

HOUSE No. 4108

House bill No. 4091, as changed by the committee on Bills in the Third Reading and as amended and passed to be engrossed by the House. May 21, 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 2 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 a challenge school shall be drawn from those schools most likely to be designated as underperforming. Not more than 4 per cent of the total number of public schools may be designated as a challenge, underperforming or chronically underperforming school at any given time.

In adopting regulations allowing the commissioner to designate a school as a challenge, underperforming or chronically underperforming school, the board shall ensure that such regulations take into account multiple indicators of school quality in making such designations, including, but not limited to: student attendance rates, dismissal rates and exclusion rates, promotion rates, graduation rates or the lack of demonstrated significant improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based on special education, low-income, English language proficiency and racial or ethnic classifications.

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

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

(a $\frac{1}{2}$)(1) Within 15 days of the commissioner designating a school as a challenge school in accordance with the regulations developed pursuant to this section, the school committee and the local teachers union shall meet to negotiate a waiver agreement, if necessary, that identifies any provisions of the collective bargaining agreement that would be subject to a waiver upon a two-thirds vote of the teachers working at least 50 per cent of the time in the designated challenge school. Such waivers shall be designed to permit the implementation of a turnaround plan developed pursuant to this subsection which may include provisions that are inconsistent with the existing collective bargaining agreement. Such negotiations shall be completed within 30 days of the commissioner designating a school as a challenge school, and shall not be subject to impasse provisions under section 9 of chapter 150E or unilateral implementation after impasse pursuant to chapter 150E. If the school committee and the union fail to reach an agreement, the process provided in this subsection shall be terminated and the commissioner may designate the school as underperforming pursuant to subsection (a).

Within 15 days of the completion of the waiver negotiation process, the superintendent shall convene a local stakeholder group for the purpose of developing a turnaround plan for the school. The local stakeholder group shall include: (i) the superintendent, or a designee; (ii) the

chair of the school committee, or a designee; (iii) the president of the local teachers' union, or a designee; (iv) an administrator from the school, who may be the principal, chosen by the superintendent; (v) 2 educators chosen by the faculty of the school, 1 of whom shall be a classroom teacher and 1 of whom shall be a certified non-teaching professional from the school; and (vi) a parent member of the school council established pursuant to section 59C of chapter 71 to be chosen by the school council. Meetings of the local stakeholder group shall be open to the public.

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

The local stakeholder group shall also consider, in the creation of the turnaround plan, whether to include the following: (i) steps to address social service and health needs of students at the school and their families, to help students arrive and remain at school ready to learn; provided, however, that this may include mental health and substance abuse screening; (ii) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school community, in order to promote a safe and secure learning environment; (iii) steps to improve workforce development services provided to students and their families at the school, to provide students and families with meaningful employment skills and opportunities; (iv) steps to address achievement gaps for limited English-proficient, special education and low-income students; and (v) notwithstanding chapter 71A, alternative English language learning programs for limited English proficient students; provided that the school committee may retain said programs after the school is no longer designated as a challenge school. The secretaries of health and human services, labor and workforce development, public safety, health and child welfare officials and other applicable state and local social services, shall coordinate with the superintendent to implement the strategies established pursuant to clauses (i) to (iii), inclusive, of this paragraph that are included in a final turnaround plan and shall, subject to appropriation, reasonably support the implementation, which shall be consistent with the requirements of all state and federal law applicable to the relevant programs to be administered. The secretary of education shall assist the superintendent in facilitating the coordination.

To assess the school across multiple measures of school performance and student success, the turnaround plan shall include measurable annual goals including, but not limited to: (i) student attendance, dismissal rates and exclusion rates; (ii) student safety and discipline; (iii) student promotion and graduation and dropout rates; (iv) student achievement on the statewide

assessment system approved by the board under section 1I; (v) progress in areas of academic underperformance; (vi) progress among subgroups of students, including low-income students as defined by chapter 70, limited English proficient students and students receiving special education; (vii) reduction of achievement gaps among different groups of students; (viii) student acquisition and mastery of twenty-first century skills; (ix) development of college and career readiness, including at the elementary and middle school levels; (x) parent and family engagement; (xi) building a culture of academic success among students; (xii) building a culture of student support and success among school faculty and staff; and (xiii) developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable.

