

SENATE No. 2262

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, July 11, 2014

The committee on Ways and Means, to whom was referred the House Bill relative to improving student achievement (House, No. 4108); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2262.

For the committee,
Stephen M. Brewer

SENATE No. 2262

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In the Year Two Thousand Fourteen

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 the proposed regulations with the clerks of the house of
13 representatives and the senate who shall forward the regulations to the joint committee on
14 education. Within 30 days of the filing, the committee may hold a public hearing and issue a
15 report on the regulations and file the report with the board. The board, pursuant to applicable
16 law, may adopt final regulations making revisions to the proposed regulations as it deems
17 appropriate after consideration of the report and shall immediately file a copy of the regulations

18 with the chairs of the joint committee on education and, not earlier than 30 days from the filing,
19 the board shall file the final regulations with the state secretary. Schools that score in the lowest
20 20 per cent statewide among schools serving common grade levels on a single measure
21 developed by the department that takes into account student performance data and, beginning on
22 July 1, 2011, improvement in student academic performance, shall be deemed eligible for
23 designation as a challenge, underperforming or chronically underperforming school, provided
24 that any school designated as a challenge school shall be drawn from those schools most likely to
25 be designated as underperforming. Not more than 4 per cent of the total number of public
26 schools may be designated as a challenge, underperforming or chronically underperforming
27 school at any given 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 including, but not limited to: student attendance rates, dismissal rates and exclusion rates,
32 promotion rates, graduation rates or the lack of demonstrated significant improvement for 2 or
33 more consecutive years in core academic subjects, either in the aggregate or among subgroups of
34 students, including designations based on special education, low-income, English language
35 proficiency and racial or ethnic classifications.

36 Before a school is designated chronically underperforming by the commissioner, a school
37 shall 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 may remain enrolled in the school while
43 remaining a resident of the district if the student chooses to do so.

44 (a^{1/2}) (1) Within 15 days of the commissioner designating a school as a challenge
45 school, under the regulations developed pursuant to this section, the school committee and the
46 local teachers union shall meet to negotiate a waiver agreement, if necessary, which identifies
47 any provisions of the collective bargaining agreement that would be subject to a waiver upon a
48 2/3 vote of the teachers working at least 50 per cent of the time in the designated challenge
49 school. Such waivers shall be designed to permit the implementation of a turnaround plan and
50 may include provisions that are inconsistent with the existing collective bargaining agreement.
51 Such negotiations shall be completed not later than 30 days from the date the commissioner
52 designated the school as a challenge school and the parties shall not be eligible for relief under
53 section 9 of chapter 150E. If the school committee and the union fail to reach an agreement, the
54 process provided in this subsection shall be terminated and the commissioner may designate the
55 school as underperforming pursuant to subsection (a).

56 Within 15 days of the completion of the waiver negotiation process, the superintendent
57 shall convene a local stakeholder group to develop a turnaround plan for the school. The local
58 stakeholder group shall include: (i) the superintendent, or a designee; (ii) the chair of the school
59 committee, or a designee; (iii) the president of the local teacher's union, or a designee; (iv) an
60 administrator from the school, who may be the principal, chosen by the superintendent; (v) 2
61 educators chosen by the faculty of the school, 1 of whom shall be a classroom teacher and 1 of
62 whom shall be a certified non-teaching professional from the school; (vi) a parent member of the

63 school council, established pursuant to section 59C of chapter 71, chosen by the school council;
64 (vii) 1 representative of applicable state and local social service, health and child welfare
65 agencies chosen by the superintendent; and (viii) as deemed appropriate by the superintendent, 1
66 or more representatives of state and local workforce development agencies, chosen by the
67 superintendent. Meetings of the local stakeholder group shall be open to the public.

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

77 In creating the turnaround plan, the local stakeholder group shall consider the following:
78 (i) steps to address the social service and health needs of students at the school and their families,
79 to help ensure students arrive and remain at school ready to learn; provided, that such services
80 may include mental health and substance abuse screening; (ii) steps to improve or expand child
81 welfare services and, as appropriate, law enforcement services in the school community, in order
82 to promote a safe and secure learning environment; (iii) steps to improve workforce development
83 services provided to students and their families at the school, to provide students and families
84 with meaningful employment skills and opportunities; (iv) steps to address achievement gaps for
85 limited English-proficient, special education and low-income students; and (v) notwithstanding

86 chapter 71A, alternative English language learning programs for limited English proficient
87 students. The school committee may retain such programs after the school is no longer
88 designated a challenge school. The secretary of health and human services, the secretary of labor
89 and workforce development and the secretary of public safety and other applicable state and
90 local social service, health and child welfare officials shall coordinate with the superintendent to
91 support and implement the strategies established pursuant to clauses (i) to (iii), inclusive, that are
92 included in a final turnaround plan and shall, subject to appropriation, reasonably support the
93 implementation, which shall be consistent with the requirements of all state and federal law
94 applicable to the relevant programs to be administered. The secretary of education shall assist the
95 superintendent in facilitating the coordination.

