

**SENATE . . . . . No. 2201**

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**The Commonwealth of Massachusetts**

**In the Year Two Thousand Nine**

An Act relative to education reform.

*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. Chapter 69 of the General Laws is hereby amended by striking out section  
2 1J as appearing in the 2008 Official Edition, and inserting in place thereof the following  
3 section:-

4 Section 1J.

5 (a) The commissioner of elementary and secondary education may, (1) on the  
6 basis of student performance data collected pursuant to section 1I of this chapter, (2) a school or  
7 district review performed pursuant to section 55A of chapter 15, or (3) regulations adopted by  
8 the board of elementary and secondary education, designate 1 or more schools in a school district  
9 other than a Horace Mann charter school as underperforming or chronically underperforming.

10 The board shall adopt regulations establishing standards for the commissioner to make such  
11 designations on the basis of clauses (1), (2) or (3). Schools that score in the lowest 20 per cent  
12 statewide in the combined composite performance index scores on the English language arts and  
13 mathematics Massachusetts comprehensive assessment system exams shall be deemed eligible  
14 for designation as underperforming or chronically underperforming. Not more than 5 per cent of

15 the public schools in the commonwealth may be designated as underperforming or chronically  
16 underperforming at any one time. If the department is no longer using the combined composite  
17 performance index as a measure of school and district performance, the department shall use the  
18 subsequently developed measure to determine the lowest 20 per cent of schools. Before a school  
19 is deemed chronically underperforming by the commissioner, a school must be deemed  
20 underperforming and fail to improve.

21 In adopting such regulations, the board shall consider multiple indicators of  
22 school quality in making determinations regarding underperformance or chronic  
23 underperformance, such as (1) student attendance; (2) promotion rates; (3) graduation rates; or  
24 (4) the lack of demonstrated significant improvement for 2 or more consecutive years in core  
25 academic subjects, either in the aggregate or among subgroups of students, including  
26 designations based special education, low-income, English language proficiency and racial  
27 classifications.

28 An underperforming or chronically underperforming school described in the  
29 following subsections shall operate in accordance with the provisions of law regulating other  
30 public schools, except as such provisions may conflict with the provisions of this section or the  
31 provisions of any innovation plans created thereunder. Any student enrolled in a school when it  
32 is designated as underperforming or chronically underperforming shall retain the ability to  
33 remain enrolled in such school if such student chooses to do so.

34 (b) Upon the designation of a school as an underperforming school, the  
35 superintendent of the district, in consultation with the commissioner, shall create an innovation  
36 plan for the school pursuant to the provisions of subsections (b) to (e), inclusive.

37 Prior to the creation of an innovation plan, the superintendent shall convene a local  
38 stakeholder group of not more than 11 individuals for the purpose of soliciting recommendations  
39 on the content of such plan to maximize the rapid academic achievement of students at the  
40 school. Such group shall consist of not less than the following individuals: (1) the commissioner  
41 or a designee; (2) the chair of the school committee or a designee; (3) the president of the local  
42 teachers union or a designee; (4) an administrator from the school, who may be the principal,  
43 chosen by the superintendent; (5) a teacher from the school chosen by the faculty of the school;  
44 (6) a parent from the school chosen by the local parent organization; (7) representatives of  
45 applicable state and local social service, health, and child welfare agencies chosen by the  
46 superintendent; and (8) as applicable, representatives of state and local workforce development  
47 agencies, chosen by the superintendent. If the school or district does not have a parent  
48 organization or if such organization does not select a parent, the superintendent shall select the  
49 parent from among volunteers from the school. The superintendent shall convene such group  
50 within 30 days of the commissioner designating a school as underperforming, and such group  
51 shall make its recommendations to the superintendent within 45 days of its initial meeting.  
52 Meetings of the local stakeholder group shall be open to the public, and the recommendations  
53 submitted to the superintendent pursuant to this subsection shall be publicly available  
54 immediately upon their submission.

55 (c) In creating the innovation plan required in subsection (b) the superintendent shall  
56 include, after considering the recommendations of the local stakeholder group, provisions  
57 intended to maximize the rapid academic achievement of students at the school and shall, to the  
58 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data  
59 collected pursuant to section 11 or a school or district review performed pursuant to section 55A

60 of chapter 15; (2) student achievement on the Massachusetts comprehensive assessment system;  
61 (3) other measures of student achievement, as appropriate; (4) student promotion and graduation  
62 rates; (5) achievement data for different subgroups of students, including low-income students as  
63 defined in chapter 70, limited English proficient students, and students receiving special  
64 education; and (6) student attendance and dismissal rates.