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

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

and (xiii) use formative and summative assessments to track student progress and to inform the instructional strategies employed in the classroom. The plan may also include a financial plan for the school based on additional funds to be provided by the district, commonwealth, federal government, private foundations, or other sources to provide additional resources, and may include a process for modifying the plan.

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

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

(5) The superintendent shall submit the final turnaround plan to the school committee and the teachers in the school for approval, and shall forward a copy of said plan to the commissioner. A two-thirds vote of the teachers shall be required to approve the plan and shall be conducted by the local teachers union. A copy of the plan shall be provided to the faculty at least 5 days in advance of an informational meeting which shall be held at least 5 days in advance of the vote. The vote shall be by secret ballot. For the purposes of this vote, a teacher is any person working at least 50 per cent of the time in the designated challenge school under a license listed in 603 CMR 7.04 (3) (a), (b) or (d). A teacher on an approved leave at the time of the election may vote in such election. A teacher who has prior to such vote given notice to leave the school the following year because of: (i) retirement; (ii) resignation; (iii) voluntary transfer; or (iv) any other reason or who has received notice to leave the school the following year because of involuntary transfer, dismissal or any other reason, shall not be eligible to vote to approve the plan. If a final turnaround plan is not approved within the time frame provided in this subsection, the process provided in this subsection shall be terminated and the commissioner may designate the school as underperforming pursuant to subsection (a). Each turnaround plan

shall be authorized for a period of not more than 2 years. The superintendent, as applicable, shall be responsible for meeting the goals of the plan.

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

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

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

SECTION 2. Said section 1J of said chapter 69, as so appearing, is hereby amended by inserting after the word "System", in lines 94, 134, 422 and 461, the following words:- , or any successor statewide assessment system approved by the board pursuant to section 1I.

SECTION 3. Said section 1J of said chapter 69, as so appearing, is hereby further amended by inserting after the word "government", in lines 117 and 445, the following words:— , private foundations,.

SECTION 4

Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out, in line 203, the words “or chronically underperforming”.

SECTION 5. Said section 1J of said chapter 69, as so appearing, is hereby further amended by inserting after the word “issues”, in line 272, the following word:- to.

SECTION 6. Subsection (l) of said section 1J of said chapter 69, as so appearing, is hereby amended by adding the following sentence:- Until the commissioner makes the determination required under this section, and any new or amended turnaround plan is approved, the terms of the expired turnaround plan shall remain in effect.

SECTION 7. Said section 1J of said chapter 69, as so appearing, is hereby further amended by inserting after the word “superintendent”, in line 502, the following words:— or, if one has been appointed pursuant to subsection (r), the school’s receiver.

SECTION 8. Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out, in line 524, the word “commissioner” and inserting in place thereof the following words:- superintendent or, if one has been appointed pursuant to subsection (r), the school’s receiver.

SECTION 9. Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out, in line 525, the figure “(7)” and inserting in place thereof the following figure:- (8).

SECTION 10. Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out, in line 533, the words “underperforming or”.

SECTION 11. Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out, in line 536, the words “commissioner or superintendent” and inserting in place thereof the following words:- superintendent or receiver.

SECTION 12. Subsection (s) of said section 1J of said chapter 69, as so appearing, is hereby amended by adding the following 2 sentences:- Following the annual appropriation of the school district's operating budget, the amount approved for the operation of each chronically underperforming school shall be available for expenditure by the superintendent or the external receiver for any lawful purpose. A chronically underperforming school shall not expend or incur obligations in excess of its budget; provided, however, that a chronically underperforming school may spend federal and state grants and other funds received independently of its operating budget without approval from the school committee or by the superintendent if a receiver has been appointed.

SECTION 13. Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out subsection (y) and inserting in place thereof the following subsection:-

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

SECTION 14. Said section 1J of said chapter 69, as so appearing, is hereby further amended by striking out, in line 714, the word “underperforming” and inserting in place thereof the following words:—challenge, underperforming.

SECTION 15. The second paragraph of subsection (a) of section 1K of said chapter 69, as so appearing, is hereby amended by adding the following sentence:—At the request of the commissioner, the secretary of administration and finance shall appoint a chief procurement officer for a district designated as chronically underperforming.