96 To assess the school across multiple measures of school performance and student
97 success, the turnaround plan shall include measurable annual goals including, but not limited to:
98 (i) student attendance, dismissal rates and exclusion rates; (ii) student safety and discipline; (iii)
99 student promotion, graduation and dropout rates; (iv) student achievement on the statewide
100 assessment system approved by the board under section 11I; (v) progress in improving areas of
101 academic underperformance; (vi) progress among subgroups of students, including low-income
102 students as defined in section 2 of chapter 70, limited English proficient students and students
103 receiving special education; (vii) reduction of achievement gaps among different groups of
104 students; (viii) student acquisition and mastery of twenty-first century skills; (ix) development of
105 college and career readiness, including at the elementary and middle school levels; (x) parent and
106 family engagement; (xi) building a culture of academic success among students; (xii) building a
107 culture of student support and success among school faculty and staff; and (xiii) developmentally
108 appropriate child assessments from pre-kindergarten through third grade, if applicable.

109 (3) The plan shall: maximize the rapid achievement of students at the school by
110 addressing the conditions for school effectiveness as determined by the department; identify the
111 specific provisions of the collective bargaining agreement that shall be waived in order to
112 implement the plan developed under paragraph (1); and describe the process and schedule for
113 seeking approval of the plan by the teachers in the school pursuant to paragraph (5).

114 Notwithstanding any general or special law to the contrary, the turnaround plan may
115 include provisions that allow the superintendent to: (i) expand, alter or replace the curriculum
116 and program offerings of the school, including the implementation of research-based early
117 literacy programs, early interventions for struggling readers and the teaching of advanced
118 placement courses or other rigorous nationally or internationally recognized courses, if the
119 school does not already have such programs or courses; (ii) reallocate the uses of the existing
120 budget of the school; (iii) provide additional funds to the school from the budget of the district, if
121 the school does not receive funding from the district at least equal to the average per pupil
122 funding received for students of the same classification and grade level in the district; (iv)
123 provide funds, subject to appropriation, to expand the length of the school's day, year or both;
124 (v) limit, suspend or change 1 or more school district policies or practices that relate to improved
125 student performance and achievement at the school; (vi) for an elementary school, add pre-
126 kindergarten and full-day kindergarten classes, if the school does not already have such classes;
127 (vii) include a provision of job-embedded professional development for teachers at the school,
128 with an emphasis on strategies that involve teacher input and feedback; (viii) provide for
129 increased opportunities for teacher planning time and collaboration, including professional
130 learning communities focused on improving student instruction; (ix) establish a plan for
131 professional development for administrators at the school, with an emphasis on strategies that

132 develop leadership skills and use the principles of distributive leadership; (x) redesign and
133 refocus the use of existing teacher preparation periods in the school to ensure that such
134 preparation period is utilized to improve student instruction with an emphasis on improved
135 student performance and achievement at the school; (xi) develop a strategy to search for and
136 study best practices in areas of demonstrated deficiency in the school; (xii) establish strategies to
137 address student attendance, mobility and transiency among the student population of the school;
138 and (xiii) use formative and summative assessments to track student progress and to inform the
139 instructional strategies employed in the classroom. The plan may also include a financial plan for
140 the school based on additional funds provided by the district, commonwealth, federal
141 government, private foundations or other sources and may include a process for modifying the
142 plan.

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

147 (4) The local stakeholder group shall submit an initial turnaround plan to the school
148 committee within 30 days of its initial meeting. The school committee may propose
149 modifications to the turnaround plan and shall submit any proposed modifications to the
150 superintendent within 10 days of receiving the initial plan. The superintendent shall consider and
151 may incorporate, alter or reject the proposed modifications submitted by the school committee
152 and may propose additional modifications to the plan. Within 15 days of receiving any proposed
153 modifications from the school committee, the superintendent shall issue the final turnaround plan
154 for the school; provided, however, that if the plan requires any waiver of provisions of the

155 collective bargaining agreement beyond those authorized by the negotiated agreement pursuant
156 to paragraph (1), the school committee and the local teachers union shall meet to negotiate
157 additional waivers. Such negotiations shall be completed within 15 days and the parties shall not
158 be eligible for relief under section 9 of chapter 150E. If the school committee and the union fail
159 to reach an agreement, the process provided in this subsection shall be terminated and the
160 commissioner may designate the school as underperforming pursuant to subsection (a).

