

For Immediate Release
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Senate Releases Charter School Reform Legislation

Bill focuses on reform, transparency, and funding.

Boston-Massachusetts Senate leaders announced today the release of charter school reform legislation . The bill, *An Act Enhancing Reform, Innovation, and Success in Education (RISE)*, was crafted by a small working group of Senators appointed by Senate President Rosenberg in late January to work on bringing a bill to the floor of the Senate.

“This bill expands innovation for all schools and takes the lessons we have learned from 20 years of charter schools in Massachusetts and brings necessary reforms in admissions, funding, transparency, and governance, said **Senate President Stan Rosenberg (D-Amherst)**. “The stakes for students in our public school systems are too high to let the answers be decided by a ballot question which, though well intentioned, only addresses the less than 10% of students currently attending or seeking seats at charter schools. The remaining over 90% of students have just as much at stake.”

With a pending ballot question potentially on the ballot this November, the Senate bill casts a wide net, well beyond what the ballot question entails, on addressing the issue of charter schools. The bill focuses on transparency, admission and retention of students, funding, and the charter school cap.

The most public issue, and the main thrust behind the ballot question, is raising the current cap for the number of charter schools in Massachusetts. The cap currently is at 72 Commonwealth Charter schools and 48 Horace Mann charters schools; Horace Mann charter schools are approved by the local school committee in which the charter operates, by the local collective bargaining agent, and approved by Department of Elementary and Secondary Education (DESE).

The bill allows for a cap lift but puts district schools and charter schools on a level playing field. The bill maintains the current statewide charter school cap but increases net school spending for charters from 18% to 23% for the lowest performing districts over the next ten years, allowing for an increase in the number of charter school seats in these districts. Beginning in fiscal year 2019, in an effort to align the funding priorities of both traditional public schools and charter schools, this increase in seats will be tied to increases in Chapter 70 investments recommended by the Foundation Budget Review Commission over a seven year schedule.

The bill eliminates the cap on charter schools that specifically serve at-risk students. This will allow charter schools that serve at-risk students to immediately begin working to address the needs of this population.

The bill also seeks reforms beyond charter schools for the betterment of the over 90% of public school students in Massachusetts not currently enrolled or seeking seats in charter schools. For districts at risk of becoming underperforming, the bill provides more flexibility and autonomy for district leaders to introduce more innovation and changes to classrooms.

Additionally, to reward and incentivize in-district innovation, Horace Mann and Innovation schools may be counted towards the net school spending cap but are not limited by it, which allows for even more seats in innovative classrooms.

“This bill puts forth tens of thousands of new seats in innovative classrooms -- be they district or charter - targeted to serve students that most need new options. It also gets serious about replicating successes:

from charter to charter, from charter to district, and from school districts here and across the country,” said **Senator Sonia Chang-Diaz (D-Boston) Senate Chair of the Joint Committee on Education**. “This bill keeps our eye on the prize of educating 100% of our students in Massachusetts -- the 4% that are in charters and the 96% in the core district system.”

To create more transparency around the operations of charter schools, the bill requires public disclosure by charter schools of their finances, policies, contracts and board meetings.

The bill includes requiring increased communication between charter schools and local school districts before submitting a charter school proposal to DESE. In addition, DESE would be required to reform how they handle the charter school waitlist and evaluate a proposed charter’s impact on district students as part of the application process.

“There is no more powerful tool we have for our future, as individuals and as a Commonwealth, than a quality education. That’s why the Senate took this opportunity to make this a true education reform bill, with a focus on bringing transparency, accountability and innovation to K-12 education for all students,” said **Senator Karen E. Spilka (D-Ashland) Chair of the Senate Committee on Ways and Means**. By implementing the recent recommendations of the Foundation Budget Review Commission that will fund our education system fairly and adequately, we are aiming to increase opportunities for 100% of our students, not just the 4% in charter schools. With costs of approximately \$1 billion on the line to implement either the charter school ballot initiative or this bill, the choice is clear. We must invest in all of our students rather than only the few.”

The bill requires a paradigm shift for how charters admit students by implementing a district wide lottery, with an opt-out provision for parents, or unified enrollment system to all students of each district. Currently, charter school lotteries are only open to those students who apply. The bill would require that all students in a district be eligible for charter schools and traditional public schools, effectively eliminating the current lottery system.

“I am glad to have had the opportunity to participate in the collaborative process of drafting this bill,” said **Senator Pat Jehlen (D-Somerville) Vice-Chair of the Joint Committee on Education**. “The discussion on the floor will give us an opportunity for a thorough and thoughtful debate and amendment process as we work toward the best education policies for all children in Massachusetts.”

