SENATE DOCKET, NO. 1926 FILED ON: 1/20/2017

# SENATE . . . . . No. 272

## The Commonwealth of Massachusetts

PRESENTED BY:

***Patricia D. Jehlen***

*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 relative to charter schools.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|---|---|---|
| *Patricia D. Jehlen* | *Second Middlesex* | |
| *James B. Eldridge* | *Middlesex and Worcester* | *2/2/2017* |
| *Kenneth I. Gordon* | *21st Middlesex* | *2/2/2017* |
| *James J. O'Day* | *14th Worcester* | *2/3/2017* |

SENATE DOCKET, NO. 1926 FILED ON: 1/20/2017

# SENATE . . . . . No. 272

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 272) of Patricia D. Jehlen, James B. Eldridge, Kenneth I. Gordon and James J. O'Day for legislation relative to charter schools. Education.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court**
**(2017-2018)**

An Act relative to charter schools.

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

SECTION 1. Section 37H of chapter 71 of the General Laws, as appearing in the 2014 Official Edition, is hereby further amended by inserting after the third paragraph the following paragraph:-

For the purposes of this section, a commonwealth charter school shall be considered a school district.

SECTION 2. Clause (1) of section 37H ½ of said chapter 71, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:-

The decision shall be delivered in writing to the student and to the students parents or guardian, and shall be the final decision of the city, town, regional school district or charter school with regard to the suspension.

SECTION 3. Clause (2) of section 37H½ of said chapter 71, as so appearing, is hereby amended by striking out the tenth sentence and inserting in place thereof the following sentence:-

Such decision shall be delivered in writing to the student and to the students parents or guardian, and shall be the final decision of the city, town, regional school district or charter school with regard to the expulsion.

SECTION 4. Said section 37H ½ of said chapter 71, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

A school district or commonwealth charter school that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion as provided in section 21 of chapter 76. If the student moves to another district or charter school during the period of suspension or expulsion, the new district of residence or charter school shall either admit the student to its schools or provide educational services to the student under an education service plan pursuant to said section 21 of said chapter 76.

SECTION 5. Said section 37H ½ of said chapter 71, as so appearing, is hereby further amended by adding the following subsection:-

(3) Each commonwealth charter school shall establish a panel consisting of 3 members of the board of trustees to hear appeals of disciplinary actions taken by the charter school, 1 of whom shall be the representative of the district school committee and 2 other members who shall be appointed by the chairperson of the board of trustees. Unless otherwise provided in this

section, the panel shall have the same rights and responsibilities as a superintendent in hearing appeals and issuing final decisions. A notice appealing a decision of a charter school principal or headmaster to suspend or expel a student shall be directed to the chairperson of the board of trustees who shall provide the notice to the members of the panel and ensure a timely hearing and final decision. Meetings of the panel shall not be subject to the requirements of sections 18 to 25 of chapter 30A.

SECTION 6. Section 37H¾ of said chapter 71, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words in the commonwealth and inserting in place thereof the following words:- , including a district or commonwealth charter school.

SECTION 7. Section 37H¾ of chapter 71, as so appearing, is hereby amended by adding the following 2 subsections:-

(g) No school district or charter school shall suspend or expel a student from school on the basis of academic performance.

(h) Each commonwealth charter school shall establish a panel consisting of 3 members of the board of trustees to hear appeals of disciplinary actions taken by the charter school, 1 of whom shall be the representative of the district school committee and 2 others who shall be appointed by the chairperson of the board of trustees. Unless otherwise stated in this section, the panel shall have the same rights and responsibilities as a superintendent in hearing appeals and issuing final decisions. A notice appealing a decision of a charter school principal or headmaster to suspend or expel a student shall be directed to the chairperson of the board of trustees who shall provide the notice to the members of the panel and ensure a timely hearing

and final decision. Meetings of the panel shall not be subject to the requirements of sections 18 to 25 of chapter 30A.

SECTION 56. Subsection (a) of section 89 of said chapter 71, as so appearing, is hereby amended by striking out the definition of Board and inserting in place thereof the following 2 definitions:-

At-risk student, any student enrolled in grades 7 through 12 who is identified as high-risk according to the early warning indicator index, or any successor data collection and tracking system developed by the department to identify and track students at risk of not graduating on time.

Board, the board of elementary and secondary education.

SECTION 8. The first paragraph of subsection (c) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after the first sentence the following 2 sentences:-

Each board of trustees shall consist of not fewer than 5 members and not greater than 20 members, as provided for in the application and approved by the board, 1 of whom shall be a full-time teacher at the commonwealth charter school elected by teachers at the school, who shall be a voting member; 1 of whom shall be an elected or appointed member of the school committee from the sending district or a designee, who shall be a voting member and who shall be chosen by the district school committee; provided, however, that the board of trustees for a regional charter school shall include 1 school committee member from 1 of the sending districts that make up the region served by the charter school who shall be chosen jointly by the school committees of the sending districts; and 25 per cent of the total membership or 2 members, whichever is greater, shall be parents or guardians of students currently enrolled at the

commonwealth charter school elected as parent-guardian representatives by parents or guardians, who shall be voting members; provided, however, that each board of trustees for a commonwealth charter high school shall also include 1 member who is a student currently enrolled at the commonwealth charter high school elected by students at the school, who shall be a voting member; and provided, further, that any of the specific designations on the board of trustees may be waived where best efforts have been made but failed to identify a designee. All elections or appointments to the commonwealth charter school board of trustees shall serve for an established term of years as stated in the application to establish the commonwealth charter school, provided, however, that a person elected or appointed to fill a vacancy shall serve only for the remainder of the unexpired term; and provided, further, that members may be elected or appointed for more than 1 term.

