

# **HOUSE . . . . . No. 4091**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 19, 2014.

The committee on Ways and Means to whom was referred the Bill relative to improving student achievement (House, No. 3984), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4091).

For the committee,

BRIAN S. DEMPSEY

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Fourteen**  
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An Act relative to improving student achievement.

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

1           SECTION 1. Section 1J of chapter 69 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof  
3 the following two subsections:-

4           (a) Prior to October 1, the commissioner of elementary and secondary education may, on  
5 the basis of student performance data collected pursuant to section 1I, a school or district review  
6 performed under section 55A of chapter 15, or regulations adopted by the board of elementary  
7 and secondary education, designate 1 or more schools in a school district other than a Horace  
8 Mann charter school as a challenge, underperforming, or chronically underperforming school.  
9 The board shall adopt regulations establishing standards for the commissioner to make such  
10 designations on the basis of data collected pursuant to section 1I or information from a school or  
11 district review performed under section 55A of chapter 15. Upon the release of the proposed  
12 regulations, the board shall file a copy thereof with the clerks of the house of representatives and  
13 the senate who shall forward the regulations to the joint committee on education. Within 30 days  
14 of the filing, the committee may hold a public hearing and issue a report on the regulations and  
15 file the report with the board. The board, pursuant to applicable law, may adopt final regulations  
16 making revisions to the proposed regulations as it deems appropriate after consideration of the  
17 report and shall forthwith file a copy of the regulations with the chairpersons of the joint  
18 committee on education and, not earlier than 30 days from the filing, the board shall file the  
19 final regulations with the state secretary. Schools that score in the lowest 20 per cent statewide  
20 among schools serving common grade levels on a single measure developed by the department  
21 that takes into account student performance data and, beginning on July 1, 2011, improvement in  
22 student academic performance, shall be deemed eligible for designation as a challenge,  
23 underperforming, or chronically underperforming school, provided that any school designated as  
24 a challenge school shall be drawn from those schools most likely to be designated as  
25 underperforming. Not more than 4 per cent of the total number of public schools may be

26 designated as a challenge, underperforming or chronically underperforming school at any given  
27 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 must 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 shall be able to remain enrolled in the  
43 school while remaining a resident of the district if the student chooses to do so.

44 (a $\frac{1}{2}$ ) (1) Within 15 days of the commissioner designating a school as a challenge school  
45 in accordance with the regulations developed pursuant to this section, the school committee and  
46 the local teachers union shall meet to negotiate a waiver agreement, if necessary, that identifies  
47 any provisions of the collective bargaining agreement that would be subject to a waiver upon a  
48 two-thirds vote of the teachers working at least 50 per cent of the time in the designated  
49 challenge school. Such waivers shall be designed to permit the implementation of a turnaround  
50 plan developed pursuant to this subsection which may include provisions that are inconsistent  
51 with the existing collective bargaining agreement. Such negotiations shall be completed within  
52 30 days of the commissioner designating a school as a challenge school, and shall not be subject  
53 to the provisions of section 9 of chapter 150E. If the school committee and the union fail to  
54 reach an agreement, the process provided in this subsection shall be terminated and the  
55 commissioner may designate the 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 for the purpose of developing a turnaround plan for the  
58 school. The local stakeholder group shall include: (i) the superintendent, or a designee; (ii) the  
59 chair of the school committee, or a designee; (iii) the president of the local teachers' union, or a  
60 designee; (iv) an administrator from the school, who may be the principal, chosen by the  
61 superintendent; (v) two educators chosen by the faculty of the school, one of whom one shall be  
62 a classroom teacher and one of whom shall be a certified non-teaching professional from the

63 school; and (vi) a parent member of the school council established pursuant to section 59C of  
64 chapter 71 to be chosen by the school council. Meetings of the local stakeholder group shall be  
65 open to the public.