161 (5) The superintendent shall submit the final turnaround plan to the school committee and
162 the teachers in the school for approval and shall forward a copy of the plan to the commissioner.
163 A 2/3 vote of the teachers, including teachers on approved leave, shall be required to approve the
164 plan and shall be conducted by the local teachers union. A copy of the plan shall be provided to
165 the faculty at least 5 days in advance of an informational meeting, which shall be held at least 5
166 days in advance of the vote. The vote shall be by secret ballot. For the purposes of the vote, a
167 teacher shall be any person working at least 50 per cent of the time in the designated challenge
168 school under a license listed in 603 CMR 7.04 (3) (a), (b) or (d). A teacher on an approved leave
169 at the time of the election may vote in such election. A teacher (i) who has prior to such vote
170 given notice to leave the school the following year because of retirement, resignation, voluntary
171 transfer or any other reason or (ii) who has received notice to leave the school the following year
172 because of involuntary transfer, dismissal or any other reason shall not be eligible to vote on
173 whether to approve the plan. If a final turnaround plan is not approved within the time frame
174 provided in this subsection, the process provided in this subsection shall be terminated and the
175 commissioner may designate the school as underperforming pursuant to subsection (a). Each
176 turnaround plan shall be authorized for a period of not more than 2 years. The superintendent, as
177 applicable, shall be responsible for meeting the goals of the plan.

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

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

194 (7) Not more than 2 years after the designation of a school as a challenge school, the
195 commissioner shall determine whether the school has improved sufficiently, requires further
196 improvement or has failed to improve. The commissioner may determine that: (i) the school has
197 improved sufficiently for the designation of the school as a challenge school to be removed; (ii)
198 the school has improved, but has not improved sufficiently for the designation of the school as a
199 challenge school to be removed, in which case the superintendent may, with the approval of the
200 commissioner, reconvene the local stakeholder group to renew the plan or creating a new or

201 modified plan for an additional period of not more than 2 years, consistent with the requirements
202 of paragraphs (1) to (5), inclusive; or (iii) consistent with the requirements of subsection (a), the
203 school is underperforming.

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

208 SECTION 3. Said section 1J of said chapter 69, as so appearing, is hereby further
209 amended by inserting after the words “chapter 71A”, in line 115, the following words:- ;
210 provided that the school committee may retain said programs after the school is no longer
211 designated as underperforming.

212 SECTION 4. Said section 1J of said chapter 69, as so appearing, is hereby further
213 amended by inserting after the word “government”, in lines 117 and 445, in each instance, the
214 following words:-, private foundations.

215 SECTION 5. Said section 1J of said chapter 69, as so appearing, is hereby further
216 amended by striking out, in line 203, the words “or chronically underperforming”.

217 SECTION 6. Said section 1J of said chapter 69, as so appearing, is hereby further
218 amended by inserting after the word “issues”, in line 272, the following word:- to.

219 SECTION 7. Subsection (l) of said section 1J of said chapter 69, as so appearing, is
220 hereby amended by adding the following sentence:- Until the commissioner makes the

221 determination required under this section and any new or amended turnaround plan is approved,
222 the terms of the expired turnaround plan shall remain in effect.

223 SECTION 8. Said section 1J of said chapter 69, as so appearing, is hereby further
224 amended by inserting after the words “chapter 71A”, in line 443, the following words:- ;
225 provided that the school committee may retain said programs after the school is no longer
226 designated as chronically underperforming.

227 SECTION 9. Said section 1J of said chapter 69, as so appearing, is hereby further
228 amended by inserting after the word “superintendent”, in line 502, the following words:- or, if 1
229 has been appointed pursuant to subsection (r), the school’s receiver.

230 SECTION 10. Said section 1J of said chapter 69, as so appearing, is hereby further
231 amended by striking out, in line 524, the word “commissioner” and inserting in place thereof the
232 following words:- superintendent or, if 1 has been appointed pursuant to subsection (r), the
233 school’s receiver.

234 SECTION 11. Said section 1J of said chapter 69, as so appearing, is hereby further
235 amended by striking out, in line 525, the figure “(7)” and inserting in place thereof the following
236 figure:- (8).

237 SECTION 12. Said section 1J of said chapter 69, as so appearing, is hereby further
238 amended by striking out, in line 533, the words “underperforming or”.

239 SECTION 13. Said section 1J of said chapter 69, as so appearing, is hereby further
240 amended by striking out, in line 536, the words “commissioner or” and inserting in place thereof
241 the following words:- or receiver.