“This comprehensive legislation, a result of a collaborative process, will improve educational opportunities for all school children in the Commonwealth while creating a capacity to add charter seats,” said **Senator Dan Wolf (D-Harwich)**. “Thank you to Senate President Rosenberg and my fellow working group members for a thoughtful process in writing this legislation.”

The bill also offers school districts a fair deal on funding. Reimbursement to traditional public school systems would be funded for three years to a district mitigation fund for all districts and be funded at 100% in the first year, 50% in the second, and 25% in the third year for districts that have lost students to charter schools.

The bill is scheduled for debate by the full Senate next week.

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S.2203, An Act Enhancing Reform, Innovation and Success in Education

(1) This bill helps students in all public schools in the Commonwealth.

(2) This bill enhances the governance, transparency and accountability of charter schools.

- Requires charter schools to publicly disclose their finances, contracts, policies (including discipline) and board meeting minutes.
- Requires charter school boards of trustees to include a teacher at the school, a school committee member from the sending district, parents, and if the charter school is a high school, a student.
- Clarifies that state ethics laws apply to charter school trustees.

(3) This bill encourages collaboration between district schools and charter schools.

- Requires a Commonwealth charter school applicant to meet with the district superintendent of each school district from which the charter school plans to enroll students.
- Requires a Commonwealth charter school applicant to hold at least 1 public hearing with the local school committee of each school district from which the charter school plans to enroll students.
- Requires the Board of Elementary and Secondary Education to consider any materials submitted by a superintendent regarding the impact of the charter school on the district's students and requires the Commissioner to explain how his or her decision in regards to an applicant takes into account the superintendent's submissions.

(4) This bill makes strides toward leveling the playing field between district schools and charter schools.

- Requires charter school teachers to be certified.
- Requires charter schools to comply with the state's educator evaluation system or develop their own system with the Commissioner of Elementary and Secondary Education's approval.
- Holds district schools harmless in regard to student performance data if a student withdraws to attend a charter school during the academic year, and vice versa.
- Prohibits charter schools from charging fees for attendance or requiring parents to sign contracts.
- Requires the Department of Elementary and Secondary Education to develop target spending levels for school districts for administrative costs.

(5) This bill supports innovation.

- Permits school districts to count Horace Mann charter schools and Innovation Schools toward net school spending, but does not limit their growth.
- Creates an exchange program between district and charter school teachers to share best practices and innovation.
- Establishes a new classification of schools, known as priority schools, for schools performing in the lowest 20% and that are most likely to receive designation as an underperforming school. Requires these schools to create a turnaround plan to be approved by local stakeholders.
- Allows cities, in addition to towns, to form a regional school district planning committee and to establish a regional school district.
- Establishes an Innovative Education Trust Fund to support Horace Mann and Innovation Schools.

(6) This bill promotes fairness in the workplace for teachers in district schools and charter schools.

- Guarantees that Commonwealth charter school teachers who unionize accrue seniority and receive comparable compensation to teachers in the sending district's collective bargaining unit.
- Clarifies that charter schools are required to comply with certain prevailing wage laws.

(7) This bill reforms the admissions and retention practices of charter schools.

- For new or expanded charter school seats, approval will only be granted for charter schools that: (1) enroll students through an opt out lottery process; (2) enroll students through participation in the assignment system of the district in which the charter school is located; or (3) establish an alternative education program to serve at risk students.
- Requires charter schools to have a rolling enrollment policy to fill vacant seats throughout the school year.
- Requires charter school waitlists to expire each year and gives students who remain on the lottery at the close of the year the option to receive a placement preference for the next enrollment space.
- Prohibits the renewal or expansion of a Commonwealth charter, if the 3-year average student attrition rate, stability rate, or attrition rate within a certain population of students is higher than the rate in the sending district for the same grades. Allows the Board of Elementary and Secondary Education to grant a waiver to this requirement if the Board certifies that the gap is *de minimis* and the school makes rigorous efforts to retain all students.
- Requires out of school suspension rates of a charter school to be no higher than the sending district's average out of school suspension rate over the 3 years prior to its application for renewal or expansion. Allows the Board of Elementary and Secondary Education to grant a 2 year probationary period to provide the charter school with the opportunity to lower its suspension rate. Also allows the Board of Elementary and Secondary Education to grant a waiver to this requirement if the Board certifies that the gap is *de minimis* and the school makes rigorous efforts to retain all students.

(8) This bill modernizes funding.