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

75 The local stakeholder group shall also consider, in the creation of the turnaround plan,  
76 whether to include the following: (i) steps to address social service and health needs of students  
77 at the school and their families, to help students arrive and remain at school ready to learn;  
78 provided, however, that this may include mental health and substance abuse screening; (ii) steps  
79 to improve or expand child welfare services and, as appropriate, law enforcement services in the  
80 school community, in order to promote a safe and secure learning environment; (iii) steps to  
81 improve workforce development services provided to students and their families at the school, to  
82 provide students and families with meaningful employment skills and opportunities; (iv) steps to  
83 address achievement gaps for limited English-proficient, special education and low-income  
84 students; and (v) alternative English language learning programs for limited English proficient  
85 students, notwithstanding chapter 71A. The secretaries of health and human services, labor and  
86 workforce development, public safety, health and child welfare officials and other applicable  
87 state and local social services, shall coordinate with the superintendent to implement the  
88 strategies established pursuant to clauses (i) through (iii), inclusive, of this paragraph that are  
89 included in a final turnaround plan and shall, subject to appropriation, reasonably support the  
90 implementation, which shall be consistent with the requirements of all state and federal law  
91 applicable to the relevant programs to be administered. The secretary of education shall assist  
92 the superintendent in facilitating the coordination.

93 To assess the school across multiple measures of school performance and student  
94 success, the turnaround plan shall include measurable annual goals including, but not limited to:  
95 (i) student attendance, dismissal rates and exclusion rates; (ii) student safety and discipline; (iii)  
96 student promotion and graduation and dropout rates; (iv) student achievement on the statewide  
97 assessment system approved by the board under section 1I of this chapter; (v) progress in areas  
98 of academic underperformance; (vi) progress among subgroups of students, including low-  
99 income students as defined by chapter 70, limited English proficient students and students  
100 receiving special education; (vii) reduction of achievement gaps among different groups of  
101 students; (viii) student acquisition and mastery of twenty-first century skills; (ix) development of

102 college and career readiness, including at the elementary and middle school levels; (x) parent and  
103 family engagement; (xi) building a culture of academic success among students; (xii) building a  
104 culture of student support and success among school faculty and staff; and (xiii) developmentally  
105 appropriate child assessments from pre-kindergarten through third grade, if applicable.

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

112 Notwithstanding any general or special law to the contrary, the turnaround plan may also  
113 include provisions that allow the superintendent to: (i) expand, alter or replace the curriculum  
114 and program offerings of the school, including the implementation of research-based early  
115 literacy programs, early interventions for struggling readers and the teaching of advanced  
116 placement courses or other rigorous nationally or internationally recognized courses, if the  
117 school does not already have such programs or courses; (ii) reallocate the uses of the existing  
118 budget of the school; (iii) provide additional funds to the school from the budget of the district, if  
119 the school does not already receive funding from the district at least equal to the average per  
120 pupil funding received for students of the same classification and grade level in the district; (iv)  
121 provide funds, subject to appropriation, to expand the school day or school year or both of the  
122 school; (v) limit, suspend or change 1 or more school district policies or practices that relate to  
123 improved student performance and achievement at the school; (vi) for an elementary school, add  
124 pre-kindergarten and full-day kindergarten classes, if the school does not already have such  
125 classes; (vii) include a provision of job-embedded professional development for teachers at the  
126 school, with an emphasis on strategies that involve teacher input and feedback; (viii) provide for  
127 increased opportunities for teacher planning time and collaboration, including professional  
128 learning communities, focused on improving student instruction; (ix) establish a plan for  
129 professional development for administrators at the school, with an emphasis on strategies that  
130 develop leadership skills and use the principles of distributive leadership; (x) redesign and  
131 refocus the use of existing teacher preparation periods in the school to ensure that such  
132 preparation period is utilized to improve student instruction with an emphasis on improved  
133 student performance and achievement at the school; (xi) develop a strategy to search for and  
134 study best practices in areas of demonstrated deficiency in the school; (xii) establish strategies to  
135 address student attendance, mobility and transiency among the student population of the school;  
136 and (xiii) use formative and summative assessments to track student progress and to inform the  
137 instructional strategies employed in the classroom. The plan may also include a financial plan for  
138 the school based on additional funds to be provided by the district, commonwealth, federal  
139 government, private foundations, or other sources to provide additional resources, and may  
140 include a process for modifying the plan.