242 SECTION 14. Subsection (s) of said section 1J of said chapter 69, as so appearing, is
243 hereby amended by adding the following 4 sentences:- Following the annual appropriation of the
244 school district's operating budget, the amount approved for the operation of each chronically
245 underperforming school shall be available for expenditure by the superintendent or the external
246 receiver for any lawful purpose. A chronically underperforming school shall not expend or incur
247 obligations in excess of its budget; provided, however, that a chronically underperforming school
248 may spend federal and state grants and other funds received independently of its operating
249 budget without approval from the school committee or by the superintendent if a receiver has
250 been appointed. A receiver for a chronically underperforming school shall not be required by
251 contract to indemnify and hold harmless the commonwealth against any and all claims, liabilities
252 and costs which arise out of the receiver's performance of the receiver's role creating or
253 implementing the turnaround plan. In connection with the receiver's role in creating or
254 implementing the turnaround plan, the receiver may (1) sue and be sued, but only to the same
255 extent and upon the same conditions that a municipality may be sued; (2) receive and disburse
256 funds for the chronically underperforming school; and (3) solicit and accept grants or gifts for
257 the chronically underperforming school.

258 SECTION 15. Subsection (y) of said section 1J of said chapter 69, as so appearing, is
259 hereby amended by striking out, in lines 695 and 696, the word "an" and inserting in place
260 thereof, in each instance, the following words:- a challenge,.

261 SECTION 16. Said subsection (y) of said section 1J of said chapter 69, as so appearing,
262 is hereby further amended by striking out, in line 707, the words "district previously designated
263 as" and inserting in place thereof the following words:- school previously designated as
264 underperforming or.

265 SECTION 17. Said section 1J of said chapter 69, as so appearing, is hereby further
266 amended by inserting after the word “as”, in line 714, the word:- challenge,.

267 SECTION 18. The second paragraph of subsection (a) of section 1K of said chapter 69,
268 as so appearing, is hereby amended by adding the following 3 sentences:- At the request of the
269 commissioner, the secretary of administration and finance shall appoint a chief procurement
270 officer for a district designated as chronically underperforming. A receiver for a chronically
271 underperforming district shall not be required by contract to indemnify and hold harmless the
272 commonwealth against any and all claims, liabilities and costs which arise out of the receiver’s
273 performance or role in creating or implementing the turnaround plan. In connection with the
274 receiver’s role in creating or implementing the turnaround plan, the receiver may: (1) sue and be
275 sued but only to the same extent and upon the same conditions that a municipality can be sued;
276 (2) receive and disburse funds for the chronically underperforming district; and (3) solicit and
277 accept grants or gifts for the district.

278 SECTION 19. Said section 1K of said chapter 69, as so appearing, is hereby further
279 amended by striking out, in line 42, the word “an” and inserting in place thereof the following
280 word:- a.

281 SECTION 20. Said section 1K of said chapter 69, as so appearing, is hereby further
282 amended by inserting after the word “System”, in lines 85 and 124, the following words:- , or
283 any successor statewide assessment system approved by the board pursuant to section 1I.

284 SECTION 21. Said section 1K of said chapter 69, as so appearing, is hereby further
285 amended by inserting after the words “chapter 71A”, in line 106, the following words:- ;

286 provided that the school committee may retain said programs after the school is no longer
287 designated as chronically underperforming.

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

291 SECTION 23. Said section 1K of said chapter 69, as so appearing, is hereby further
292 amended by striking out, in line 163, the words “reapplications. turnaround plan” and inserting in
293 place thereof the following word:- reapplications.

294 SECTION 24. Said section 1K of said chapter 69, as so appearing, is hereby further
295 amended by striking out, in lines 184 and 218, the word “commissioner” and inserting in place
296 thereof, in each instance, the following word:- receiver.

297 SECTION 25. Said section 1K of said chapter 69, as so appearing, is hereby further
298 amended by striking out, in line 196, the words “commissioner/superintendent” and inserting in
299 place thereof the following word:- receiver.

300 SECTION 26. Said section 1K of said chapter 69, as so appearing, is hereby further
301 amended by striking out, in line 217, the word “if” and inserting in place thereof the following
302 word:- If.

303 SECTION 27. Said section 1K of said chapter 69, as so appearing, is hereby further
304 amended by striking out, in lines 268 and 277, the words “(g)” and inserting in place thereof, in
305 each instance, the following words:- (h).

306 SECTION 28. Said section 1K of said chapter 69, as so appearing, is hereby further
307 amended by striking out, in line 328, the words “ (h)” and inserting in place thereof the following
308 words:- (i).

309 SECTION 29. Section 15 of chapter 70B of the General Laws, as so appearing, is hereby
310 amended by inserting after the word “lease”, in line 64, the following words:- , in whole or in
311 part,.