- Reformulates charter school reimbursement as district impact mitigation.
- Gives all school districts with students in a charter school mitigation payments for 3 years:
 - 100% in year 1
 - 50% in year 2
 - 25% in year 3
- Limits a school district's responsibility for funding charter school transportation to 50% of the charter school's transportation costs if the school district and the charter school cannot reach an agreement on the start time.

(9) This bill responsibly lifts the cap on charter schools.

- Eliminates the cap for charter schools providing alternative educational services.
- Increases the cap for the lowest performing districts from 18% of net school spending to 23% of net school spending.
- Limits growth over 18% of net school spending to 0.5% per year.

(10) And most importantly, this bill exemplifies the Commonwealth's commitment to education by funding the recommendations of the Foundation Budget Review Commission by fiscal year 2025.

- For 7 fiscal years, beginning in FY 2019, ties the charter school cap lift to the funding of the Foundation Budget Review Commission's recommendations in the GAA. If the recommendations are not fully funded in any fiscal year, the cap will be proportionately lifted.
- Once the Foundation Budget Review Commission's recommendations are fully funded, the charter school cap lift is frozen if district impact mitigation is not fully funded in the GAA.
- Including the costs of the implementation of the recommendations of the Foundation Budget Review Commission, the annual costs of the bill to the state will be between \$203.1M and \$212M annually.

SENATE 327:

AN ACT ENHANCING REFORM, INNOVATION AND SUCCESS IN EDUCATION

(summary reflects text as redrafted)

LEGISLATIVE HISTORY:

4/15/2015 Referred to the committee on Education, House concurred
10/13/2015 Hearing held
3/24/2016 Ought not to pass under Joint Rule 10, rules suspended, report amended by substitution of bill, read and referred to the Committee on Ways and Means

EXISTING LAWS

AFFECTED:

M.G.L. c. 10; M.G.L. c.15 § 1E; M.G.L. c.29; M.G.L. c.69 §§ 1I, 1J & 1K; M.G.L. c.70B § 15; M.G.L. c. 70 § 2; M.G.L. c. 70B, § 15; M.G.L. c. 71 §§ 14, 14A, 14B, 16, 37H, 37H½, 37H¾ & 89

PROPOSED

LEGISLATION:

- Establishes the Innovative Education Trust Fund to support and incentivize innovative education by enhancing Horace Mann charter schools and Innovation Schools.
- Adds 1 teacher to the Board of Elementary and Secondary Education (BESE).
- Removes restriction on district school committee members from serving on BESE.
- Requires schools to report the number of students who unenrolled from the school prior to the administration of a diagnostic assessment.
- Requires BESE, when evaluating public schools, school districts, teachers or administrators in a given year, to disregard student performance data for students who either (i) withdrew from 1 school and enrolled in another school during the year or (ii) had their formal education substantially interrupted during the previous 3 years.
- Requires the Department of Elementary and Secondary Education (DESE) to develop target percentages and standards for school district administrative costs.
- Establishes a new classification of schools, known as priority

schools, for schools performing in the lowest 20% and that are most likely to receive designation as an underperforming school.

- Requires the superintendent of a priority school to convene a local stakeholder group to create a turnaround plan to improve student outcomes and prevent designation as an underperforming school.
- Requires the turnaround plan to be submitted to the school committee and the teachers for approval.
- Requires annual reviews of priority schools by the superintendent, in consultation with the principal.
- Provides that until a new or amended turnaround plan is approved for priority, underperforming or chronically underperforming schools the terms of the existing turnaround plan remain in effect.
- Updates the current statute to provide for the adoption of any successor statewide assessment system to the MCAS.
- Makes technical updates and corrections to chapter 69 of the General Laws.
- Clarifies that a school superintendent is required to identify, in a turnaround plan, any funds received from private foundations that are included in the financial plan.
- Clarifies that a receiver, if appointed, has full authority for personnel changes in chronically underperforming schools.
- Permits a school committee to retain any programs included in a turnaround plan for an underperforming school after the school is no longer designated as underperforming.
- Permits the Commissioner of Elementary and Secondary Education to request that the Secretary of Administration and Finance appoint a chief procurement officer for a district designated as chronically underperforming.
- Clarifies that a receiver is permitted to reopen collective bargaining agreement negotiations under a turnaround plan.
- Permits cities, in addition to towns, to form a regional school district planning committee and to establish a regional school

district.

