

HOUSE No. 4141

The Commonwealth of Massachusetts

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

An Act relative to special education finance.

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 22N of chapter 7 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended in the sixth paragraph by inserting after the first sentence the
3 following 3 sentences:-

4 The division shall establish a subsequent year price for a contractor for goods or services
5 related to special education as defined in section 1 of chapter 71B located within the
6 commonwealth by adding a per student annual adjustment amount to the current authorized
7 price, so called. The per student annual adjustment amount will be determined by multiplying the
8 current authorized price, so called, by a percentage factor, as determined on an annual basis by
9 the operational services division. The annual adjustment amount percentage for each cost
10 component shall correspond to the actual cost component structure of these programs.

11 SECTION 2. Section 8 of chapter 70B of the General Laws, as so appearing, is hereby
12 amended by striking out, in line 24, the word “and”.

13 SECTION 3. Said section 8 of said chapter 70B, as so appearing, is hereby further
14 amended by striking out paragraph (8) and inserting in place thereof the following:-

15 (8) priority shall be given to projects needed in the judgment of said authority to
16 transition from court-ordered and authority approved racial balance school districts to walk-to,
17 so-called, or other school districts; and

18 (9) priority shall be given to projects needed in the judgment of said authority to create
19 space for in-district special education programs and services.

20 SECTION 4. Subclause (C) of subsection (a) of section 10 of said chapter 70B, as so
21 appearing, is hereby amended by adding the following sentence:- “The authority shall award
22 incentive points for projects that include spaces for in-district special education programs and
23 services, including special education programs and services provided by education collaboratives
24 pursuant to section 4E of chapter 40 for public school districts within public school buildings.”

25 SECTION 5. Chapter 71B of the General Laws is hereby amended by adding after
26 section 10 thereof the following new section:-

27 Section 10A. Each approved private special education school or program authorized
28 under this chapter to provide special education services to children, and that enrolls students
29 funded by the commonwealth or its political subdivisions, shall file annual reports with the
30 department of elementary and secondary education. Each approved private special education
31 school or program shall annually prepare, financial statements, including: (1) a statement of net
32 assets; (2) a statement of revenues, expenditures and changes in net assets; and (3) such
33 supplemental statements and schedules that may be required by the department. Each school
34 shall annually cause an independent audit to be made of its financial statements consistent with

35 the generally accepted governmental auditing standards. Each school shall file the audit report
36 and any related management letters annually on or before January 1, for the previous fiscal year
37 with the department and the state auditor, and shall submit a copy of the audit report and any
38 related management letters to each school committee that had students attending said approved
39 private special education school during the period covered by the audit report.

40 The audited financial statements, accompanying notes and schedules shall disclose, but
41 not be limited to: (1) transactions between the approved private special education school and any
42 related for profit or non-profit organization; (2) transactions or contracts related to the purchase,
43 sale or lease of real property; (3) the names, duties and total compensation of the 5 most highly
44 compensated employees; (4) the amounts expended on administration and overhead; (5)
45 information on programs and services provided by the school, including the cost effectiveness of
46 such programs and services; (6) whether the school has achieved the goals set forth in its
47 students' IEPs; and (7) any other items that may be required by regulation.

48 SECTION 6. Notwithstanding any general or special law to the contrary, the division of
49 purchased services of the department of procurement shall promulgate rules and regulations
50 relative to the pricing of programs approved under chapter 71B of the General Laws for the
51 purpose of promoting recruitment and retention of all direct care staff and improving
52 instructional resources. Said rules and regulations shall include the following provisions:-

53 (a) the division shall establish a pricing mechanism, including eligibility and procedural
54 requirements, that allows approved programs to apply for salary and benefit increases for all
55 direct care staff including, but not limited to, teachers, related service staff, health care staff and
56 clinical staff to increase the rate of licensure and certification, as may be required by state or

57 federal law, and to decrease the rate of staff attrition and to ensure that benefits and salaries are
58 comparable to the benefits and salaries of similar employees in public schools or relevant
59 agencies of the commonwealth. Said salaries and benefits shall be prorated for the length of said
60 programs. The pricing mechanism shall also address department of elementary and secondary
61 education approved instructional resource upgrades;

62 (b) the department of elementary and secondary education shall, at the next evaluation of
63 an approved private special education program as required in section 3 of chapter 71B, review
64 the facilities, textbooks, equipment, technology, materials and supplies of the program necessary
65 to instruct students in the Massachusetts curriculum frameworks and recommend to the division
66 pricing adjustments to address needed instructional resource upgrades as determined by the
67 department; and

68 (c) the division's pricing mechanisms shall not be based upon non-commonwealth or
69 prior year's revenues. No mechanism established by the division shall delay a program price
70 adjustment for more than 90 days. Private special education programs must provide purchasers,
71 the department of elementary and secondary education and the operational services division with
72 a notice of intent to apply for salary and benefit upgrades by October 1 for the following fiscal
73 year.