

HOUSE No. 4139

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 4, 2016.

The committee on Education to whom were referred the petition (accompanied by bill, House, No. 461) of Alice Hanlon Peisch relative to the school choice program for children accepted to attend public schools in communities other than the ones in which they reside, the petition (accompanied by bill, House, No. 482) of John W. Scibak relative to the School Choice Tuition Trust Fund and the petition (accompanied by bill, House, No. 3227) of Todd M. Smola for legislation to require students to provide reasons for choosing to attend a school outside of his or her resident district, reports recommending that the accompanying bill (House, No. 4139) ought to pass.

For the committee,

ALICE HANLON PEISCH.

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the school choice program.

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 12B of chapter 76 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out the subsection (a) and inserting in place
3 thereof the following subsection:-

4 (a) As used in this section, the following terms shall have the following meanings:

5 “Department”, the department of elementary and secondary education.

6 "Receiving district", any city, town or regional school district within the commonwealth
7 in which a child does not reside, but in which that child attends public school under the
8 provisions of this section.

9 "Sending district", any city, town or regional school district within the commonwealth in
10 which a child resides, but in which that child does not attend public school under the provisions
11 of this section.

12 "State school choice limit", in fiscal year nineteen hundred and ninety-four, one percent
13 of the total number of students attending public schools in the commonwealth; in fiscal year
14 nineteen hundred and ninety-five, one and one-half percent of the total number of students
15 attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-six,
16 one and three-quarters percent of the total number of students attending public schools in the
17 commonwealth; in fiscal year nineteen hundred and ninety-seven and thereafter, two percent of
18 the total number of students attending public schools in the commonwealth; provided, however,
19 that students enrolled under the program for the elimination of racial imbalance as provided in
20 section twelve A shall not be counted toward these limits.

21 SECTION 2. Said section 12B of said chapter 76, as so appearing, is hereby further
22 amended by striking out subsections (c) through (e), inclusive, and inserting in place thereof the
23 following subsections:-

24 (c) Each city, town or regional school district shall enroll non-resident students at the
25 school of such non-resident student's choice; provided, however, that this obligation to enroll
26 non-resident students shall not apply to a district for a school year in which its school committee,
27 prior to June first, after a public hearing, adopts a resolution withdrawing from said obligation,
28 for the school year beginning the following September. Any such resolution of a school
29 committee shall state the reasons therefor, and such resolution with said reasons shall be filed
30 with the department of education; provided, however, that said department shall have no power
31 to review any such decision by a school committee. If the city, town or regional school district
32 operates an intra-district choice plan, non-resident students may apply for schools on the same
33 basis as resident students, but the intra-district choice plan may give preference to resident
34 students in assigning students to schools.

35 (d) If the total number of students admitted to receiving districts pursuant to this section
36 is greater than the state school choice limit, the board shall notify all districts that no more
37 students may be accepted pursuant to this section.

38 (e) The number of non-resident students enrolled in a receiving district pursuant to this
39 section may not exceed ten percent of the total student enrollment in such district; provided,
40 however, that students enrolled in a commonwealth virtual school pursuant to section 94 of
41 chapter 71 shall not be counted towards these limits.

42 SECTION 3. Subsection (f) of said section 12B of said chapter 76, as so appearing, is
43 hereby amended by striking out the last sentence.

44 SECTION 4. Said section 12B of said chapter 76, as so appearing, is hereby further
45 amended by striking out subsections (g) through (o), inclusive, and inserting in place thereof the
46 following subsections:-

47 (g) The state treasurer is further directed to disburse to the receiving district, from the
48 School Choice Tuition Trust Fund established by section twelve C, an amount equal to each
49 student's school choice tuition as defined in subsection (f); provided, however, that each public
50 school district which admits children under the provisions of this section shall certify to the state
51 treasurer the number of such children attending its public schools, number of students which
52 have been placed in an out-of-district placement, the city or town of residence of each such child,
53 the annual amount of tuition for each such child and the total tuition owed to the district based on
54 full or partial attendance, itemized by the amount attributable to each city or town of residence;
55 and, provided further, that such certification shall be made on October first of each year and
56 April first of each year. Each school district submitting a certification to the state treasurer shall

57 also submit a copy of said certification to the department of elementary and secondary education
58 and to the sending district. Said department and sending district may review said certification to
59 determine that the amount of the individual tuition charged for each child is in accordance with
60 the provisions of this section and shall inform the state treasurer of any errors. The department
61 may, on a post-audit basis, verify the admission and attendance of the number of children
62 certified by each school district. A sending district shall be reimbursed for any tuition paid for
63 any students who fail to enroll, drop out, or transfer from the receiving district to a non-public
64 school. Such reimbursement shall be pro-rated for the amount of time, if any, the students
65 attended the receiving district.

66 (h) School committees may establish terms for accepting non-resident students; provided,
67 however, that if the number of non-resident students applying for acceptance to said district
68 exceeds the number of available seats, said school committee shall select students for admission
69 on a random basis; provided, further, that said school committee shall conduct said random
70 selection twice: one time prior to July first and one time prior to November first; provided,
71 further, that no school committee shall discriminate in the admission of any child on the basis of
72 race, color, religious creed, national origin, sex, gender identity, age, sexual orientation, ancestry,
73 athletic performance, physical handicap, special need or academic performance or proficiency in
74 the English language. The Massachusetts commission against discrimination, established by
75 section 56 of chapter 6, shall have jurisdiction to enforce the provisions of this section. A school
76 committee may not publicly release the names of students leaving or entering a district under the
77 provisions of this section. Notwithstanding the preceding provisions of this paragraph, any
78 sibling of a student already enrolled in the receiving district shall receive priority for admission
79 to said district.

80 (i) Any child accepted to attend a public school in a community other than the one in
81 which he resides pursuant to this section shall be permitted to remain in that school district and
82 have all the rights of a resident of that district until he or she graduates from the district. If the
83 student attends the public schools of another town and it is anticipated that the student shall need
84 the services of a private day or residential school, an individual education plan team meeting
85 shall be convened by the school district in which the child is attending school. The school district
86 in which the student attends school shall notify the school district where the student resides of
87 the team meeting at least five school days prior to the meeting. Personnel from the district in
88 which the child resides shall be allowed to participate in the team meeting concerning future
89 placement of the child.

90 (j) Any student who wishes to attend a public school in a community other than the one
91 in which the student resides pursuant to this section shall first notify and make a reasonable
92 attempt to meet with the school administration in the district in which the student resides in order
93 to discuss the student's reasons for leaving the district.