SECTION 9. The second paragraph of said subsection (c) of said section 89 of said chapter 71 is hereby amended by striking out the last sentence and inserting in place thereof the following sentences:-

Each board of trustees shall consist of not fewer than 5 members and not greater than 20 members, as provided for in the application and approved by the board, 1 of whom shall be a full-time teacher at the Horace Mann charter school elected by teachers at the school, who shall be a voting member; 1 of whom shall be an elected or appointed member of the school committee from the sending district or a designee, who shall be a voting member and who shall be chosen by the district school committee provided, however, that the board of trustees for a regional charter school shall include 1 school committee member from 1 of the sending districts that make up the region served by the charter school who shall be chosen jointly by the school committees of the sending districts; ; and 25 per cent of the total membership or 2 members,

whichever is greater, shall be parents or guardians of students currently enrolled at the Horace Mann charter school elected as parent-guardian representatives by parents or guardians, who shall be voting members; provided, however, that each board of trustees for a Horace Mann charter high school shall also include 1 member who is a student currently enrolled at the Horace Mann charter high school elected by students at the school, who shall be a voting member; and provided, further, that any of the specific designations on the board of trustees may be waived where best efforts have been made but failed to identify a designee. All elections or appointments to the Horace Mann charter school board of trustees shall serve for an established term of years as stated in the application to establish the Horace Mann charter school, provided, however, that a person elected or appointed to fill a vacancy shall serve only for the remainder of the unexpired term; and provided, further, that members may be elected or appointed for more than 1 term.

SECTION 10. Subsection (d) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, for applicants with a record of operating at least 1 charter school in the commonwealth, the board shall not accept a new or expansion application if: (i) the average 3 year overall rate of out of school suspensions of the charter school is greater than the sending districts average 3 year overall rate of out of school suspensions in the same grades served by the charter school; or (ii) the average 3 year rate of out of school suspensions within any particular subgroup identified by the board including, but not limited to, race, ethnicity, gender, special education status, and English language learner status, is greater than the sending districts average 3 year rate of out of school suspensions within that subgroup in the same grades served by the charter school; provided, however, that this shall not apply to alternative education

charters as defined under subsection (iii) of paragraph (5) of subsection (i) of this section; and, provided further that the board may grant a waiver to a charter school relative to a particular subgroup if the board certifies that the gap in that subgroup is de minimus and that the school has made a rigorous effort to avoid out of school suspensions for all students.

SECTION 11. Subsection (e) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out, in line 88, the word bylaws and inserting in place thereof, the following words:- by-laws, including, but not limited to, the proposed composition of the board of trustees and term of years of service on the board of trustees.

SECTION 12. Said subsection (e) of said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out, in line 108, the word and.

SECTION 13. Said section 89 of said chapter 71, as so appearing is hereby further amended by inserting after the word schools, in line 109, the following words:- ; (xvii) a summary, including the date, of the applicants meeting with the local superintendents and public hearings; (xviii) an analysis of the anticipated impact on the community involvement, educational opportunities and financial capacity of the school districts from which the charter school is expected to enroll students and (xix) an analysis of the impact on the programs and services of the sending school district or districts, including, but not limited to, impacts related to fixed, variable and step variable costs.

SECTION 14. Subsection (h) of said section 89 of said chapter 71, as so appearing, is hereby amended striking out the first paragraph and inserting in place thereof the following 3 paragraphs:-

Before filing an application for the establishment of a commonwealth charter school, the applicant shall: (i) meet with the district superintendent of each school district from which the charter school is expected to enroll students to review the proposed application, including how the proposed commonwealth charter school plans to complement the curriculum and instruction in the district and (ii) hold not less than 1 public hearing with the local school committee of each school district from which the charter school is expected to enroll students. Applicants that fail to meet with the school district superintendent and hold a public hearing shall be disqualified from further consideration.

An application submitted for the establishment of a commonwealth charter school shall: (i) be submitted to the board for approval under this section; and (ii) be filed with the local school committee for each school district from which the charter school is expected to enroll students. Before final approval to establish a commonwealth charter school, the board shall hold a public hearing on the application in the school district in which the proposed charter school is to be located and solicit and review comments on the application from the local school committee of each school district from which the charter school is expected to enroll students and any contiguous districts. At least 1 member of the board shall attend the public hearing. The district superintendent may submit an analysis to the department that describes how approval of the proposed charter school may affect the districts students. A comprehensive written summary of all materials prepared by the department or its administrative subdivisions, which evaluates or recommends approval or disapproval of a charter school application shall be delivered to (i) the members of the board, (ii) the charter school applicant;

(iii) the chairperson of any sending district school committee; (iv) the superintendent of any proposed sending district; and (v) the chief executive officer of any municipality in a

proposed sending district. Materials prepared by the department in support of or in opposition to a charter schools application shall be provided not later than 3 days before any board vote on the charter application. In making a recommendation to the board on an application, the commissioner shall explain in writing to the board that the commissioners decision is responsive to the district superintendents submission and provide an assessment of the accuracy of the analysis of the impact on the programs and services of the sending school district or districts required under clause (xix) of subsection (e). The board shall substantially consider materials submitted to the department or the board by the superintendent or school committee of each school district from which the charter school is expected to enroll students.

