

**SENATE . . . . . No. 846**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Joan B. Lovely***

*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 creating higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities.

PETITION OF:

| NAME:                           | DISTRICT/ADDRESS:                                  |                  |
|---------------------------------|--|------------------|
| <i>Joan B. Lovely</i>           | <i>Second Essex</i>                                |                  |
| <i>Michael J. Barrett</i>       | <i>Third Middlesex</i>                             | <i>2/24/2021</i> |
| <i>Jack Patrick Lewis</i>       | <i>7th Middlesex</i>                               | <i>2/26/2021</i> |
| <i>Diana DiZoglio</i>           | <i>First Essex</i>                                 | <i>2/26/2021</i> |
| <i>Brian M. Ashe</i>            | <i>2nd Hampden</i>                                 | <i>3/3/2021</i>  |
| <i>Michael O. Moore</i>         | <i>Second Worcester</i>                            | <i>3/4/2021</i>  |
| <i>Hannah Kane</i>              | <i>11th Worcester</i>                              | <i>3/8/2021</i>  |
| <i>Jason M. Lewis</i>           | <i>Fifth Middlesex</i>                             | <i>3/8/2021</i>  |
| <i>Joanne M. Comerford</i>      | <i>Hampshire, Franklin and Worcester</i>           | <i>3/8/2021</i>  |
| <i>Paul F. Tucker</i>           | <i>7th Essex</i>                                   | <i>3/8/2021</i>  |
| <i>Anne M. Gobi</i>             | <i>Worcester, Hampden, Hampshire and Middlesex</i> | <i>3/8/2021</i>  |
| <i>Michael F. Rush</i>          | <i>Norfolk and Suffolk</i>                         | <i>3/9/2021</i>  |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i>                              | <i>3/9/2021</i>  |
| <i>Thomas M. Stanley</i>        | <i>9th Middlesex</i>                               | <i>3/9/2021</i>  |
| <i>Bradley H. Jones, Jr.</i>    | <i>20th Middlesex</i>                              | <i>3/9/2021</i>  |
| <i>Adam J. Scanlon</i>          | <i>14th Bristol</i>                                | <i>3/11/2021</i> |

|                            |                                      |                  |
|----------------------------|--------------------------------------|------------------|
| <i>Michael D. Brady</i>    | <i>Second Plymouth and Bristol</i>   | <i>3/11/2021</i> |
| <i>Elizabeth A. Malia</i>  | <i>11th Suffolk</i>                  | <i>3/15/2021</i> |
| <i>John F. Keenan</i>      | <i>Norfolk and Plymouth</i>          | <i>3/17/2021</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i>                   | <i>3/18/2021</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i>          | <i>3/18/2021</i> |
| <i>Joseph A. Boncore</i>   | <i>First Suffolk and Middlesex</i>   | <i>3/26/2021</i> |
| <i>Walter F. Timilty</i>   | <i>Norfolk, Bristol and Plymouth</i> | <i>3/29/2021</i> |
| <i>Brian W. Murray</i>     | <i>10th Worcester</i>                | <i>3/29/2021</i> |
| <i>Sal N. DiDomenico</i>   | <i>Middlesex and Suffolk</i>         | <i>4/3/2021</i>  |
| <i>Kay Khan</i>            | <i>11th Middlesex</i>                | <i>4/7/2021</i>  |

**SENATE . . . . . No. 846**

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By Ms. Lovely, a petition (accompanied by bill, Senate, No. 846) of Joan B. Lovely, Michael J. Barrett, Jack Patrick Lewis, Diana DiZoglio and other members of the General Court for legislation to create higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities. Higher Education.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2844 OF 2019-2020.]

**The Commonwealth of Massachusetts**

—————  
**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
—————

An Act creating higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities.

*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 1 of chapter 15A of the General Laws, as appearing in the 2018  
2 Official Edition, is hereby amended by inserting after the word “opportunities”, in line 14, the  
3 following words:- , including individuals with severe intellectual disabilities, severe autism  
4 spectrum disorders or other severe developmental disabilities.

5           SECTION 2. Said section 1 of said chapter 15A of the General Laws, as so appearing, is  
6 hereby further amended by striking out, in line 23, the word “and” the second time it appears.