312 SECTION 30. Section 37H³/₄ of chapter 71 of the General Laws, as so appearing, is
313 hereby amended by adding the following subsection:-

314 (g) No school district shall suspend or expel a student from school for poor academic
315 performance.

316 SECTION 31. Subsection (c) of section 89 of said chapter 71, as so appearing, is hereby
317 amended by striking out the second paragraph and inserting in place thereof the following 4
318 paragraphs:-

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

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

332 A Horace Mann II charter school shall be a conversion of an existing public school
333 operated under a charter approved by the school committee in the district in which the school is
334 located. A Horace Mann II charter school shall not require approval of the local collective
335 bargaining unit, but shall require a memorandum of understanding with the local collective
336 bargaining unit and the school committee of the district in which the charter school is located
337 regarding any waivers to applicable collective bargaining agreements; provided, that the
338 memorandum of understanding shall be approved by a majority of the school faculty; and
339 provided, further, that Horace Mann II charter schools shall not count towards the maximum
340 number of Horace Mann charter schools stated in paragraph (1) of subsection (i). A vote by the
341 school faculty shall be held and finalized within 30 days of submission of the charter school
342 application to the board of elementary and secondary education. School faculty: (i) who have
343 prior to such vote given notice to leave the school the following year because of retirement,
344 resignation, voluntary transfer or any other reason; or (ii) who have received notice to leave the
345 school the following year because of involuntary transfer, dismissal or any other reason shall not
346 be eligible to vote to approve the memorandum of understanding.

347 A Horace Mann III charter school shall be a new school operated under a charter
348 approved by the school committee in the district in which the school is located. A Horace Mann

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

357 SECTION 32. Subsection (d) of said section 89 of said chapter 71, as so appearing, is
358 hereby amended by adding the following sentence:- Notwithstanding any general or special law
359 to the contrary, for applicants with a record of operating at least 1 charter school in the
360 commonwealth, the board shall not accept a new or expansion application if: (1) the average 3
361 year student attrition rate of the charter school is greater than the sending district's average 3
362 year student attrition rate in the same grades served by the charter school; (2) or if the average 3
363 year student stability rate of the charter school is less than the sending district's average 3 year
364 student stability rate in the same grades served by the charter school.

365 SECTION 33. Paragraph (1) of subsection (i) of said section 89 of said chapter 71, as so
366 appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the
367 following paragraph:-

368 Not more than 120 charter schools shall be allowed to operate in the commonwealth at
369 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; provided further, that of the 48
372 Horace Mann charter schools, not more than 14 shall be Horace Mann III charter schools; and
373 provided, further, that not less than 4 of the 14 Horace Mann III charter schools shall be located
374 in a municipality with more than 500,000 residents. The board shall not approve a new
375 commonwealth charter school in any community with a population of less than 30,000 as
376 determined by the most recent United States census estimate, unless it is a regional charter
377 school.

378 SECTION 34. Said section 89 of said chapter 71, as so appearing, is hereby further
379 amended by inserting after the word “year”, in line 174, the following words:- ; provided, that
380 applications to establish a Horace Mann III charter school may be submitted and granted at any
381 time during the year.

382 SECTION 35. Said section 89 of said chapter 71, as so appearing, is hereby further
383 amended by striking out, in line 179, the words “ shall not exceed 18” and inserting in place
384 thereof the following words:- may exceed 9.

385 SECTION 36. Said section 89 of said chapter 71, as so appearing, is hereby further
386 amended by striking out, in lines 184 and 185, the words “9 per cent of the school district’s net
387 school spending or 18 per cent for those districts that qualify under said paragraph (3)” and
388 inserting in place thereof the following words:- the net school spending cap in the district.

389 SECTION 37. Said section 89 of said chapter 71, as so appearing, is hereby amended by
390 inserting after the word “performance”, in line 204, the following words:- and growth.

391 SECTION 38. Said section 89 of said chapter 71, as so appearing, is hereby further
392 amended by inserting after the word “per cent”, in line 208, the following words:- ; provided,

393 however, that for a district qualifying under this paragraph, the board may approve an application
394 for the establishment or expansion of a commonwealth charter school that has the effect of
395 increasing the district's total charter tuition payments above 18 per cent of the district's net
396 school spending if the charter applicant meets 1 or more of the criteria in paragraph (4); and
397 provided, further that no public school district's total charter tuition payments to commonwealth
398 charter schools shall exceed 23 per cent of the district's net school spending.

399 SECTION 39. Said section 89 of said chapter 71, as so appearing, is hereby further
400 amended by striking out, in line 239, the word "or" and inserting in place thereof the following
401 word:- and.