For the purposes of this paragraph, late arrivals shall mean any student who either moves to or enrolls in the school district after the districts assignment process or the charters lottery, whichever first occurs. Prior to submitting the application, a commonwealth charter school may develop, with the school districts from which it enrolls students, a memorandum of understanding relative to establishing a policy between the school districts and the commonwealth charter school related to the enrollment of late arrivals. No student shall be required to attend a commonwealth charter school unless the student or the students parent or guardian accepts the offer of enrollment. The memorandum of understanding shall be subject to the approval of the department. The board of elementary and secondary education shall give preference to applications that include such a memorandum of understanding and the department shall promulgate regulations to articulate the measure by which that preference shall be enacted. Late arrivals shall not count toward the school districts net school spending cap in the first year attending a commonwealth charter school but shall count in all subsequent years that the student remains in the charter school.

SECTION 15. The first paragraph of paragraph (1) of subsection (i) of section 89 of chapter 71, as so appearing, is hereby amended by adding the following sentence:- When making a decision on an application, the board shall explain in writing how the decision takes into account the district superintendents submission under subsection (h) regarding how the schools approval is expected to impact the districts students.

SECTION 16. Said paragraph (1) of subsection (i) section 89 of said chapter 71 is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Applications to establish a commonwealth charter school shall be submitted to the board annually by November 15. The board shall review the applications and grant new commonwealth charters in February of the following year. Applications to establish a Horace Mann charter school may be submitted to the board and granted by the board at any time.

SECTION 17. Said section 89 of said chapter 71, as so appearing, is hereby further amended by inserting after the figure (3), in line 191, the following words:- ; provided, however, that a school districts total charter school tuition payment to commonwealth charter schools may exceed 18 per cent according to subsections (mm) and (nn).

SECTION 18. Said paragraph (2) of subsection (i) of said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out the third paragraph.

SECTION 19. Said subsection (i) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after paragraph (2) the following 2 paragraphs:-

(2½) Horace Mann charter schools and innovation schools, as defined in section 92 shall not be counted towards a school districts net school spending cap; provided, however, that a school committee may exercise the option of including as part of the districts net school spending for all subsequent fiscal years: (i) all district Horace Mann charter schools; (ii) all innovation schools, as defined in said section 92; or (iii) both district Horace Mann charter schools and innovation schools but, in school districts in which the school committee is an appointed body, the school committees appointing authority shall exercise the option. The option shall be communicated in writing to the board by July 1. If a school committee, or the school committees appointing authority in school districts where the school committee is an appointed body, opts to include Horace Mann charter schools, innovations schools or both towards the school districts net school spending, the option shall not be revoked. Upon acceptance of the option, the schools included under clauses (i), (ii) or (iii) then currently operating and any schools of that type to be opened in that school district after the board is notified, shall be counted toward the school districts net school spending cap thereafter. If the school committee, or the school committees appointing authority in school districts where the school committee is an appointed body, opts to include either Horace Mann charter schools or innovation schools, but not both, the school committee may at a later date exercise the option under clause (iii). Horace Mann charter schools and innovation schools may be approved in excess of any school districts net school spending cap. The department shall promulgate regulations to determine the method for counting per pupil spending in Horace Mann charter schools and innovation schools toward the net school spending cap.

(2¾) Charter schools with the primary purpose to establish alternative education programs under clause (iii) of paragraph (5) shall not count toward a school districts net

school spending cap or towards the number of charter schools under paragraph (1) and may be granted in excess of a districts net school spending cap in any year.

SECTION 20. Paragraph (3) of subsection (i) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the first 3 sentences, and inserting in place thereof the following sentences:-

(3) In any fiscal year, if the board determines based on student performance data collected pursuant to section 1I, said district is in the lowest 10 per cent of all statewide student performance scores released in the 2 consecutive school years before the date the charter school application is submitted, the school district's total charter school tuition payment to commonwealth charter schools may exceed 9 per cent of the district's net school spending but shall not exceed 18 per cent; provided however, a school districts total charter school tuition payment to commonwealth charter schools may exceed 18 per cent according to subsections (mm) and (nn). For a district qualifying under this paragraph whose charter school tuition payments exceed 9 per cent of the school district's net school spending, the board shall only approve an application for the establishment of a commonwealth charter school if the applicant, or a provider with which an applicant proposes to contract, has a record of operating at least 1 school or similar program that demonstrates organizational viability, as well as success recruiting, retaining, and educating student populations similar to those the proposed school seeks to serve which shall include students: (i) eligible for free lunch; (ii) eligible for reduced price lunch; (iii) who require special education; (iv) with limited English-proficiency or of similar language proficiency level as measured by the Massachusetts English Proficiency Assessment examination or a successor assessment approved by the board; (v) sub-proficient, which shall mean students who have scored in the "needs improvement", "warning" or "failing"

categories on the mathematics or English language arts exams of the Massachusetts Comprehensive Assessment System or a successor statewide assessment system approved by the board for 2 of the past 3 years or as defined by the department using a similar measurement;

(vi) who are designated as at risk of dropping out of school based on predictors determined by the department; (vii) who have dropped out of school; (viii) who are homeless; (ix) who are pregnant or parenting; or (x) otherwise considered to be at-risk students who should be targeted to eliminate achievement gaps among different groups of students.