SECTION 16. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in line 42, the word “an” and inserting in place thereof the following word:- a.

SECTION 17. Said section 1K of said chapter 69, as so appearing, is hereby further amended by inserting after the word “System”, in lines 85 and 124, the following words:—, or any successor statewide assessment system approved by the board pursuant to section 1I.

SECTION 18. Said subsection (c) of said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in line 114, the word “an” and inserting in place thereof the following word:- a.

SECTION 19. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in line 163, the words “reapplications. turnaround plan” and inserting in place thereof the following word:- reapplications.

SECTION 20. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in lines 184 and 218, the word “commissioner” and inserting in place thereof, in each instance, the following word:- receiver.

SECTION 21. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in line 196, the word “commissioner/superintendent” and inserting in place thereof the following word:- receiver.

SECTION 22. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in line 217, the word “if” and inserting in place thereof the following word:- If.

SECTION 23. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in lines 268 and 277, the words “subsection (g)” and inserting in place thereof, in each instance, the following words:- subsection (h).

SECTION 24. Said section 1K of said chapter 69, as so appearing, is hereby further amended by striking out, in line 328, the words “subsection (h)” and inserting in place thereof the following words:- subsection (i).

SECTION 25. Section 15 of chapter 70B of the General Laws, as so appearing, is hereby amended by striking out, in line 62, the word “may” and inserting in place thereof the following word:- shall.

SECTION 26. Said section 15 of said chapter 70B, as so appearing, is hereby further amended by inserting after the word “lease”, in line 64, the following words:- in whole or in part.

SECTION 27. Subsection (c) of section 89 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following 4 paragraphs:-

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

A Horace Mann I charter school shall be a new school operated under a charter approved by the school committee and the local collective bargaining unit in the district in which the school is located. A Horace Mann I charter school shall have a memorandum of understanding with the school committee of the district in which the charter school is located that defines the services and facilities to be provided by the district to the charter school and states the funding of the charter school by the district.

A Horace Mann II charter school shall be a conversion of an existing public school operated under a charter approved by the school committee in the district in which the school is

located. A Horace Mann II charter school shall not require approval of the local collective bargaining unit, but shall require a memorandum of understanding with the local collective bargaining unit and the school committee of the district in which the charter school is located regarding any waivers to applicable collective bargaining agreements; provided, that the memorandum of understanding shall be approved by a majority of the school faculty; and provided, further, that Horace Mann II charter schools shall not count towards the maximum number of Horace Mann charter schools stated in paragraph (1) of subsection (i). A vote by the school faculty shall be held and finalized within 30 days of submission of the charter school application to the board of elementary and secondary education. School faculty who have prior to such vote given notice to leave the school the following year because of: (i) retirement; (ii) resignation; (iii) voluntary transfer; or (iv) any other reason or who has received notice to leave the school the following year because of involuntary transfer, dismissal or any other reason, shall not be eligible to vote to approve the memorandum of understanding.

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

SECTION 28. Paragraph (1) of subsection (i) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

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

SECTION 29. Said section 89 of said chapter 71, as so appearing, is hereby further amended by inserting after the word "year", in line 174, the following words:- ; provided that

353 applications to establish a Horace Mann III charter school may be submitted and granted at any
354 time during the year.

355 SECTION 30. Said section 89 of said chapter 71, as so appearing, is hereby further
356 amended by striking out, in line 179, the words “shall not exceed 18” and inserting in place
357 thereof the following words:- may exceed 9.

358 SECTION 31. Said section 89 of said chapter 71, as so appearing, is hereby further
359 amended by striking out, in lines 184 and 185, the words “9 per cent of the school district’s net
360 school spending or 18 per cent for those districts that qualify under said paragraph (3)” and
361 inserting in place thereof the following words:- the net school spending cap in such district.

362 SECTION 32. Said section 89 of said chapter 71, as so appearing, is hereby amended by
363 inserting after the word “performance”, in line 204, the following words:- and growth.