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

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

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

176 (6) Each school designated by the commissioner as a challenge school pursuant to this  
177 subsection shall be reviewed by the superintendent, in consultation with the principal of the  
178 school, at least annually. The purpose of the review shall be to determine whether the school has  
179 met the annual goals in its turnaround plan and to assess the overall implementation of the plan.

180 The review shall be in writing and shall be submitted to the relevant school committee not later  
181 than July 1 for the preceding school year and shall be available to the public on the school  
182 district's website.

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

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

202 SECTION 2. Subsection (c) of said section 1J of said chapter 69, as so appearing, is  
203 hereby amended by inserting after the word "System", in line 94, the following words:- , or any  
204 successor statewide assessment system approved by the board under section 1I of this chapter.

205 SECTION 3. Said subsection (c) of said section 1J of said chapter 69, as so appearing, is  
206 hereby further amended by inserting after the word "government", in line 117, the following  
207 words:—, private foundations,.

208 SECTION 4. Said subsection (c) of said section 1J of said chapter 69, as so appearing, is  
209 hereby further amended by inserting after the word "System", in line 134, the following  
210 words:—, or any successor statewide assessment system approved by the board under section 1I  
211 of this chapter.

212 SECTION 5. Subsection (d) of said section 1J of said chapter 69, as so appearing, is  
213 hereby amended by striking out, in line 203, the words "or chronically underperforming".

214 SECTION 6. Subsection (g) of said section 1J of said chapter 69, as so appearing, is  
215 hereby amended by inserting after the word "issues", in line 272, the following word:- to.

216 SECTION 7. Subsection (l) of said section 1J of said chapter 69, as so appearing, is  
217 hereby amended by adding the following sentence:- Until the commissioner makes the  
218 determination required under this section, and any new or amended turnaround plan is approved,  
219 the terms of the expired turnaround plan will remain in effect.

220 SECTION 8. Subsection (n) of said section 1J of said chapter 69, as so appearing, is  
221 hereby amended by inserting after the word “System”, in line 422, the following words:- , or any  
222 successor statewide assessment system approved by the board under section 1I of this chapter.

223 SECTION 9. Said subsection (n) of said section 1J of said chapter 69, as so appearing, is  
224 hereby further amended by inserting after the word “government”, in line 445, the following  
225 words:- , private foundations,.

226 SECTION 10. Said subsection (n) of said section 1J of said chapter 69, as so appearing,  
227 is hereby further amended by inserting after the word “System”, in line 461, the following  
228 words:- , or any successor statewide assessment system approved by the board under section 1I  
229 of this chapter.

230 SECTION 11. Said subsection (o) of said section 1J of said chapter 69, as so appearing,  
231 is hereby further amended by inserting after the word “superintendent”, in line 502, the following  
232 words:— or, if one has been appointed pursuant to subsection (r), the school’s receiver.

233 SECTION 12. Said subsection (o) of said section 1J of said chapter 69, as so appearing,  
234 is hereby further amended by striking out, in line 524, the word “commissioner” and inserting in  
235 place thereof the following words:- superintendent or, if one has been appointed pursuant to  
236 subsection (r), the school’s receiver.

237 SECTION 13. Said subsection (o) of said section 1J of said chapter 69, as so appearing,  
238 is hereby further amended by striking out, in line 525, the figure “(7)” and inserting in place  
239 thereof the following figure:- (8).