SECTION 21. Said subsection (i) of said section 89 of said chapter 71, as so appearing, is hereby further amended by adding the following paragraph:-

(5) The board shall only approve an application for the establishment, renewal, amendment, or expansion of a commonwealth charter school if the school meets at least 1 of the following criteria: (i) the school enrolls students using an opt-out admissions lottery process that automatically includes the names of all eligible students, without any required application process for the school; (ii) the school enrolls students through participation in the assignment system of the district in which the school is located; provided, however, that the charter school enrolls only students from that district; provided further that a commonwealth charter school may not displace a district school as 1 of a students quality options under any quality access guarantee that the district offers through its assignment system but may augment the district schools in a students choice options; and, provided further that a student shall not be required to attend a commonwealth charter school; and, provided further that within the walk zone for the school, as calculated by the districts preexisting student assignment system, the percentage of students who qualify for the free or reduced price lunch program, or a successor measure as

adopted by the department, is equal to or higher than the districts overall percentage of students who qualify for the program or (iii) the schools primary purpose is to establish alternative education programs designed to serve at-risk students, students who have dropped out of school, students who are homeless, or students who are pregnant or parenting and not less than 75 per cent of students enrolled at the school shall qualify as at-risk students, students who are homeless, students who are pregnant or parenting, or students who have dropped out of school.

Charter schools that have previously been granted a charter under this section before July 1, 2016 that apply for an expansion under clauses (i), (ii), or (iii) of this subsection shall demonstrate the ability to meet the criteria set forth in said clauses through a phased-in process established by the board. An existing Horace Mann or commonwealth charter school, which meets the criteria for expansion under clauses (i) or (ii) and is approved for new seats in a higher grade than the school currently serves, may assign students already enrolled in the school to those new seats; provided, however, that the charter school shall fill all other open seats, including seats that open up in lower grades at the beginning of the school year and in any grade during the school year, through the process in clauses (i) or (ii), whichever governs its expansion. Nothing in this section shall prevent the board from approving other Horace Mann or commonwealth charter school applications that meet the criteria in clauses (i), (ii), or (iii) of this subsection in districts where the net school spending cap has not been reached.

SECTION 22. Said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after the word schools, in line 328, the following words:-:- provided, further, that contracts and leases for the procurement of services, equipment and supplies, including, but not limited to, contracts for the management or operation of the school, shall be publicly available on the charter schools website; and provided, further, that executed contracts for the

management or operation of a charter school shall be made publicly available on the charter schools website not later than 10 days after the contract is executed;

SECTION 23. Subsection (k) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out clause (7), and inserting in place thereof the following clause:-

(7) enter into partnerships and solicit and accept grants or gifts for school purposes; provided, however, that a list of the partnerships, grants and gifts shall be publicly available on the charter schools website.

SECTION 24. Subsection (l) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following sentence:- No entity that serves as an educational management organization or charter management organization shall exercise a proprietary claim over any procedure, policy, curriculum or other measure implemented at a charter school in the course of a contract to manage or operate a school.

SECTION 25. Subsection (m) of section 89 of chapter 71, as so appearing, is hereby amended by striking out the last sentence and replacing with the following 2 sentences:-

There shall be no tuition charge or fee for students attending and receiving educational services at charter schools. Charter schools shall not require parents or guardians of students attending those schools to sign any contract in order for the students to attend or receive educational services at charter schools.

SECTION 26. Said subsection (m) of said section 89 of said chapter 71, as so appearing, is hereby further amended by adding the following 4 paragraphs:-

For a charter school qualifying under clause (i) of paragraph (5) of subsection (i), all students eligible to attend the school under the districts assignment policy, if it were a district school, shall be deemed eligible for enrollment in the charter school without any application process required for admission to the school. The charter school shall conduct an admissions lottery, including the names of all eligible students, to fill all of the spaces in the school; provided, that the lottery shall be based upon a list of eligible students provided by the district at a date determined by the department. In the event that the parents or guardians of a student who is randomly selected for admission to the charter school through the lottery determine not to enroll the student in the charter school, then the charter school shall fill that enrollment space with a student from the waitlist maintained pursuant to this subsection. Parents or guardians of a student may make a written request to the school district that the students name not be included in the enrollment lottery.

Each charter school qualifying under clause (i) of paragraph (5) of subsection (i) shall conduct an opt-out lottery at least once during the academic year. Through the lottery, the charter school shall randomly select a number of students equal to the number of anticipated enrollment spaces and shall randomly select a number of additional students to be placed on a waitlist. The charter school operator, who shall maintain the waitlist, shall determine the number of students randomly selected for the waitlist in order to fill any open enrollment spaces that become available throughout the year. A charter school may conduct additional opt-out lottery draws during an academic year if the school determines that its waitlist will be exhausted prior to the fulfillment of all midyear enrollment spaces. An additional opt-out lottery shall place any students not immediately placed in an open enrollment space on the waitlist. If a student randomly selected through an opt-out lottery remains on a waitlist at the close of the academic

year in which the student was randomly selected, the student shall have the option to receive preference in placement for the next available enrollment space in the next highest grade level, unless the next highest grade level is not offered by the charter school, prior to the expiration of the waitlist on July 1.

Notwithstanding subsection (n), charter schools qualifying under clause (i) of paragraph (5) of subsection (i) shall have a rolling enrollment policy in which the school shall fill vacant seats throughout the school year for all grade levels offered by the school. Those charter schools shall also adhere to the same quality measures, at a minimum, used by the district to the extent that such measures are necessary under subsection (i).