402 SECTION 40. Said section 89 of said chapter 71, as so appearing, is hereby further
403 amended by striking out, in line 265, the word "previous" and inserting in place thereof the
404 following word:- previously.

405 SECTION 41. Subsection (i) of said section 89 of said chapter 71, as so appearing, is
406 hereby amended by adding the following paragraph:-

407 (4) For a district qualifying under paragraph (3) whose charter school tuition payments
408 exceed 18 per cent of the school district's net school spending, the board shall only approve an
409 application for the establishment or expansion of a commonwealth charter school if the school
410 meets 1 or more of the following criteria:

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

414 (ii) the school’s primary purpose is to establish alternative education programs
415 designed to serve at-risk students or students who have dropped out of school; provided that, for
416 the purposes of this section, the term “at-risk student” shall mean any student enrolled in grades
417 7 through 12 who is identified as “high-risk” according to the early warning indicator index
418 system, or any successor data collection and tracking system, developed by the department to
419 identify and track students at risk of not graduating on time; and provided, further, that not less
420 than 75 per cent of students enrolled at the school shall qualify as at-risk students or students
421 who have dropped out of school.

422 Existing charter schools that apply for an expansion under clause (i) or (ii) shall
423 demonstrate the ability to meet the criteria set forth in said clauses through a phased-in process
424 established by the board. An existing Horace Mann or commonwealth charter school, which
425 meets the criteria for expansion under clause (i) and is approved for new seats in a higher grade
426 than the school currently serves, may assign students already enrolled in the school to those new
427 seats; provided, however, that the charter school shall fill all other open seats, including seats
428 that open up in lower grades at the beginning of the school year and in any grade during the
429 school year, using an opt-out admissions lottery process. Nothing in this section shall prevent the
430 board from approving other Horace Mann or commonwealth charter school applications that
431 meet the criteria in clause (i) or(ii) of this paragraph in districts where the net school spending
432 cap has not been reached.

433 SECTION 42. Subsection (m) of said section 89 of said chapter 71, as so appearing, is
434 hereby amended by adding the following 3 paragraphs:-

435 For a charter school qualifying under clause (i) of paragraph (4) of subsection (i), all
436 students eligible to attend the school under the district's assignment policy, if it were a district
437 school, shall be deemed eligible for enrollment in the charter school without any application
438 process required for admittance to the school. The charter school shall conduct an admissions
439 lottery, including the names of all eligible students, to fill all of the spaces in the school;
440 provided, that the lottery is based upon a list of eligible students provided by the district. In the
441 event that the parents or guardians of a student who is randomly selected for admission to the
442 charter school through the lottery determine not to enroll the student in the charter school, then
443 the charter school shall fill that enrollment space with a student from the waitlist maintained
444 pursuant to this subsection. Parents or guardians of a student may elect for that student to not
445 participate in the enrollment lottery.

446 Each charter school shall conduct an opt-out lottery at least 1 time per academic year.
447 Through the lottery, the charter school shall randomly select a number of students equal to the
448 number of anticipated enrollment spaces and shall randomly select a number of additional
449 students to be placed on a waitlist. The charter operator, who shall maintain the waitlist, shall
450 determine the number of students randomly selected for the waitlist in order to fill any open
451 enrollment spaces that become available throughout the year. A charter school may conduct
452 additional opt-out lottery draws during an academic year if the school determines that its waitlist
453 will be exhausted prior to the fulfillment of all midyear enrollment spaces. An additional opt-out
454 lottery shall place any students not immediately placed in an open enrollment space on the
455 waitlist. If a student randomly selected through an opt-out lottery remains on a waitlist at the
456 close of the academic year in which the student was randomly selected, the student shall have the

457 option to receive preference placement of the next available enrollment space in the next highest
458 grade level, unless the next highest grade level is not offered by the charter school.

459 Notwithstanding subsection (n), charter schools qualifying under said clause (i) of said
460 paragraph (4) of said subsection (i) shall have a rolling enrollment policy in which the school
461 shall attempt to fill vacant seats throughout the school year for all grade levels offered by the
462 school. Such charter schools shall also adhere to the same quality measures, at a minimum, used
463 by the district to the extent that such measures are necessary under subsection (i).

464 SECTION 43. Subsection (n) of said section 89 of said chapter 71, as so appearing, is
465 hereby amended by inserting after the second paragraph the following 6 paragraphs:-

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

475 Subject to approval by the board, school districts or municipalities that rent classroom
476 space to commonwealth charter schools under lease agreements with terms of at least 10 years
477 may require such schools to offer enrollment preferences to students who reside in a specific
478 geographical area in which such school buildings are located as a condition of such lease

479 agreements; provided, however, that within this geographical preference area, the percentage of
480 students who qualify for the free or reduced price lunch program shall be equal to or higher than
481 the district's overall percentage of students who qualify for the program.

