be from a municipality with more
565 than 500,000 residents, 1 of whom shall be from a municipality with less than 100,000 residents,
566 and 1 of whom shall be from a municipality that provides transportation to 1 or more regional
567 charter schools . The working group shall: (i) review current patterns and approaches to
568 providing transportation to commonwealth charter schools in districts across the commonwealth;
569 (ii) assess the financial impacts of charter school student transportation patterns on district
570 finances; (iii) propose changes to improve efficiency; and (iv) identify any statutory
571 modifications necessary to make such changes. The working group shall issue a final report

572 containing its findings and recommendations within six months of the effective date of this act.
573 Said report shall be submitted to the clerks of the senate and house of representatives, who shall
574 forward the report to the chairs of the joint committee on education and the senate and house
575 committees on ways and means.