364 SECTION 33. Said section 89 of said chapter 71, as so appearing, is hereby further
365 amended by inserting after the word “per cent”, in line 208, the following words:-; provided,
366 however, that for a district qualifying under this paragraph, the board may approve an application
367 for the establishment or expansion of a commonwealth charter school that has the effect of
368 increasing the district’s total charter tuition payments above 18 per cent of the district’s net
369 school spending if the charter applicant meets 1 or more of the criteria described in paragraph
370 (4); and provided, further that no public school district’s total charter tuition payments to
371 commonwealth charter schools shall exceed 23 per cent of said district’s net school spending.

372 SECTION 34. Said section 89 of said chapter 71, as so appearing, is hereby further
373 amended by striking out, in line 239, the word “or” and inserting in place thereof the following
374 word:- and.

375 SECTION 35. Subsection (i) of said section 89 of said chapter 71, as so appearing, is
376 hereby amended by adding the following paragraph:-

377 (4) For a district qualifying under paragraph (3) whose charter school tuition payments
378 exceed 18 per cent of the school district’s net school spending, the board shall only approve an
379 application for the establishment or expansion of a commonwealth charter school that meets 1 or
380 more of the following criteria:

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

384 (ii) the school’s primary purpose is to establish alternative education programs designed
385 to serve at-risk students or students who have dropped out of school; provided that, for the
386 purposes of this section, the term “at-risk student” shall mean any student enrolled in grades
387 seven through twelve who is identified as “at-risk” according to the early warning indicator

index system, or any successor data collection and tracking system, developed by the department to identify and track students at risk of not graduating on time; and provided, further, that not less than 75 per cent of students enrolled at the school shall qualify as at-risk students or students who have dropped out of school.

The board shall give preference to applications for expansions under clause (i) or clause (ii) of this paragraph for existing charter schools that have an average 3-year student attrition rate that is equal to or less than the average 3-year student attrition rate of the schools within the sending district to be determined by the department or for existing charter schools that have successfully established collaborative relationships with their sending districts on the sharing of best practices. If an existing charter school applying for an expansion under clause (i) or clause (ii) of this paragraph has an average 3-year student attrition rate that is greater than the average 3-year student attrition rate of the schools within the sending district, such charter school shall include in its application for expansion a plan to reduce its attrition rates. Existing charter schools that apply for an expansion under clause (i) or clause (ii) of this paragraph shall be required to meet the criteria set forth in said clauses through a phased-in process established by the board. Existing Horace Mann or commonwealth charter schools that apply for an expansion under clause (i) and are approved for new seats in higher grades than they currently serve may assign students already enrolled in the school to those new seats. Nothing in this section shall prevent the board from approving other Horace Mann or commonwealth charter school applications that meet the criteria in clause (i) or clause (ii) of this paragraph in districts where the net school spending cap has not been reached.

SECTION 36. Subsection (m) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following paragraph:—

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

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

SECTION 37. Subsection (n) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after the second paragraph the following 6 paragraphs:-

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

Subject to approval by the board, school districts or municipalities that rent classroom space to commonwealth charter schools under lease agreements with terms of at least 10 years may require such schools to offer enrollment preferences to students who reside in a specific geographical area in which such school buildings are located as a condition of such lease agreements; provided, however, that within this geographical preference area, the percentage of students who qualify for the free or reduced price lunch program is equal to or higher than the district's overall percentage of students who qualify for this program.

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

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

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

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

SECTION 38. Said section 89 of said chapter 71, as so appearing, is hereby further amended by inserting after the word “vacant”, in line 378, the following word:-seats.

SECTION 39. The fifth paragraph of said subsection (n) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the last sentence.

SECTION 40. The sixth paragraph of said subsection (n) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:— The names of students who entered the lottery but did not gain admission shall be maintained on a waitlist or waitpool, which shall be forwarded to the department on or before June 1 in the year in which the lottery is held, and which shall be updated on or before December 1 of said year. In addition to the names of students, the school shall supply such other information as the department deems necessary.

SECTION 41. Said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out, in line 411, the words “and 37H½” and inserting in place thereof the following words:- , 37H½, and 37H¾.