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

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

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

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

518 SECTION 44. The fifth paragraph of said subsection (n) of said section 89 of said chapter
519 71, as so appearing, is hereby amended by striking out the second through sixth sentences,
520 inclusive.

521 SECTION 45. The sixth paragraph of said subsection (n) of said section 89 of said
522 chapter 71, as so appearing, is hereby amended by striking out the first 2 sentences and inserting
523 in place thereof the following 2 sentences:- The names of students who entered the lottery but

524 did not gain admission shall be maintained on a waitlist or waitpool, which shall be forwarded to
525 the department on or before June 1 in the year in which the lottery is held, and which shall be
526 updated on or before December 1 of that year. In addition to the names of students, the school
527 shall supply such other information as the department deems necessary.

528 SECTION 46. Said section 89 of said chapter 71, as so appearing, is hereby further
529 amended by striking out, in line 411, the words “and 37H½” and inserting in place thereof the
530 following words:- , 37H½ and 37H¾.

531 SECTION 47. Subsection (p) of said section 89 of said chapter 71, as so appearing, is
532 hereby amended by adding the following paragraph:-

533 Subject to the commissioner’s approval, a charter school may readmit former students on
534 a space available basis outside the enrollment process specified in subsection (n) if those students
535 have unenrolled from the charter school due to participation in an exchange program,
536 homelessness, relocation due to military service or employment or other similar circumstances.
537 In determining whether to request the commissioner’s approval to readmit a former student, the
538 charter school shall not discriminate on the basis of race, color, national origin, creed, sex,
539 gender identity, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic
540 performance, special need or proficiency in the English language or a foreign language or
541 academic achievement.

542 SECTION 48. Subsection (s) of said section 89 of said chapter 71, as so appearing, is
543 hereby amended by striking out the last sentence and inserting in place thereof the following 2
544 sentences:- Personnel from the school district in which the child resides shall participate in the
545 team meeting concerning future placement of the child, unless the special education department

546 of the school district decides not to participate in the meeting and communicates this decision in
547 writing to the charter school. At any time after notification and before the team meeting, and
548 again at the team meeting, personnel from the school district in which the child resides may
549 provide information to team members about any in-district programs that could provide the
550 services recommended by the team.

551 SECTION 49. Subsection (cc) of said section 89 of said chapter 71, as so appearing, is
552 hereby amended by striking out the first 2 sentences and inserting in place thereof the following
553 4 paragraphs:-

554 (1) The students who reside in the school district in which the charter school is located
555 shall be provided transportation to the charter school by the resident school district on similar
556 terms and conditions as transportation is provided to students attending local district schools. The
557 school district shall be responsible for the cost of said transportation; provided, however, that if
558 the school district and the charter school do not reach agreement on the start time of the charter
559 school's day, the school district shall be responsible for 50 per cent of the charter school's
560 transportation costs. The school district shall only be responsible for transportation costs on days
561 that both district and charter schools are in session.

562 (2) If a charter school provides transportation for its students through an independent
563 transportation vendor, which does not qualify for reimbursement under paragraph (1), the district
564 shall not be responsible for any transportation costs incurred by the charter school.

565 (3) If a school district limits transportation for district school students, the charter
566 school's transportation shall be subject to the same limitations, which may include travel
567 distance limits, mode of transportation, attendance zones, geographic subdivisions of the district,

568 or limits included in a district's school assignment or transportation policies; provided, that, if a
569 district provides transportation throughout the district without geographic limitation for local
570 district schools focused on specialized programs, including language specialties, arts, special
571 education, vocational technical education, students at-risk of dropping out of school or who have
572 dropped out of school and science, technology, engineering and math, the district shall provide
573 the same transportation to charter schools that provide specialized programs; provided further,
574 that college preparatory programs shall not be a specialized program.

575 (4) School districts may provide for public transportation to charter schools for students
576 who may, under district policy, receive traditional bus transportation.

577 SECTION 50. The first paragraph of subsection (dd) of said section 89 of said chapter
578 71, as so appearing, is hereby amended by striking out the second sentence and inserting in place
579 thereof the following sentence:- The board shall develop procedures and guidelines for
580 revocation, amendment and renewal of a school's charter; provided, however, that an amendment
581 or renewal of a charter for a Horace Mann charter school shall be subject to approval by majority
582 vote of the school committee and local collective bargaining unit in the district where said
583 charter school is located only to the extent that its initial charter required such approval; and
584 provided, further, that a commonwealth charter shall not be renewed unless the board of trustees
585 of the charter school has documented in a manner approved by the board that said
586 commonwealth charter school has provided models for replication and best practices to the
587 commissioner and to other public schools in the district where the charter school is located.