7 SECTION 3. Said section 1 of said chapter 15A of the General Laws, as so appearing, is  
8 hereby further amended by striking out, in line 28, the word “levels.” and inserting in place  
9 thereof the following words:- levels; and.

10 SECTION 4. The third paragraph of said section 1 of said chapter 15A, as so appearing,  
11 is hereby amended by adding the following clause:-

12 (d) to provide inclusive educational opportunities for individuals with severe intellectual  
13 disabilities, severe autism spectrum disorders or other severe developmental disabilities to  
14 improve academic achievement, develop employment and independent living skills and enhance  
15 the learning environment for all citizens.

16 SECTION 5. The fourth paragraph of section 7 of said chapter 15A, as so appearing, is  
17 hereby amended by inserting after the word “students”, in line 35, the following words:- and  
18 students with severe intellectual disabilities, severe autism spectrum disorders or other severe  
19 developmental disabilities.

20 SECTION 6. The second sentence of subsection (b) of section 7A of said chapter 15A, as  
21 so appearing, is hereby amended by striking out clauses (8) and (9) and inserting in place thereof  
22 the following 3 clauses:- (8) supporting early childhood to grade 12 education programs; (9)  
23 maximizing fundraising from private sources; and (10) improving access for students with severe  
24 intellectual disabilities, severe autism spectrum disorders or other severe developmental  
25 disabilities.

26 SECTION 7. The second sentence of subsection (i) of said section 7A of said chapter  
27 15A, as so appearing, is hereby amended by striking out clauses (8) and (9) and inserting in place  
28 thereof the following 3 clauses:- (8) to ensure cost-effective use of resources; (9) to maximize

29 fundraising from private sources; and (10) to improve access for students with severe intellectual  
30 disabilities, severe autism spectrum disorders or other severe developmental disabilities.

31 SECTION 8. Said chapter 15A is hereby further amended by inserting after section 30  
32 the following section:-

33 Section 30A. (a) To ensure that individuals with severe intellectual disabilities, severe  
34 autism spectrum disorders or other severe developmental disabilities have opportunities to be  
35 included with non-disabled students in all aspects of higher education for the purpose of gaining  
36 academic, career, technical and independent living skills to prepare them for adult life, including,  
37 but not limited to, employment and civic engagement, such individuals shall not be required to:  
38 (i) take any standardized college entrance aptitude test; (ii) have a high school diploma or its  
39 equivalent; (iii) meet minimum academic course requirements; (iv) meet minimum grade point  
40 average requirements; or (v) obtain a passing score on the statewide assessment tests utilized as a  
41 basis for competency determination under section 1D of chapter 69, in order to participate in  
42 undergraduate academic courses, internships, work-based trainings, extracurricular activities that  
43 include non-disabled students and all other aspects of campus life in accordance with this  
44 section.

45 (b) Public institutions of higher education, in consultation with the department of higher  
46 education and consistent with the purposes of this section, may create guidelines to select  
47 students participating in higher education pursuant to this section, including, but not limited to,  
48 guidelines to determine campus capacity and to coordinate selection of students with relevant  
49 local, state or other public agencies serving students with severe intellectual disabilities, severe  
50 autism spectrum disorders or other severe developmental disabilities; provided, however, that

51 these individuals shall not be denied opportunities to participate in higher education solely due to  
52 their intellectual disability, autism spectrum disorders or developmental disability. Public  
53 institutions of higher education, in consultation with the department of higher education and  
54 consistent with the purposes of this section, may also establish course selection guidelines to  
55 help ensure that participating individuals receive guidance in selecting courses that are  
56 appropriate to their individual strengths, needs, preferences and interests. Participating  
57 individuals shall be permitted to: (i) take a credit-bearing, undergraduate academic course for  
58 credit if they have met the course prerequisites and requirements; or (ii) audit a credit-bearing,  
59 undergraduate academic course, consistent with campus policies governing selection of students  
60 for audit participation, if they have not met the course prerequisites and requirements.

61 Nothing in this section shall require a public institution of higher education to provide  
62 course enrollment or audit preference for students with severe intellectual disabilities, severe  
63 autism spectrum disorders or other severe developmental disabilities, relative to other persons  
64 seeking to enroll or audit a course. Nothing in this section shall require a public institution of  
65 higher education to include students with severe intellectual disabilities, severe autism spectrum  
66 disorders or other severe developmental disabilities in graduate and continuing education  
67 courses.