SECTION 42. The first paragraph of subsection (dd) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The board shall develop procedures and guidelines for revocation, amendment, and renewal of a school's charter; provided, however, that an amendment or renewal of a charter for a Horace Mann charter school shall be subject to approval by majority vote of the school committee and local collective bargaining unit in the district where said charter school is located only to the extent that its initial charter required such

approval; and provided, further, that a commonwealth charter shall not be renewed unless the board of trustees of the charter school has documented in a manner approved by the board that said commonwealth charter school has provided models for replication and best practices to the commissioner and to other public schools in the district where the charter school is located.

SECTION 43. Subsection (kk) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- The commissioner shall also collect attrition data, including, but not limited to, the number of students leaving each charter school and the reasons for leaving, pursuant to regulations promulgated by the board. The commissioner shall make said data publicly available online on an annual basis on or before December 1 and may file said data annually with the clerks of the house and senate and the joint committee on education on or before December 1.

SECTION 44. Beginning in 2016, the commissioner of elementary and secondary education shall comply with the October 1 deadline for making designations pursuant to subsection (a) of section 1J of chapter 69 of the General Laws.

SECTION 45. The board of elementary and secondary education shall promulgate rules and regulations to implement the provisions of this act.

SECTION 46. For the school districts qualifying under paragraph (3) of subsection (i) of section 89 of chapter 71 of the General Laws in which net school spending on charter school tuition does not exceed 23 per cent, the following shall apply: (1) in fiscal year 2018, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 19 per cent of the district's net school spending; (2) in fiscal year 2019, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 20 per cent of the district's net school spending; (3) in fiscal year 2020, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 21 per cent of the district's net school spending; (4) in fiscal year 2021, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 22 per cent of the district's net school spending; and (5) in fiscal year 2022, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 23 per cent of the district's net school spending.

SECTION 47. (a) The department of elementary and secondary education shall convene a working group on charter school transportation within 30 days of the effective date of this act. The working group shall include, but not be limited to: the commissioner of elementary and secondary education, or a designee, who shall serve as chair of the working group; 3 representatives from commonwealth charter schools, 1 of whom shall be from a charter school located in a municipality with more than 500,000 residents, 1 of whom shall be from a charter school located in a municipality with less than 100,000 residents and 1 of whom shall be from a regional charter school; and 3 representatives from school districts that provide transportation to

1 or more commonwealth charter schools, 1 of whom shall be from a municipality with more than 500,000 residents, 1 of whom shall be from a municipality with less than 100,000 residents and 1 of whom shall be from a municipality that provides transportation to 1 or more regional charter schools.

(b) The working group shall: (i) review current patterns and approaches to providing transportation to commonwealth charter schools in districts across the commonwealth; (ii) assess the financial impacts of charter school student transportation patterns on district finances; (iii) propose changes to improve efficiency; and (iv) identify any statutory modifications necessary to make such changes. The working group shall issue a final report containing its findings and recommendations within 6 months of the effective date of this act. Said report shall be submitted to the clerks of the senate and house of representatives, who shall forward the report to the chairs of the joint committee on education and the senate and house committees on ways and means.

SECTION 48. The Department of Elementary and Secondary Education shall conduct a study to determine a reasonable use policy regarding extracurricular activities. Said study shall determine the feasibility of requiring that any charter school student be allowed to participate in any extracurricular activity offered exclusively in said student's public school district, and furthermore, that any public school student be allowed to participate in any extracurricular activity offered exclusively at any charter school in the same district. The department shall issue a final report containing its findings and recommendations within one year of the effective date of this act. Said report shall be submitted to the clerks of the senate and house of representatives, who shall forward the report to the chairs of the joint committee on education and the senate and house committees on ways and means.

SECTION 49. Subsection (c) of section 1J of chapter 69, as so appearing, is hereby amended by inserting after the words "chapter 71A, in line 115, the following words:- ; provided that the school committee may retain said programs after the school is no longer designated as underperforming.

SECTION 50. Subsection (n) of section 1J of chapter 69, as so appearing, is hereby amended by inserting after the words "chapter 71A, in line 443, the following words:- ; provided that the school committee may retain said programs after the school is no longer designated as chronically underperforming.

SECTION 51. Subsection (c) of section 1K of chapter 69, as so appearing, is hereby amended by inserting after the words "chapter 71A, in line 106, the following words:- ; provided that the school committee may retain said programs after the school is no longer designated as chronically underperforming.