- Extends the maximum period that a regional school district can rent or lease surplus space in a school building to businesses or non-profit organizations from 10 years to 30 years.
- Allows a regional school district to serve as a fiscal agent if there is a central superintendent and central staff.
- Requires all school districts to post policies pertaining to student and teacher conduct on their websites.
- Considers a Commonwealth charter school a school district for the purposes of student conduct policies and discipline.
- Requires that a decision resulting from an appeal of a suspension or expulsion be provided to the student and the student's parent or guardian in writing and considered the final decision of the city, town, regional school district or charter school.
- Clarifies that charter schools are required to provide educational services to a student who has been suspended or expelled.
- Requires Commonwealth charter schools to establish a disciplinary panel through the board of trustees to hear disciplinary appeals and issue final decisions.
- Prohibits school districts and charter schools from suspending or expelling a student on the basis of academic performance.
- Defines an at-risk student according to the early warning indicator index, or any successor system.
- Requires that both Commonwealth and Horace Mann charter school boards of trustees include the following members:
 - 1 full time teacher;
 - 1 elected or appointed member of the school committee from the sending district;
 - 25% of the total membership or 2 members, whichever is less, parents or guardians of students enrolled in the charter school; and
 - 1 student, if the charter school is a high school.

- Requires an application for a Commonwealth charter school to include the proposed composition of the board of trustees and the term of years of service on the board of trustees.
- Requires that an application to expand an existing charter school or open a new charter school by a charter school applicant operating at least 1 charter school in the Commonwealth be denied if:
 - the charter schools' average 3 year overall rate of out of school suspensions is greater than the sending district's average 3 year overall rate of out of school suspensions in the same grades served by the charter school or schools; or
 - the average 3 year rate of out of school suspensions within any particular subgroup identified by BESE is greater than the sending district's average 3 year rate of out of school suspensions within the same subgroup in the same grades served by the charter school or schools.
- Requires an application for a Commonwealth charter school to include:
 - 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
 - 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.
- Requires an applicant for a Commonwealth charter school, prior to filing an application with BESE, to meet with the district superintendent of each school district from which the charter expects to enroll students to review the proposed application, including a review of how the proposed charter school plans to complement the curriculum and instruction of the district. Also requires an applicant to hold a public hearing with the local school committee.
 - Provides that failure to meet with the school district superintendent and hold a public hearing will result in the applicant's disqualification from further consideration of the application.

- Permits a district superintendent to submit an impact analysis to DESE that describes how approval of the proposed charter school would affect the district's students.
- Requires BESE to give preference to charter school applicants that develop a late-arrival sharing agreement with a sending school district.
- Requires BESE to substantially consider materials submitted by the school committee or superintendent of each school district from which a charter school applicant is expected to enroll students.
- Requires the Commissioner of Elementary and Secondary Education's recommendation on a charter school application to explain in writing how the recommendation takes into account a district superintendent's impact analysis 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, including, but not limited to, impacts related to fixed, variable and step variable costs.
- Permits an application for a Horace Mann charter school to be submitted and reviewed any time of year.
- Permits a school committee, or in school districts in which the school committee is an appointed body, the school committee's appointing authority, to count Horace Mann charter schools, Innovation Schools, or both, towards a district's net school spending cap.
- Removes the current statutory requirement that the first 2 Commonwealth charters approved by the BESE in a year must be from the lowest performing districts.
- Exempts a Commonwealth charter school that establishes alternative education programs from the statewide cap and district net school spending cap.
- Updates the criteria for a proven provider charter school seeking to open a new Commonwealth charter school to reflect past success recruiting, retaining, and educating student populations similar to those student populations the proposed new charter school seeks to serve.

- Requires a charter application for establishment, renewal, amendment or expansion to include 1 of the following provisions in order to receive approval:
 - the charter school enrolls students through an opt-out admissions lottery;
 - the charter school enrolls students through participation in the assignment system of the district of the school district in which the charter school is located; or
 - the charter school's primary purpose is to establish alternative education programs designed to serve at-risk students.
- Requires a charter school to make publicly available on the charter school's website contracts and leases for the procurement of services, equipment and supplies, and contracts for the management or operation of the school.
- Requires a charter school to disclose all partnerships, grants and gifts on the charter school's website.
- Prohibits an educational management organization or charter management organization from exercising 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.
- Prohibits a Commonwealth charter school from charging tuition or fees or requiring parents or guardians of students attending the school to sign any contract as a condition of a student attending or receiving educational services at a charter school.
- Establishes a procedure for a charter school to operate an opt-out admissions lottery and establish a waitlist for the charter school.
- Requires that any waitlist maintained by a charter school expire on July 1 of each year.
- Permits a charter school to limit enrollment geographically or add a geographic enrollment preference.
- Permits a charter school to give enrollment preference to children of full-time employees of the charter school.
- Requires a charter school to backfill any open seat at any time

during the academic year.