240 SECTION 14. Said subsection (o) of said section 1J of said chapter 69, as so appearing,  
241 is hereby further amended by striking out, in line 533, the words “underperforming or”.

242 SECTION 15. Said subsection (o) of said section 1J of said chapter 69, as so appearing,  
243 is hereby further amended by striking out, in line 536, the words “commissioner or  
244 superintendent” and inserting in place thereof the following words:- superintendent or receiver.

245 SECTION 16. Subsection (s) of said section 1J of said chapter 69, as so appearing, is  
246 hereby amended by inserting after the second sentence the following sentence:- Following the  
247 annual appropriation of the school district's operating budget, the amount approved for the  
248 operation of each chronically underperforming school shall be available for expenditure by the  
249 superintendent or the external receiver for any lawful purpose. A chronically underperforming  
250 school shall not expend or incur obligations in excess of its budget; provided, however, that a



251 chronically underperforming school may spend federal and state grants and other funds received  
252 independently of its operating budget without approval from the school committee or by the  
253 superintendent if a receiver has been appointed.

254 SECTION 17. Said section 1J of said chapter 69, as so appearing, is hereby further  
255 amended by striking out subsection (y) and inserting in place thereof the following subsection:-

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

268 SECTION 18. Subsection (z) of said section 1J of said chapter 69, as so appearing, is  
269 hereby amended by inserting after the word “as”, in line 714, the following words:—challenge,.

270 SECTION 19. The second paragraph of subsection (a) of section 1K of said chapter 69,  
271 as so appearing, is hereby amended by adding the following sentence:—At the request of the  
272 commissioner, the secretary of administration and finance shall appoint a chief procurement  
273 officer for a district designated as chronically underperforming.

274 SECTION 20. Subsection (b) of said section 1K of said chapter 69, as so appearing, is  
275 hereby amended by striking out, in line 42, the word “an” and inserting in place thereof the  
276 following word:- a.

277 SECTION 21. Subsection (c) of said section 1K of said chapter 69, as so appearing, is  
278 hereby amended by inserting after the word “System”, in line 85, the following words:—, or any  
279 successor statewide assessment system approved by the board under section 1I of this chapter.

280 SECTION 22. Said subsection (c) of said section 1K of said chapter 69, as so appearing,  
281 is hereby further amended by striking out, in line 114, the word “an” and inserting in place  
282 thereof the following word:- a.

283 SECTION 23. Said subsection (c) of said section 1K of said chapter 69, as so appearing,  
284 is hereby further amended by inserting after the word “System”, in line 124, the following

285 words:- , or any successor statewide assessment system approved by the board under section 1I  
286 of this chapter.

287 SECTION 24. Subsection (d) of said section 1K of said chapter 69, as so appearing, is  
288 hereby amended by striking out, in line 163, the words “. turnaround plan”.

289 SECTION 25. Said subsection (d) of said section 1K of said chapter 69, as so appearing,  
290 is hereby further amended by striking out, in line 184, the word “commissioner” and inserting in  
291 place thereof the following word:- receiver.

292 SECTION 26. Said subsection (d) of said section 1K of said chapter 69, as so appearing,  
293 is hereby further amended by striking out, in line 196, the word “commissioner/superintendent”  
294 and inserting in place thereof the following word:- receiver.

295 SECTION 27. Subsection (e) of said section 1K of said chapter 69, as so appearing, is  
296 hereby amended by striking out, in line 217, the word “if” and inserting in place thereof the  
297 following word:- If.

298 SECTION 28. Said subsection (e) of said section 1K of said chapter 69, as so appearing,  
299 is hereby amended by striking out, in line 218, the word “commissioner” and inserting in place  
300 thereof the following word:- receiver.

301 SECTION 29. Subsection (f) of said section 1K of said chapter 69, as so appearing, is  
302 hereby amended by striking out, in line 268, the words “subsection (g)” and inserting in place  
303 thereof the following words:- subsection (h).