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

SECTION 27. Subsection (n) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after the second paragraph the following 7 paragraphs:-

Charter schools qualifying under clause (iii) of paragraph (5) of subsection (i) may offer enrollment preferences to at-risk students, students who are homeless, students who are pregnant or parenting or students who have dropped out of school. In charter schools that offer such enrollment preferences, priority for enrollment shall be given first to at-risk students, students who are homeless, students who are pregnant or parenting, or students who have dropped out of school and second to other students who reside within the city or town in which the charter school is located but are not at-risk students, students who are homeless, students who are pregnant or parenting or students who have dropped out of school. Notwithstanding any

general or special law to the contrary, a charter school qualifying under said clause (iii) of said paragraph (5) of said subsection (i) may limit admissions to students who qualify as at-risk students, students who are homeless, students who are pregnant or parenting, students who have dropped out of school, or a combination thereof.

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

Notwithstanding the enrollment preferences in this subsection, a commonwealth or Horace Mann charter school may limit enrollment geographically or add a geographic enrollment preference by: (i) using the assignment system of the city in which it is located; provided, however, that within the walk zone for a Horace Mann school, as calculated by the citys preexisting student assignment system, the percentage of students who qualify for the free or reduced price lunch program, or a successor measure as determined by the department, shall be equal to or greater than the districts overall percentage of students who qualify for the program; or (ii) offering enrollment preferences to students who reside in a specific geographical area in which the school building is located; provided, however, that within this geographical preference area, the percentage of students who qualify for the free or reduced price lunch program, or a

successor measure as determined by the department, shall be equal to or greater than the districts overall percentage of students who qualify for the program.

In order to institute a geographical enrollment limitation or preference, the original charter of the charter school or an amendment to the charter shall permit such an enrollment limitation or preference. An amendment to the charter of a Horace Mann charter school to add such an enrollment limitation or preference shall require only the approval of the local school committee, the board of trustees of the Horace Mann charter school, and the commissioner.

In addition to providing the information pursuant to subsection (e), any charter school that offers geographical enrollment preferences shall include in its application for approval: (i) a definition of the geographical area for which it shall offer an enrollment preference; (ii) an explanation of how this preference shall support the mission of the charter school and the academic performance of its students; (iii) evidence that within this geographical area or walk zone there resides an equal or higher percentage of low-income students, as measured by qualification for the free or reduced price lunch program, or a successor measure as approved by the department, as compared to the district as a whole; and (iv) an explanation of how the charter school shall target its recruitment and retention efforts for students within this geographical area.

When a charter school that chooses to offer a geographical preference seeks charter renewal and intends to continue applying the geographical preference, the board shall consider whether the preference area continues to support the mission of the charter school and the academic performance of its students, and whether the preference area continues to serve an

adequate percentage of low-income students to qualify as a geographical preference area under this subsection.

If a commonwealth charter school offers geographical enrollment preferences, students who reside within the geographical preference area shall have priority for enrollment in any open seats over students who reside in the city or town in which the charter school is located but outside of the geographical preference area. If a Horace Mann charter schools offers geographical enrollment preferences, priority for enrollment shall be given in the following order: (i) to students actually enrolled in the school on the date the application is filed with the board and their siblings; (2) to students who reside within the geographical preference area and are enrolled in the public schools of the district where the Horace Mann charter school is to be located; (3) to other students who reside within the geographical preference area; (4)to other students enrolled in the public schools of the district where the Horace Mann charter school is to be located but who reside outside of the geographical preference area; and (5) to other students who reside outside of the geographical preference area but within the city or town in which the charter school is located.

A charter school may give preference in their enrollment policies to children of full-time employees; provided, however, that said children shall be counted toward the charter school net school spending cap.

SECTION 28. Said subsection (n) of said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out the fifth and sixth paragraphs and inserting in place thereof the following 2 paragraphs:-

When a student stops attending a charter school for any reason, the charter school shall fill the vacancy with the next available student on the waitlist for the grade in which the vacancy occurs and shall continue through the waitlist until a student fills the vacant seat. If there is no waitlist, a charter school shall publicize an open seat to the students of the sending district or districts and make attempts to fill said vacant seat. The charter school shall send the name of the student filling such vacancy to the department for the purposes of the department updating its waitlist as part of its monthly update.

On a monthly basis, a charter school shall provide to the department: (i) the number of students placed on a waitlist, broken down by grade level; (ii) the number of students who enrolled in an open seat in the charter school and are no longer on the waitlist, broken down by grade level; (iii) the number of students who requested to be removed from the waitlist, broken down by grade level; and (iv) other information the department deems necessary, including but not limited to student names, home addresses, telephone numbers and grade levels. The department shall maintain a consolidated waitlist for each municipality in order to determine the number of individual students in each municipality currently placed on a charter school waitlist. The consolidated waitlist for each municipality shall be in effect until the expiration of the waitlist on July 1. The department shall maintain separate consolidated waitlists for each municipality broken down by commonwealth charter schools and Horace Mann charter schools for each municipality, 1 for commonwealth charter schools and 1 for Horace Mann charter schools. The department shall make the consolidated waitlists for each municipality, without any identifying student information, available on its website and update the consolidated waitlists not less than monthly.

SECTION 29. Subsection (p) of said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 444 to 445, the words and 37H½ and inserting in place thereof the following words:- , 37H½ and 37H¾. School policies pertaining to the conduct of students and consequences for violations of said policies, including, but not limited to, the criteria for expulsion, shall be made publicly available on the charter schools website.

SECTION 30. Subsection (q) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting, after the word school, in line 452, the following words:-

; provided, further, that the construction, reconstruction or improvement of a public building for use by a charter school shall comply with section 7A and sections 26, 27, 27G and 44A to 44M, inclusive, of chapter 149.

