

# HOUSE . . . . . No. 529

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Martha M. Walz***

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting public school success.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	<i>1/16/2013</i>
<i>Thomas M. Menino</i>	<i>1 City Hall Square, Suite 500, Boston, MA 02201</i>	
<i>Carlo Basile</i>	<i>1st Suffolk</i>	<i>1/18/2013</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>	
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	

# HOUSE . . . . . No. 529

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

## The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act promoting public school success.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When a commonwealth or Horace Mann charter school is located in a district in which 50 per cent or more of the students who attend district schools qualify for the free or reduced price lunch program, it may choose to offer an enrollment preference to students who reside in a specific geographical area within that district; 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. Any school that chooses to offer this preference must be located within its designated geographical preference area.

In addition to providing the information that is required pursuant to subsection (e), any charter school wishing to offer a geographical preference must 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

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

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

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

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

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

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

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

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

(1) Not more than 120 charter schools shall be allowed to operate in the commonwealth at any time, excluding those approved pursuant to paragraph (3); provided, however, that of the 120 charter schools, not more than 48 shall be Horace Mann charter schools; provided, however, notwithstanding subsection (c) new Horace Mann charter schools shall not be subject to the requirement of an agreement with the local collective bargaining unit prior to board approval; provided, further, that after the charter for these new Horace Mann charter schools have been granted by the board, the schools shall develop a memorandum of understanding with the school committee and the local union 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; provided, further, that not less than 16 of the Horace Mann charter schools shall be located in a municipality with more than 500,000 residents; and not more than 72 shall be commonwealth charter schools. Notwithstanding any subsequent changes in the total number of charter schools allowed to

operate in the commonwealth, the maximum number of Horace Mann charter schools shall remain 40 per cent of that total, and the minimum number of Horace Mann charter schools located in a municipality with more than 500,000 residents shall remain one-third of the total allowable number of Horace Mann charter schools. 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 15. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out subsection (s) and inserting in place thereof the following subsection:-

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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