304 SECTION 30. Subsection (g) of said section 1K of said chapter 69, as so appearing, is  
305 hereby amended by striking out, in line 277, the words “subsection (g)” and inserting in place  
306 thereof the following words:- subsection (h).

307 SECTION 31. Subsection (j) of said section 1K of said chapter 69, as so appearing, is  
308 hereby amended by striking out, in line 328, the words “subsection (h)” and inserting in place  
309 thereof the following words:- subsection (i).

310 SECTION 32. Subsection (b) of section 15 of chapter 70B of the General Laws, as  
311 appearing in the 2012 Official Edition, is hereby amended by striking out, in line 62, the word  
312 “may” and inserting in place thereof the following word:- shall.

313 SECTION 33. Said subsection (b) of said section 15 of said chapter 70B, as so appearing,  
314 is hereby further amended by inserting after the word “lease”, in line 64, the following words:- in  
315 whole or in part.

316 SECTION 34. Subsection (c) of section 89 of chapter 71 of the General Laws, as so  
317 appearing, is hereby amended by striking out the second paragraph and inserting in place thereof  
318 the following 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 that all charters shall be granted by the board of elementary  
323 and secondary education. A Horace Mann charter school shall be operated and managed by a  
324 board of trustees independent of the school committee which approved the school. The board of  
325 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 to be provided by the district to the charter school and states the funding of  
331 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 further, 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 who have, prior  
343 to such vote, given notice to leave the school the following year because of retirement,  
344 resignation, voluntary transfer, or any other reason, or who has received notice to leave the  
345 school the following year because of involuntary transfer, dismissal, or any other reason, shall  
346 not be eligible to vote to approve the plan.

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

357 SECTION 35. Subsection (i) of said section 89 of said chapter 71, as so appearing, is  
358 hereby amended by striking out the first paragraph and inserting in place thereof the following  
359 paragraph:-

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

369 SECTION 36. Said subsection (i) of said section 89 of said chapter 71, as so appearing, is  
370 hereby further amended by inserting after the word “year”, in line 174, the following words:- ;  
371 provided that applications to establish a Horace Mann III charter school may be submitted and  
372 granted at any time during the year.

373 SECTION 37. Paragraph (2) of said subsection (i) of said section 89 of said chapter 71,  
374 as so appearing, is hereby amended by striking out, in line 179, the words “shall not exceed 18”  
375 and inserting in place thereof the following words:- may exceed 9.

376 SECTION 38. Said paragraph (2) of said subsection (i) of said section 89 of said chapter  
377 71, as so appearing, is hereby further amended by striking out, in lines 184 to 185, inclusive, the  
378 words “9 per cent of the school district’s net school spending or 18 per cent for those districts  
379 that qualify under said paragraph (3)” and inserting in place thereof the following words:- the net  
380 school spending cap in such district.

381 SECTION 39. Paragraph (3) of said subsection (i) of said section 89 of said chapter 71,  
382 as so appearing, is hereby amended by inserting after the word “performance”, in line 204, the  
383 following words:- and growth.

384 SECTION 40. Said paragraph (3) of said subsection (i) of said section 89 of said chapter  
385 71, as so appearing, is hereby further amended by inserting after the word “per cent”, in line 208,  
386 the following words:-; provided, however, that for a district qualifying under this paragraph, the  
387 board may approve an application for the establishment or expansion of a commonwealth charter  
388 school that has the effect of increasing the district’s total charter tuition payments above 18 per  
389 cent of the district’s net school spending if the charter applicant meets one or more of the criteria  
390 described in paragraph (4); and provided further that no public school district’s total charter  
391 tuition payments to commonwealth charter schools shall exceed 23 per cent of said district’s net  
392 school spending.

393 SECTION 41. Said paragraph (3) of said subsection (i) of said section 89 of said chapter  
394 71, as so appearing, is hereby further amended by striking out, in line 239, the word “or” and  
395 inserting in place thereof the following word:- and.