- Requires charter schools to provide DESE with monthly updates to its waitlist.
- Requires DESE to post and update on a monthly basis consolidated charter school waitlist information for each municipality to determine the number of individual students in each municipality currently placed on a charter school waitlist.
- Requires charter schools to post discipline, suspension and expulsion policies on their websites.
- Requires a charter school to comply with state bidding and prevailing wage statutes.
- Establishes an exchange program to promote the sharing of best practices and innovations between teachers and administrators employed by charter school and district school teachers and administrators.
- Requires the board of trustees of a charter school to comply with state public record, open meeting and conflict of interest statutes.
- Prohibits a member of the board of trustees of a charter school or an immediate family member from having a financial interest in the charter school or being employed by BESE or DESE.
- Requires charter schools to establish evaluation systems and performance standards for the evaluation of all teachers.
- Requires that Commonwealth charter school teachers who unionize accrue seniority and receive comparable compensation to teachers in the sending district's collective bargaining unit.
- Requires that school districts provide transportation to charter schools for students who reside in the school district and cover the cost of that transportation on days that both the school district and charter school are in session; provided, however that if the school district can determine the start time for the charter school's day, then the school district will pay 100% of the transportation costs for the charter school for the days that both the school district and the charter school are in session. If the charter school objects to

permitting the school district to establish the start time of the charter school's day, then the school district will be required to pay 50% of the transportation costs for the charter school.

- Requires the school district to cover the cost of transportation for charter school student field trips for a given grade up to cost of the school district grade's average field trip transportation cost over the past 3 years.
- Provides that school districts may limit transportation for charter school students in the same manner that it limits transportation for school district students.
- Permits a school district to provide for public transportation to charter schools for students who may receive traditional bus transportation.
- Requires, as a condition of charter renewal, that a Commonwealth charter's average 3 year student attrition or stability rate not be greater than the sending district's average 3 year attrition or stability rate.
- Requires, as a condition of charter renewal, that a Commonwealth charter's average 3 year student suspension rate not be greater than the sending district's average 3 year suspension rate. However, allows the BESE to grant a waiver to a charter school if a gap for a particular subgroup of students is *de minimus* and the charter has made a rigorous effort to retain all students.
- Authorizes the BESE to grant a 2-year probationary period if the charter school's average rate is higher than the sending district's average rate.
- Establishes, subject to appropriation, that district impact mitigation will be paid to a district whose total charter school tuition amount is greater than its total charter school tuition amount for the previous year in the following increments:
 - 100% of the increase in the year the increase occurs;
 - 50% in the second year; and
 - 25% in the third year.

- Establishes, subject to appropriation, small district equity aid to a school district with 1,000 students or fewer that sends at least 1 student to a charter school.
- Requires all charter school teachers be certified.
- Updates the charter school annual reporting requirements to provide a clearer description of the use of public and private funding.
- Requires DESE to collect attrition and stability data for all charter schools.
- Permits the net school spending cap on charter school tuition payments for districts performing in the lowest 10% to increase by up to 0.5% of net school spending each fiscal year, beginning in fiscal year 2019 provided:
 - in fiscal years 2019 through 2025, the General Appropriation Act (GAA) fully funds the recommendations of the Foundation Budget Review Commission; provided that in any fiscal year in which the GAA does not provide full funding, the net school spending cap will increase proportionately to the progress made toward funding the recommendations, up to 0.5%; and
 - in fiscal year 2026 and every fiscal year thereafter the GAA fully funds, and school districts receive, district impact mitigation.
 - In no case may the net school spending cap exceed 23%.
- Requires the Secretary of Administration and Finance and the House and Senate Committees on Ways and Means to hold a hearing and jointly determine the implementation schedule to fulfill the recommendations of the Foundation Budget Review Commission.
- Establishes a commission to review and report the efficacy of charter school funding.
- Establishes an educational task force to review the effect of school day start times for middle school and secondary school students.
- Requires DESE to update its regulations related to charter school

annual reports.

- Requires the State Auditor to issue a report on the first 5 years of the School Discipline Act, Chapter 222 of the Acts of 2012.
- Establishes a task force to make recommendations to the calculation and definition of "low-income enrollment" in the foundation budget.

**ESTIMATED
COST:**

When fully implemented, the estimated cost of this legislation will be between \$203,100,000 and \$212,000,000 per fiscal year.

(MK)