68 (c) Individuals participating in higher education pursuant to subsection (a) shall have  
69 access to and be included with non-disabled students in all academic and non-academic  
70 opportunities at public institutions of higher education in order to have inclusive educational  
71 opportunities to acquire academic, career, technical and independent living skills that prepare  
72 them for adult life including, but not limited to, employment and civic engagement. Individual  
73 supports and services shall be made available to support inclusion in academic courses,

74 extracurricular activities and other aspects of campus life; provided, however, that nothing in this  
75 subsection shall supersede subsections (b) and (d).

76 (d) Public institutions of higher education shall not be required to bear the costs of  
77 individual supports and services that exceed the kind of supports and services generally provided  
78 by public institutions of higher education. Costs associated with supporting participation in  
79 public institutions of higher education under this section shall be: (i) an approved expense as a  
80 special education service pursuant to section 5 of chapter 71B and shall be considered secondary  
81 school education; provided, however, that a student's participation in higher education is  
82 addressed in the student's Individualized Education Program under section 3 of said chapter 71B  
83 for students ages 18 to 21 years old, inclusive; provided further, that such student is considered  
84 to have a severe intellectual disability, a severe autism spectrum disorder or other severe  
85 developmental disability; provided further, that in the case of students who are age 18 or 19,  
86 participation shall be limited to students with a severe intellectual disability, a severe autism  
87 spectrum disorder or other severe developmental disability who have been unable to obtain a  
88 passing score on the statewide assessment tests utilized as a basis for competency determination  
89 under section 1D of chapter 69; provided further, that in the case of students ages 20 or 21,  
90 participation shall be limited to students with a severe intellectual disability, a severe autism  
91 spectrum disorder or other severe developmental disability who have been unable to obtain a  
92 passing score on the statewide assessment tests utilized as a basis for competency  
93 determinations, under said section 1D of said chapter 69 or who have already been determined  
94 eligible for special education and have also been determined by the Individualized Education  
95 Program team to have severe functional delays impacting independent living, communication or  
96 behavioral skills resulting in skills that are significantly below chronological age; and provided

97 further, that nothing in this section shall impose an additional cost on a school committee beyond  
98 the cost of what is required under state or federal special education law; (ii) subject to the  
99 availability of federal funding and appropriation provided under section 74 of chapter 6 for  
100 individuals who are determined eligible for vocational rehabilitation services; provided,  
101 however, that access to higher education assists in the attainment of an identified employment  
102 goal, as determined by the agency, consistent with all applicable regulations and subject to the  
103 development of an Individualized Plan for Employment; (iii) subject to appropriation under  
104 chapter 19B for individuals 22 years of age or older who are determined eligible for services;  
105 provided, however, that the individual supports and services are determined to be an appropriate  
106 support, of the type, frequency and duration identified in an assessment conducted by the  
107 department, and subject to the development of an annual individual support plan. Costs of  
108 participation may be covered by any other public or private sources available to the student.

109 (e) Participating individuals under this section shall be required to follow the public  
110 institution of higher education's student behavioral policies, including the student code of  
111 conduct, antidiscrimination and sexual violence policies; provided, however, that the public  
112 institution of higher education shall provide such policies in accessible formats and shall provide  
113 reasonable accommodations for participating individuals in any process instituted thereunder.

114 (f) Nothing in this section shall be construed to impose any liability against any school  
115 district or any public institution of higher education, including trustees, officers, administrators  
116 or employees of the school district or public institution of higher education.

117 (g) Nothing in this section shall be construed as creating or imposing a specific duty of  
118 care, nor shall this section create or impose a private right of action against any school district or



119 any public institution of higher education, including trustees, officers, administrators or  
120 employees of a school district or public institution of higher education.

121 SECTION 9. Section 2 of chapter 71B of the General Laws, as appearing in the 2018  
122 Official Edition, is hereby amended by adding the following paragraph:-

123 Students who are 18 to 21 years old, inclusive, have severe intellectual disabilities, severe  
124 autism spectrum disorders or other severe developmental disabilities and are receiving special  
125 education services may also have program options including, but not limited to, continuing  
126 education, participation in credit and noncredit courses that include students without disabilities  
127 in an institution of higher education, development of independent living skills, development of  
128 skills necessary for employment and development of skills to access community services.  
129 Participation of such students in institutions of higher education under this section shall be  
130 considered an approved expense as a special education service pursuant to section 5 and shall be  
131 considered secondary school education; provided, however, that this service is addressed in the  
132 student's Individualized Education Program.