396 SECTION 42. Said subsection (i) of said section 89 of said chapter 71, as so appearing, is  
397 hereby further amended by inserting at the end thereof the following:-

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

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

405 (ii) the school’s primary purpose is to establish alternative education programs designed  
406 to serve at-risk students or students who have dropped out of school; provided that, for the  
407 purposes of this section, the term “at-risk student” shall mean any student enrolled in grades  
408 seven through twelve who is identified as “at-risk” according to the early warning indicator  
409 index system, or any successor data collection and tracking system, developed by the department  
410 to identify and track students at risk of not graduating on time; and provided further, that not less  
411 than 75 per cent of students enrolled at the school shall qualify as at-risk students or students  
412 who have dropped out of school.

413 The board shall give preference to applications for expansions under clause (i) or clause  
414 (ii) of this paragraph for existing charter schools that have an average 3-year student attrition rate  
415 that is equal to or less than the average 3-year student attrition rate of the schools within the  
416 sending district. If an existing charter school applying for an expansion under clause (i) or  
417 clause (ii) of this paragraph has an average 3-year student attrition rate that is greater than the  
418 average 3-year student attrition rate of the schools within the sending district, such charter school  
419 shall include in its application for expansion a plan to reduce its attrition rates.

420 The board shall give preference to applications for expansions under clause (i) or clause  
421 (ii) of this paragraph for existing charter schools that have successfully established collaborative  
422 relationships with their sending districts on the sharing of best practices.

423 Existing charter schools that apply for an expansion under clause (i) or clause (ii) of this  
424 paragraph shall be required to meet the criteria set forth in said clauses through a phased-in  
425 process established by the board. Existing Horace Mann or commonwealth charter schools that  
426 apply for an expansion under clause (i) and are approved for new seats in higher grades than they  
427 currently serve may assign students already enrolled in the school to those new seats.  
428 Nothing in this section shall prevent the board from approving other Horace Mann or

429 commonwealth charter school applications that meet the criteria in clause (i) or clause (ii) of this  
430 paragraph in districts where the net school spending cap has not been reached.

431 SECTION 43. Subsection (m) of said section 89 of said chapter 71, as so appearing, is  
432 hereby amended by adding the following paragraph:—

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

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

446 SECTION 44. Subsection (n) of said section 89 of said chapter 71, as so appearing, is  
447 hereby amended by inserting after the second paragraph the following paragraphs:-

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

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

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

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

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

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

500 SECTION 45. Said subsection (n) of said section 89 of said chapter 71, as so appearing,  
501 is hereby further amended by inserting after the word “vacant”, in line 378, the following word:-  
502 seats.

503 SECTION 46. The fifth paragraph of said subsection (n) of said section 89 of said chapter  
504 71, as so appearing, is hereby amended by striking out the last sentence.

505 SECTION 47. The sixth paragraph of said subsection (n) of said section 89 of said  
506 chapter 71, as so appearing, is hereby amended by striking out the first two sentences and  
507 inserting in place thereof the following sentences:— “The names of students who entered the  
508 lottery but did not gain admission shall be maintained on a waitlist or waitpool, which shall be  
509 forwarded to the department not later than June 1 in the year in which the lottery is held, and  
510 which shall be updated not later than December 1 of said year. In addition to the names of  
511 students, the school shall supply such other information as the department deems necessary.”

512 SECTION 48. Subsection (p) of said section 89 of said chapter 71, as so appearing, is  
513 hereby amended by striking out, in line 411, the words “and 37H½” and inserting in place  
514 thereof the following words:- “, 37H½, and 37H¾”.