SECTION 31. Subsection (r) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following paragraph:-

The department shall establish an exchange program to promote the sharing of best practices and innovations between teachers and administrators employed by charter schools and teachers and administrators employed by district schools. The department shall recruit teachers and administrators to participate in the exchange program from charter schools and district schools that the department has identified as exemplars of excellence in achievement, instruction or innovation. The department shall administer the exchange program by facilitating a comparable temporary exchange of a teacher or administrator employed by a charter school with a teacher or administrator employed by a district school for a full school year. A participant in the exchange program shall abide by the school policies of the school to which the participant

has been assigned for the school year; provided, however, that the participant shall continue to receive a salary and benefits from the participants employer of record. Annually, the department shall convene the teachers and administrators who participated in the exchange program during the past year to discuss best practices and innovations.

SECTION 32. Subsection (u) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out, in line 492, the words chapter 268A and inserting in place thereof the following words:- chapters 30A, 66 and 268A.

SECTION 33. The first paragraph of said subsection (u) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after the first sentence, the following sentence:- No member of a board of trustees of a charter school or a members immediate family, as defined by section 1 of chapter 268A, shall be

(i) employed by or have a financial interest in a non-profit business or corporate entity authorized to operate a charter school; or (ii) employed by or receive compensation from the department, board or other agency responsible for the authorization or regulation of charter schools; provided, however, that a teacher designated under subsection (c) to serve on the board of trustees shall be compensated consistent with the terms of the teachers employment.

SECTION 34. Said subsection (u) of said section 89 of said chapter 71, as so appearing, is hereby further amended by adding the following paragraph:-

The minutes of the meetings of the board of trustees of a charter school shall be considered public records, as defined by clause twenty-sixth of section 7 of chapter 4. The board of trustees of a charter school shall make the minutes of all meetings publicly available on the charter schools website.

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

A charter school shall establish evaluation systems and performance standards for the evaluation of teachers. The evaluation systems and performance standards shall comply with the principles of evaluation established by the board, comply with section 1I of chapter 69 or be approved by the commissioner.

SECTION 36. The last paragraph of subsection (y) of said section 89 of said chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Teachers employed by a charter school who are represented by an employee organization shall accrue seniority and shall receive compensation not less than equal to the salary established in the contract of the local collective bargaining unit where the charter school is located.

SECTION 37. Said section 89 of said chapter 71, as so appearing, is hereby amended by striking out subsection (cc) and inserting in place thereof the following subsection:-

(cc) (1) The students who reside in a school district in which a charter school is located shall be provided transportation to the charter school by the resident school district on similar terms and conditions as transportation is provided to students attending local district schools. The school district shall be responsible for the cost of the transportation unless the school district and the charter school do not reach agreement on the start time of the charter schools day, then the school district shall be responsible for 50 per cent of the charter schools transportation costs; provided further, that the school district shall only be responsible for transportation costs on days that both the school district and charter school is in session.

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

(3) If a school district limits transportation for district school students, the charter schools transportation shall be subject to the same limitations, which may include, but not be limited to, travel distance limits, mode of transportation, attendance zones, geographic subdivisions of the district, and limits included in a districts school assignment or transportation policies; provided, however, that, if a school district provides transportation throughout the school district without geographic limitation for local district schools focused on specialized programs, including, but not limited to, (i) language specialties; (ii) arts; (iii) special education; (iv) vocational technical education; (v) students at-risk of dropping out of school or who have dropped out of school; (vi) and science, technology, engineering and math, the school district shall provide the same transportation to charter schools that provide specialized programs; provided further, that a college preparatory programs shall not be considered a specialized program for the purposes of this paragraph.

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

(5) Annually, but not later than July 1, school districts shall report to the department on the average number of field trips that they offered per grade per year over the prior 3 academic years. The school district shall be responsible in the next academic year for the cost of transportation of students in each grade in a charter school up to that school district grades average of the prior 3 years, subject to the conditions of paragraph (1) of this subsection relative

to start time. For field trips beyond the 3 year average in any grade, the charter school shall be responsible for the full cost of transportation.

(6) 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 38. Said section 89 of said chapter 71, as so appearing, is hereby further amended by inserting after the word students, in line 641, the following words:- ; provided, however, that a commonwealth charter school shall not be renewed if: (i) the average 3 year student attrition rate of the charter school is greater than the sending districts average 3 year student attrition rate in the same grades served by the charter school; (ii) the average 3 year student stability rate of the charter school is less than the sending districts average 3 year student stability rate in the same grades served by the charter school; (iii) the average 3 year student attrition rate within any particular subgroup identified by the board including, but not limited to, race, ethnicity, gender, special education, and English language learner status, is greater than the sending districts average 3 year student attrition rate within that subgroup or (iv) the average 3 year student stability rate within any particular subgroup identified by the board including, but not limited to, race, ethnicity, gender, special education, and English language learner status, is less than the sending districts average 3 year student stability rate within that subgroup; provided, further, that the board may grant to a charter school otherwise disqualified under clauses (iii) and (iv) a waiver relative to particular subgroup if it certifies that the gap in that subgroup is de minimus and that the charter school has made a rigorous effort to retain all students.

SECTION 39. Subsection (dd) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following 2 paragraphs:-

When deciding on a charter renewal, the board shall also consider: (i) a charter schools discipline policies;

(ii) whether the charter school has met its obligations under sections 37H, 37H1/2 and 37H3/4 of this chapter; and (iii) the prevalence of the use of out of school suspensions by the charter school.