133 SECTION 10. Said chapter 71B is hereby amended by adding the following section:-

134 Section 17. (a) Subject to appropriation, the department of higher education shall develop  
135 and administer a discretionary grant program, which shall include planning or implementation  
136 grants, to provide monies to school committees and public institutions of higher education  
137 partnering to offer inclusive concurrent enrollment initiative options for school-aged children  
138 who are 18 to 21 years old, inclusive, and are considered to have severe intellectual disabilities,  
139 severe autism spectrum disorders or other severe developmental disabilities. The program shall  
140 be limited to: (i) students who are 18 or 19 years old, to students with a severe intellectual

141 disability, a severe autism spectrum disorder or other severe developmental disability who have  
142 been unable to achieve the competency determination necessary to pass the statewide assessment  
143 test pursuant to section 1D of chapter 69; and (ii) students who are 20 or 21 years old, to students  
144 with severe disabilities who have been unable to obtain a passing score on the statewide  
145 assessment tests utilized as a basis for competency determination under said section 1D of said  
146 chapter 69 or have been determined by the Individualized Education Program team to have  
147 severe functional delays impacting independent living, communication or behavioral skills  
148 resulting in skills that are significantly below chronological age; provided, however, that public  
149 institutions of higher education may also include students with severe intellectual disabilities,  
150 severe autism spectrum disorders or other severe developmental disabilities over the age of 21  
151 who have been unable to obtain a passing score on the statewide assessment tests utilized as a  
152 basis for competency determination under said section 1D of said chapter 69.

153 (b) The grant program shall enable school committees to partner with public institutions  
154 of higher education to assist in meeting the transitional needs of eligible students pursuant to  
155 subsection (a), which shall include facilitating movement from school to post-school activities  
156 and competitive employment. The grant program shall be based on a results-oriented process  
157 focused on improving academic and functional achievement in accordance with the federal  
158 Individuals with Disabilities Education Act.

159 (c) The grant program shall support participation of any relevant state or other agency  
160 serving students with severe intellectual disabilities, severe autism spectrum disorders or other  
161 severe developmental disabilities, including, but not limited to, the department of developmental  
162 services, the Massachusetts rehabilitation commission or other vocational rehabilitation agency

163 or organization to support student academic success, participation in student life of the college  
164 community and competitive employment.

165 (d) The grant program shall support partnerships that provide: (i) participation in credit-  
166 bearing and non-credit courses that include students without disabilities, including participation  
167 in credit-bearing courses in audit status for students who may not meet course prerequisites; (ii)  
168 participation in on-campus student life activities; (iii) preparation for competitive employment;  
169 (iv) the waiver of tuition for courses by the public institution of higher education; (v) the  
170 provision of supports and services necessary to facilitate a student's participation and support  
171 inclusion in academic courses, extracurricular activities, internships, work experiences and other  
172 aspects of the institution's postsecondary program; (vi) education, training and technical  
173 assistance for teachers, faculty and personnel regarding strategy and teaching methodology to  
174 achieve successful inclusion of individuals with severe intellectual disabilities, severe autism  
175 spectrum disorders or other severe developmental disabilities; (vii) full inclusion of students with  
176 severe intellectual disabilities, severe autism spectrum disorders or other severe developmental  
177 disabilities with nondisabled students in all aspects of higher education including, but not limited  
178 to, academic and social activities; and (viii) the utilization of person-centered planning in the  
179 development of the course of study for each participating student. Partnerships with institutions  
180 of higher education that offer dormitory living may also include opportunities for students with  
181 severe intellectual disabilities, severe autism spectrum disorders or other severe developmental  
182 disabilities to live in residential housing offered to nondisabled students.