515 SECTION 49. Subsection (dd) of said section 89 of said chapter 71, as so appearing, is  
516 hereby amended by striking out the second sentence and inserting in place thereof the following  
517 sentence:- The board shall develop procedures and guidelines for revocation, amendment, and  
518 renewal of a school's charter; provided, however, that an amendment or renewal of a charter for  
519 a Horace Mann charter school shall be subject to approval by majority vote of the school  
520 committee and local collective bargaining unit in the district where said charter school is located  
521 only to the extent that its initial charter required such approval; and provided, further, that a  
522 commonwealth charter shall not be renewed unless the board of trustees of the charter school has  
523 documented in a manner approved by the board that said commonwealth charter school has  
524 provided models for replication and best practices to the commissioner and to other public  
525 schools in the district where the charter school is located.

526 SECTION 50. Subsection (kk) of said section 89 of said chapter 71, as so appearing, is  
527 hereby amended by striking the last sentence and inserting in place thereof following sentences:-  
528 The commissioner shall also collect attrition data, including, but not limited to, the number of  
529 students leaving each charter school and the reasons for leaving, pursuant to regulations  
530 promulgated by the board. The commissioner shall make said data publicly available online on  
531 an annual basis not later than December 1 and may file said data annually with the clerks of the  
532 house and senate and the joint committee on education not later than December 1.

533 SECTION 51. Beginning in 2016, the commissioner of elementary and secondary  
534 education shall comply with the October 1 deadline for making designations pursuant to section  
535 1 of this act.



536 SECTION 52. The board of elementary and secondary education shall promulgate rules  
537 and regulations to implement the provisions of this act.

538 SECTION 53. For the school districts qualifying under paragraph (3) of subsection (i) of  
539 section 89 of chapter 71 in which net school spending on charter school tuition does not exceed  
540 23 percent, the following shall apply: (1) in fiscal year 2018, a public school district's total  
541 charter school tuition payment to commonwealth charter schools shall be limited to 19 per cent  
542 of the district's net school spending; (2) in fiscal year 2019, a public school district's total charter  
543 school tuition payment to commonwealth charter schools shall be limited to 20 per cent of the  
544 district's net school spending; (3) in fiscal year 2020, a public school district's total charter  
545 school tuition payment to commonwealth charter schools shall be limited to 21 per cent of the  
546 district's net school spending; (4) in fiscal year 2021, a public school district's total charter  
547 school tuition payment to commonwealth charter schools shall be limited to 22 per cent of the  
548 district's net school spending; and (5) in fiscal year 2022, a public school district's total charter  
549 school tuition payment to commonwealth charter schools shall be limited to 23 per cent of the  
550 district's net school spending.

551 SECTION 54. The department of elementary and secondary education shall convene a  
552 working group on charter school transportation within 30 days of the effective date of this act.  
553 The working group shall include but not be limited to: the commissioner of elementary and  
554 secondary education, or a designee, who shall serve as chair of the working group; 3  
555 representatives from commonwealth charter schools, 1 of whom shall be from a charter school  
556 located in a municipality with more than 500,000 residents, 1 of whom shall be from a charter  
557 school located in a municipality with less than 100,000 residents, and 1 of whom shall be from a  
558 regional charter school; and 3 representatives from school districts that provide transportation to  
559 1 or more commonwealth charter schools, 1 of whom shall be from a municipality with more  
560 than 500,000 residents, 1 of whom shall be from a municipality with less than 100,000 residents,  
561 and 1 of whom shall be from a municipality that provides transportation to 1 or more regional  
562 charter schools . The working group shall: (i) review current patterns and approaches to  
563 providing transportation to commonwealth charter schools in districts across the commonwealth;  
564 (ii) assess the financial impacts of charter school student transportation patterns on district  
565 finances; (iii) propose changes to improve efficiency; and (iv) identify any statutory  
566 modifications necessary to make such changes. The working group shall issue a final report  
567 containing its findings and recommendations within six months of the effective date of this act.  
568 Said report shall be submitted to the clerks of the senate and house of representatives, who shall  
569 forward the report to the chairs of the joint committee on education and the senate and house  
570 committees on ways and means.