588 SECTION 51. Said section 89 of said chapter 71, as so appearing, is hereby further
589 amended by inserting after the word "students," in line 598, the following words:- ; provided that

590 a commonwealth charter shall not be renewed if (i) the average 3 year student attrition rate of the
591 charter school is greater than the sending district's average 3 year student attrition rate in the
592 same grades served by the charter school or (ii) the average 3 year student stability rate of the
593 charter school is less than the sending district's average 3 year student stability rate in the same
594 grades served by the charter school.

595 SECTION 52. Subsection (kk) of said section 89 of said chapter 71, as so appearing, is
596 hereby amended by striking out the last sentence and inserting in place thereof the following 2
597 sentences:- The commissioner shall, pursuant to regulations promulgated by the board, collect
598 attrition data, including, but not limited to, the number of students leaving each charter school
599 and the reasons for leaving. The commissioner shall make the data publicly available online in
600 human and machine readable formats, annually on or before December 1, and may file the data
601 annually with the clerks of the house and senate and the joint committee on education on or
602 before December 1.

603 SECTION 53. Beginning in 2016, the commissioner of elementary and secondary
604 education shall comply with the October 1 deadline for making designations pursuant to
605 subsection (a) of section 1J of chapter 69 of the General Laws.

606 SECTION 54. The board of elementary and secondary education shall promulgate rules
607 and regulations to implement this act.

608 SECTION 55. Notwithstanding any general or special law to the contrary, for school
609 districts qualifying under paragraph (4) of subsection (i) of section 89 of chapter 71 of the
610 General Laws with a net school spending that exceeds 18 per cent: (1) in fiscal year 2018, the
611 public school district's total charter school tuition payment to commonwealth charter schools

612 shall not exceed 19 per cent of the district's net school spending; (2) in fiscal year 2019, the
613 public school district's total charter school tuition payment to commonwealth charter schools
614 shall not exceed 20 per cent of the district's net school spending; (3) in fiscal year 2020, the
615 public school district's total charter school tuition payment to commonwealth charter schools
616 shall not exceed 21 per cent of the district's net school spending; (4) in fiscal year 2021, the
617 public school district's total charter school tuition payment to commonwealth charter schools
618 shall not exceed 22 per cent of the district's net school spending; and (5) in fiscal year 2022 and
619 subsequent fiscal years, the public school district's total charter school tuition payment to
620 commonwealth charter schools shall not exceed 23 per cent of the district's net school spending.

621 Notwithstanding any general or special law to the contrary, a public school district's total
622 charter school tuition payment to commonwealth charter schools under this section shall be
623 limited to the per cent of the district's net school spending in the previous fiscal year if
624 reimbursement by the commonwealth under subsection (gg) of section 89 of chapter 71 of the
625 General Laws is less than the amount required to achieve full reimbursement under the
626 percentages set forth in the second sentence of said subsection (gg) of said section 89 of said
627 chapter 71. The amount required to achieve full reimbursement shall be based on the projection
628 of the department offered as of April 15 of the previous fiscal year. Notwithstanding this section,
629 a district's net school spending shall not increase by more than 1 per cent in a fiscal year.

630 SECTION 56. There shall be a commission to review and report on the efficacy of
631 charter school funding in the commonwealth. The commission shall study and report on the
632 methods used to fund charter schools in various states and the appropriateness of the approach
633 currently used in the commonwealth as compared to other states. The commission shall make
634 recommendations for revising the commonwealth's approach as appropriate.

635 The commission shall consist of 15 members: 2 of whom shall be appointed by the
636 president of the senate, 1 of whom shall serve as a co-chair; 2 of whom shall be appointed by the
637 speaker of the house of representatives, 1 of whom shall serve as a co-chair; 1 of whom shall be
638 appointed by the minority leader of the senate; 1 of whom shall be appointed by the minority
639 leader of the house of representatives; the secretary of education, or a designee; the
640 commissioner of elementary and secondary education, or a designee; the secretary of
641 administration and finance, or a designee; a representative of the Massachusetts Association of
642 School Committees; a representative of the Massachusetts Association of School
643 Superintendents; a representative of the Massachusetts Teachers Association; a representative of
644 the American Federation of Teachers; a representative of the Massachusetts Charter Public
645 School Association; and a representative of the Massachusetts Business Alliance for Education.

646 The commission shall issue a final report and recommendations for legislation, if any, to
647 the clerks of the house of representatives and senate not later than January 1, 2016.

648 SECTION 57. Sections 1, 15, 16 and 17 shall take effect 180 days after the effective date
649 of this act.