A commonwealth charter shall not be renewed if: (i) the average 3 year overall rate of out of school suspensions of the charter school is greater than the sending districts average 3 year overall rate of out of school suspensions in the same grades served by the charter school; provided; provided further that if the charter schools average 3 year overall rate is higher than the sending districts, the board may grant a 2 year probationary period, during which time the department shall oversee and provide technical assistance to the charter school in lowering its out of school suspension rate; provided further that if the average 2 year rate of out of school suspension rate during said probationary period is greater than the sending district, the board shall not renew the charter; or (ii) the average 3 year rate of out of school suspensions within any particular subgroup identified by the board including, but not limited to, race, ethnicity, gender, special education status, and English language learner status, is greater than the sending districts average 3 year rate of out of school suspensions within that subgroup; provided further that the board may grant a charter school a waiver relative to a particular subgroup if it certifies that the gap in that subgroup is de minimus and that the school has made a rigorous effort to avoid out of school suspensions for all students and subgroups; provided further that if the charter schools average 3 year rate of out of school suspensions is higher than the sending districts for any particular subgroup whose gap the board has not certified as de minimus, the board may grant a 2 year probationary period, during which time the department shall oversee and provide technical

assistance to the charter school in lowering its out of school suspension rate; provided, further that if the average 2 year rate of out of school suspension for any subgroup identified by the board during said probationary period is greater than the sending districts, the board shall not renew the charter. This paragraph shall not apply to alternative education charters as defined under subsection (iii) of paragraph (5) of subsection (i).

SECTION 40. Said section 89 of said chapter 71 , as so appearing, is hereby amended by striking out subsection (gg) and inserting in place thereof the following 2 subsections:-

(gg) Subject to appropriation, any district whose total charter school tuition amount is greater than its total charter school tuition amount for the previous year shall be supplied with district impact mitigation funding by the commonwealth in accordance with this subsection; provided, however, that no funds for the district impact mitigation shall be deducted from funds distributed pursuant to chapter 70. The district impact mitigation amount shall be equal to 100 per cent of the increase in the year in which the increase occurs, 50 per cent in the second year and 25 per cent in the third year.

(gg½) Subject to appropriation, the department shall provide small district equity aid funding to a school district with not more than 1,000 students that sends at least 1 student to a charter school. The sending district shall receive not more than $1,000 per child attending a charter school each year the child attends a charter school.

SECTION 41. Said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 776 to 778, inclusive, the words unless the teacher has successfully passed the state teacher test as required in said section 38G.

SECTION 42. Subsection (jj) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the first 2 paragraphs and inserting in place thereof the following 2 paragraphs:-

Annually, not later than August 1, each charter school shall submit an annual reportto the board, to the local school committee and to each parent or guardian of its enrolled students. The annual report shall also be made publicly available on the charter schools website. The annual report shall be in such form as may be prescribed by the board and shall include, but not be limited to: (i) a discussion of progress made toward the achievement of the goals set forth in the charter; (ii) a financial statement setting forth by appropriate categories the revenue and expenditures for the year just ended and a balance sheet setting forth the charter school's assets, liabilities and fund balances or equities; and (iii) the charter schools capital plan and the amount and sources of public and private funds committed to the capital plan, including the capital needs component of the charter schools tuition.

The department shall promulgate regulations to establish a reporting requirement for a charter school's net asset balance at the end of the fiscal year; provided, however, that the regulations shall require at least, but not limited to, the following: (i) the revenue and expenditures for the year just ended with a specific accounting of the uses and sources of public and private funds; (ii) a specific accounting of the uses of the capital needs component of the charter school's tuition; (iii) compensation and benefits for teachers, staff, administrators, executives, and the members of the board of trustees; (iv) the amount of any funds transferred to a management company; (v) the sources of any surplus funds, specifically whether they are private or public; (vi) how any surplus funds were used in the previous fiscal year; (vii) the planned use of any surplus funds in the upcoming fiscal year and in future fiscal years beyond

those uses already noted in the capital plan; and (viii) tax credits received during the previous fiscal year. The information included in a charter schools net asset balance as required by the department shall be publicly available on the charter schools website.

SECTION 43. Subsection (kk) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Pursuant to the regulations promulgated by the board, the commissioner shall, pursuant to regulations promulgated by the board, collect attrition and stability data, including, but not limited to, the number of students leaving each charter school and the reasons for leaving. Data shall include attrition and stability outcomes within demographic subgroups including, but not limited to, race, ethnicity, gender, special education status, and English language learner status. Annually, not later than December 1, the commissioner shall make the data publicly available online in human and machine readable formats, annually on or before December 1, and shall file the data annually with the clerks of the senate and house of representatives and senate and the joint committee on education not later than December 1.

SECTION 44. Said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out subsection (mm) and inserting in place thereof the following 3 subsections:-

(mm) (1) Notwithstanding any general or special law to the contrary, beginning in fiscal year 2019 to fiscal year 2025, inclusive, for school districts qualifying under paragraph (3) of subsection (i) the net school spending cap shall increase by 0.5 per cent per fiscal year in which the general appropriation act meets the implementation schedule under section 5B½ of chapter 29. The net school spending cap shall not increase by more than 0.5 per cent in a fiscal year.

