

**HOUSE . . . . . No. 554**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Alice Hanlon Peisch*

*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 special education finance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>
<i>James M. Kelcourse</i>	<i>1st Essex</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

**HOUSE . . . . . No. 554**

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By Ms. Peisch of Wellesley, a petition (accompanied by bill, House, No. 554) of Alice Hanlon Peisch and others relative to special education. Education.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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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 1B of Chapter 69 of the General Laws, as appearing in the 2014  
12 Official Edition, is hereby amended by inserting after the seventh paragraph the following  
13 paragraph:-

14 The board shall annually publish a supplemental report containing student achievement  
15 data for each approved private special education school or program, provided that such data shall  
16 include student performance on the statewide assessment system approved by the board under  
17 section 1I.

18 SECTION 3. Section 8 of chapter 70B of the General Laws, as so appearing, is hereby  
19 amended by striking out, in line 24, the word “and”.

20 SECTION 4. Said section 8 of said chapter 70B, as so appearing, is hereby further  
21 amended by striking out paragraph (8) and inserting in place thereof the following:-

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

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

27 SECTION 5. Subclause (C) of subsection (a) of section 10 of said chapter 70B, as so  
28 appearing, is hereby amended by adding the following sentence:- “The authority shall award  
29 incentive points for projects that include spaces for in-district special education programs and  
30 services, including special education programs and services provided by education collaboratives  
31 pursuant to section 4E of chapter 40 for public school districts within public school buildings.”

32 SECTION 6. Chapter 71B of the General Laws is hereby amended by adding after  
33 section 10 thereof the following new section:-

34 Section 10A. Each approved private special education school or program authorized  
35 under this chapter to provide special education services to children, and that enrolls students  
36 funded by the commonwealth or its political subdivisions, shall file annual reports with the  
37 department of elementary and secondary education. Each approved private special education  
38 school or program shall annually prepare, financial statements, including: (1) a statement of net  
39 assets; (2) a statement of revenues, expenditures and changes in net assets; and (3) such  
40 supplemental statements and schedules that may be required by the department. Each school  
41 shall annually cause an independent audit to be made of its financial statements consistent with  
42 the generally accepted governmental auditing standards. Each school shall file the audit report  
43 and any related management letters annually on or before January 1, for the previous fiscal year  
44 with the department and the state auditor, and shall submit a copy of the audit report and any  
45 related management letters to each school committee that had students attending said approved  
46 private special education school during the period covered by the audit report.

47 The audited financial statements, accompanying notes and schedules shall disclose, but  
48 not be limited to: (1) transactions between the approved private special education school and any  
49 related for profit or non-profit organization; (2) transactions or contracts related to the purchase,  
50 sale or lease of real property; (3) the names, duties and total compensation of the 5 most highly  
51 compensated employees; (4) the amounts expended on administration and overhead; (5)  
52 information on programs and services provided by the school, including the cost effectiveness of  
53 such programs and services; and (6) any other items that may be required by regulation.

54 SECTION 7. Notwithstanding any general or special law to the contrary, the division of  
55 purchased services of the department of procurement shall promulgate rules and regulations  
56 relative to the pricing of programs approved under chapter 71B of the General Laws for the  
57 purpose of promoting recruitment and retention of all direct care staff and improving  
58 instructional resources. Said rules and regulations shall include the following provisions:-

59 (a) the division shall establish a pricing mechanism, including eligibility and procedural  
60 requirements, that allows approved programs to apply for salary and benefit increases for all  
61 direct care staff including, but not limited to, teachers, related service staff, health care staff and  
62 clinical staff to increase the rate of licensure and certification, as may be required by state or  
63 federal law, and to decrease the rate of staff attrition and to ensure that benefits and salaries are  
64 comparable to the benefits and salaries of similar employees in public schools or relevant  
65 agencies of the commonwealth. Said salaries and benefits shall be prorated for the length of said  
66 programs. The pricing mechanism shall also address department of elementary and secondary  
67 education approved instructional resource upgrades;

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

74 (c) the division's pricing mechanisms shall not be based upon non-commonwealth or  
75 prior year's revenues. No mechanism established by the division shall delay a program price

76 adjustment for more than 90 days. Private special education programs must provide purchasers,  
77 the department of elementary and secondary education and the operational services division with  
78 a notice of intent to apply for salary and benefit upgrades by October 1 for the following fiscal  
79 year.

80 (d) the division shall annually adjust the pricing of programs approved under Chapter  
81 71B of the General Laws based on the enrollment of students.

82 SECTION 8. The department of early education and care and the department of  
83 elementary and secondary education may share data only for residential programs approved by  
84 both departments.

85 SECTION 9. There shall be a special commission to study the role of Approved  
86 Massachusetts Day and Residential Private Special Education Programs. The commission shall  
87 consist of 11 members: the secretary of education or designee, who shall be serve as the chair of  
88 the commission; the house and senate chairs of the joint committee on education, or designees;  
89 the commissioner of elementary and secondary education, or designee; the commissioner of  
90 early education and care, or designee; the child advocate of designee; a representative nominated  
91 jointly by the Federation for Children with Special Needs, Inc., Massachusetts Advocates for  
92 Children and the Disability Law Center; a representative of Massachusetts Administrators for  
93 Special Education and 3 persons appointed by the secretary of education, 1 of whom shall be  
94 selected from a list of 3 persons nominated by the Massachusetts Association of School  
95 Superintendents, 1 of whom shall be selected from a list of 3 persons nominated by the  
96 Massachusetts Association of School Committees, Inc., and 1 of whom shall be elected from a  
97 list of 3 persons nominated by the Massachusetts Association of 766 Approved Private Schools.

98           The commission shall examine, report and make recommendations on topics including,  
99 but not limited to: (1) best practices of licensing, monitoring and providing oversight of  
100 Approved Massachusetts Day and Residential Private Special Education Programs (Chapter 766  
101 schools); (2) collection of data related to providing appropriate educational programming; (3)  
102 collection of data related to providing the most appropriate services to students in chapter 766  
103 schools; (4) consideration of the relevant aspects of the statute governing education  
104 collaboratives as defined in section 4E of Chapter 40 and their potential application to chapter  
105 766 schools; and (5) collection of data relevant to the structure for congregate care for the  
106 students and review of the appropriate agency placement policies.

107           The commission shall consult with and solicit input from various persons and groups,  
108 including but not limited to, the department of developmental services; the division of local  
109 services, the executive directors of Chapter 766 schools of varying size and scope throughout the  
110 commonwealth; organizations representing individuals with developmental disabilities; district  
111 directors of special education throughout the commonwealth; organizations representing  
112 children with disabilities and their parents; and associations representing special education  
113 administrators and other educational administrators, school officials, and municipal officials.

114           The first meeting of the commission shall take place within 60 days after the effective  
115 date of this act. The commission shall file a report containing recommendations, including  
116 legislation and regulations necessary to carry out its recommendations, with the clerks of the  
117 house and senate not later than 12 months following the first meeting of the commission.