183 (e) The department of higher education shall establish an inclusive concurrent enrollment  
184 advisory board to advise the department on efforts to implement inclusive concurrent enrollment  
185 and to participate in educational outreach efforts related to inclusive concurrent enrollment. The

186 inclusive concurrent enrollment advisory board shall include the following members or their  
187 designees, who shall serve without compensation: the inclusive concurrent enrollment  
188 coordinator, who shall serve as chair; the secretary of education; the commissioner of higher  
189 education; the commissioner of elementary and secondary education; the commissioner of  
190 developmental services; the commissioner of the Massachusetts rehabilitation commission; a  
191 representative of the Massachusetts Administrators for Special Education; a representative of the  
192 Massachusetts Association of School Committees, Inc.; a representative of the Massachusetts  
193 Association of School Superintendents, Inc.; a representative of Massachusetts Advocates for  
194 Children, Inc.; a representative of the Federation for Children with Special Needs, Inc.; a  
195 representative of the Institute for Community Inclusion; not less than 2 representatives of school  
196 districts and public institutions of higher education that have successfully implemented inclusive  
197 concurrent enrollment initiatives, to be appointed by the chair; and 2 students who are  
198 participating or have participated in an inclusive concurrent enrollment program, to be appointed  
199 by the chair. The inclusive concurrent enrollment advisory board shall meet not less than  
200 quarterly. If an inclusive concurrent enrollment coordinator is not designated pursuant to  
201 subsection (f), the commission of the department of higher education shall select another chair.

202 (f) Subject to appropriation, the department of higher education shall designate an  
203 inclusive concurrent enrollment coordinator to manage grant administration and coordinate  
204 reporting.

205 (g) Annually, not later than December 1, the executive office of education shall file a  
206 report with the joint committee on education, the joint committee on higher education and the  
207 house and senate committees on ways and means on the status of the inclusive concurrent

208 enrollment grant program established pursuant to subsection (a). The report shall include, but not  
209 be limited to:

210 (i) enrollment data detailing the number of students enrolled in inclusive concurrent  
211 enrollment each semester and the unduplicated count of total students served at each institution  
212 of higher education;

213 (ii) a list of all full-time and part-time employment positions supported by the grant  
214 program that are dedicated to supporting students participating in the inclusive concurrent  
215 enrollment program and the average salary for those positions including, but not limited to: (A)  
216 educational coaches; (B) educational specialists; (C) job coaches and vocational specialists; (D)  
217 program specialists; (E) program directors; (F) peer mentors, note-takers and tutors; (G)  
218 contracted employees and; (H) parent and school committee liaisons;

219 (iii) a list of all courses taken by students participating in the inclusive concurrent  
220 enrollment program during the academic year indicating whether the student participated in the  
221 course for credit or for audit and whether the student passed or completed the course;

222 (iv) a summary of innovative strategies and practices implemented at each institution of  
223 higher education that helped foster relationships with school committees;

224 (v) employment data for students participating in the inclusive concurrent enrollment  
225 program, obtained to the best of the ability of participating school committees and institutions of  
226 higher education; and

227 (vi) the total funding received for the program, including amounts allocated to each  
228 grantee and any executive agency or participating state board, department or institute of higher  
229 education.

230 SECTION 11. The secretary of education and the secretary of health and human services  
231 shall, as necessary, develop inter-agency agreements, policies and practices with the department  
232 of higher education, the department of elementary and secondary education, public institutions of  
233 higher education, school committees, the department of developmental services, the  
234 Massachusetts rehabilitation commission and other relevant agencies in order to maximize  
235 federal financial participation through Medicaid, maximize federal financial aid, support  
236 institutions of higher education offering opportunities to include individuals with severe  
237 intellectual disabilities, severe autism spectrum disorders or other severe developmental  
238 disabilities who are more than 22 years old pursuant to section 30A of chapter 15A of the  
239 General Laws or section 17 of chapter 71B of the General Laws and address any other issues  
240 necessary for successful inclusion of students with severe intellectual disabilities, severe autism  
241 spectrum disorders or other severe developmental disabilities in higher education.

242 SECTION 12. The department of higher education and the department of elementary and  
243 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory  
244 board, the executive officer of the Council of Presidents of the Massachusetts State University  
245 System or a designee, the president of the University of Massachusetts or a designee and the  
246 executive director of Massachusetts Community Colleges Executive Office or a designee shall  
247 issue guidelines to implement section 17 of chapter 71B of the General Laws not later than  
248 March 15, 2022.