(2) In any fiscal year in which the general appropriation act does not fully meet the implementation schedule for that fiscal year, the net school spending cap for school districts qualifying under paragraph (3) of subsection (i) shall increase by an amount equal to 0.5 per cent multiplied by the amount appropriated in the general appropriation act divided by the amount included in the implementation schedule for that fiscal year under said section 5B½ of said chapter 29; provided, however, that the net school spending cap shall not increase by more than 0.5 per cent in any fiscal year. If an amendment to the implementation schedule is made in any fiscal year that reduces the number of years to fully fund the implementation schedule prior to fiscal year 2025 and the commonwealth appropriates the amount according to the schedule, a school districts net school spending toward charter school tuition payments shall increase according to subsection (nn).

(nn) Notwithstanding any general or special law to the contrary, beginning in fiscal year 2026, or sooner as provided in paragraph (2) of subsection (mm), and every fiscal year thereafter, for school districts qualifying under paragraph (3) of subsection (i), the net school spending cap shall increase by 0.5 per cent per fiscal year in which the general appropriation act for the previous fiscal year fully funds and all eligible districts receive the district impact mitigation under subsection (gg); provided however, a the net school spending cap shall not exceed 23 per cent. For the purposes of this subsection, full funding of district impact mitigation shall be based on the departments projections as of April 15 for that fiscal year.

(oo) The board shall promulgate regulations for implementation and enforcement of this section.

SECTION 45. Notwithstanding any general or special law to the contrary, if in fiscal year 2019, upon exercising the option under paragraph (2½) of subsection (i) of section 89 of chapter 71 of the General Laws to include Horace Mann schools or innovation schools, or both, toward a districts net school spending cap, the charter school tuition payment of a school district qualifying under paragraph (3) of said subsection (i) of said section 89 of said chapter 71 is at or above 20 per cent but below 23 per cent, the school committee or, in school districts in which the school committee is an appointed body, the school committees appointing authority, may request that the board immediately implement the increased net school spending cap as provided in subsections (mm) and (nn) of said section 89 of said chapter 71 in such a way that the district is eligible for a net school spending cap increase of up to 0.5 per cent annually until it reaches 23 per cent.

Commonwealth charter schools shall only be approved under this paragraph for expansions of existing commonwealth charter schools into grades not currently approved for those charter schools; provided, however, that subsections (mm) and (nn) of said section 89 of said chapter 71 shall be met in each relevant fiscal year in order for a net school spending cap to increase under this section.

SECTION 46. There shall be a commission to review and report on the efficacy of charter school funding in the commonwealth. The commission shall study and report on the methods used to fund charter schools in other states and the appropriateness of the approach currently used in the commonwealth as compared to other states. The commission shall make recommendations for revising the commonwealths approach to charter school funding as appropriate.

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

The commission shall issue a final report and recommendations for legislation, if any, to the clerks of the house of representatives and senate not later than January 1, 2018.

SECTION 47. The department of elementary and secondary education shall convene an educational task force to review the effect of school day start times for middle school and secondary school students. The task force shall consist of: the secretary of education, or a designee; the commissioner of elementary and secondary education, or a designee; the executive director of the Massachusetts Association of School Committees, or a designee; the executive director of the Massachusetts Association of School Superintendents, or a designee; the executive director of the Massachusetts Association of Secondary School Principals, or a designee; the executive director of StartSchoolLater.net, or a designee; the executive director of the Massachusetts Association of School Business Officials, or a designee; a parent of a high

school student who is a member of a school council, as defined in section 59 of chapter 71 of the General Laws; and a superintendent from a district which has implemented later school day starting times.

The task force shall: (i) conduct a comprehensive study, including a review of the scientific findings relative to sleep needs of adolescents, relative to the effect that middle school and secondary school start times have on the health and academic performance of students; (ii) determine the number of districts in the Commonwealth that have implemented later school day starting times for middle school and secondary schools and examine the academic performance of students, including performance on statewide tests; and

(iii) identify resources and opportunities to assist districts in implementing later school day start times for middle school and secondary schools, should their findings under items (i) and (ii) suggest that later start times are beneficial to student learning.

The task force shall file a report containing its findings and recommendations, including legislation necessary to carry out its recommendations, with the clerks of the house of representatives and senate by December 31, 2018.

SECTION 48. Notwithstanding any general or special law to the contrary, the department of elementary and secondary education shall revise its regulations as they relate to subsection (jj) of section 89 of chapter 71 of the General Laws to accurately reflect the statutory requirements not later than January 1, 2018.

SECTION 49. The department of the state auditor shall issue a report on the first 5 years of implementation of chapter 222 of the acts of 2012. Said report shall include, but not be limited to, data relative to: (1) demographic subgroups including, but not limited to, race, gender,

ethnicity, grade level, income status as defined by the department of elementary and secondary education, special education status, and English language learner status; (2) public school districts; (3) commonwealth charter schools; (4) Horace Mann charter schools; and (5) innovation schools. Said report shall be filed with the civil rights division of the office of the attorney general, the clerks of the senate and house of representatives, the chairs of the joint committee on education and the house and senate committees on ways and means not later than December 31, 2019.

SECTION 50. The department of elementary and secondary education, in consultation with the Massachusetts office of information technology, the department of transitional assistance, the office of Medicaid and the executive office of health and human, services shall make recommendations to update the calculation and definition for low-income enrollment in section 2 of chapter 70 of the General Laws. The department shall file the recommendations with the clerks of the house of representatives and the senate, the house and senate chairs of the committees on ways and means, and the chairs of the joint committee on education not later than January 1, 2017. The updated calculation and definition may be implemented under chapter 70 including increments to reflect the needs of districts with high concentrations of low-income students.