65 The superintendent shall also include, after considering the recommendations of the local  
66 stakeholder group, the following: (1) steps to address social service and health needs of students  
67 at the school, and their families, in order to help students arrive and remain at school ready to  
68 learn; (2) steps to improve or expand child welfare services and, as appropriate, law enforcement  
69 services in the school community, in order to promote a safe and secure learning environment;  
70 (3) as applicable, steps to improve workforce development services provided to students at the  
71 school, and their families, in order to provide students and families with meaningful employment  
72 skills and opportunities; (4) steps to address achievement gaps for limited English proficient,  
73 special education and low-income students, as applicable; and (5) a budget for the school,  
74 including any additional funds to be provided by the district, commonwealth, federal government  
75 or other sources.

76 The secretaries of health and human services, labor and workforce development, public  
77 safety and security, and other applicable state and local social service, health, and child welfare  
78 officials shall coordinate with the superintendent regarding the implementation of strategies  
79 pursuant to clauses (1) to (3), inclusive of the preceding paragraph that are included in a final  
80 innovation plan and shall, subject to appropriation, reasonably support such implementation  
81 consistent with the requirements of state and federal law applicable to the relevant programs that

82 each such official is responsible for administering. The secretary of education and commissioner  
83 shall assist the superintendent in facilitating such coordination.

84 To assess the school across multiple measures of school performance and student  
85 success, the innovation plan shall include measurable annual goals including, but not limited to:  
86 (1) student attendance; (2) student safety and discipline; (3) student promotion and graduation;  
87 (4) student achievement on the Massachusetts comprehensive assessment system; (5) progress in  
88 areas of academic underperformance; (6) progress among subgroups of students, including low-  
89 income students as defined by chapter 70, limited English proficient students, and students  
90 receiving special education; (7) reduction of achievement gaps among different groups of  
91 students; (8) student acquisition and mastery of 21st-century skills; (9) development of college  
92 readiness, including at the elementary and middle school levels; (10) parent and family  
93 engagement; (11) building a culture of academic success among students; and (12) building a  
94 culture of student support and success among school faculty and staff.

95 (d) In creating the innovation plan, the superintendent may, after considering the  
96 recommendations of the group of stakeholders: (1) expand, alter, or replace the curriculum of the  
97 school, including the implementation of research-based early literacy programs and the teaching  
98 of advanced placement courses, if the school does not already have such programs or courses; (2)  
99 reallocate the uses of the existing budget of the school; (3) provide additional funds to the school  
100 from the budget of the district, if the school does not already receive funding from the district not  
101 less than the average per pupil funding received for students of the same classification and grade  
102 level in the district; (4) provide funds, subject to appropriation and following consultation with  
103 applicable local unions, to increase the salary of any administrator or teacher in the school, in  
104 order to attract and retain highly qualified administrators or teachers or to reward administrators

105 or teachers who work in underperforming schools that achieve the annual goals set forth in the  
106 innovation plan; (5) expand the school day or school year of the school; (6) for an elementary  
107 school, add pre-kindergarten and full-day kindergarten classes, if the school does not already  
108 have such classes; (7) following consultation with applicable local unions, require the principal  
109 and all administrators, teachers, and staff to reapply for their positions in the school, with full  
110 discretion vested in the superintendent regarding his consideration of and decisions on any such  
111 reapplications; (8) limit, suspend, or change 1 or more school district policies, as such policies  
112 relate to the school; (9) include a provision of job-embedded professional development for  
113 teachers at the school, emphasizing strategies that involve teacher input and feedback; (10)  
114 provide increased opportunities for teacher planning time and collaboration focused on  
115 improving student instruction; (11) establish a plan for professional development for  
116 administrators at the school, with an emphasis on strategies that develop leadership skills and use  
117 the principles of distributive leadership; (12) establish steps to assure a continuous pipeline of  
118 high expertise teachers by aligning the following processes with the common core of  
119 professional knowledge and skill: hiring, induction, teacher evaluation, professional  
120 development, teacher advancement, school culture, and organizational structure; (13) develop a  
121 strategy to search for and study best practices in areas of demonstrated deficiency in the school;  
122 (14) establish strategies to address mobility and transiency among the student population of the  
123 school; or (15) include additional components, at the discretion of the superintendent, based on  
124 the reasons why the school was designated as underperforming and the recommendations of the  
125 group of stakeholders in subsection (b).

126 If the superintendent does not accept an application submitted pursuant to clause (7) or if  
127 an employee does not submit such an application, the principal, administrator, teacher, or staff

128 member shall retain his seniority and have 12 months to obtain an open position in the school  
129 district for which the employee is qualified, but shall not be guaranteed placement in any such  
130 open position. Such employee shall not have priority over any other applicant and shall not have  
131 bumping rights, so-called. A superintendent may offer professional development during this  
132 time. If such a principal, administrator, teacher, or staff member has not obtained a new position  
133 within 12 months, his employment shall be terminated.

134 In schools with limited English proficient students, the professional development and  
135 planning time for teachers and administrators identified in clauses (9), (10) and (11) shall include  
136 specific strategies and content designed to maximize the rapid academic achievement of limited  
137 English proficient students at the school.

138 (e) Within 30 days of the local stakeholder group making recommendations pursuant  
139 to subsection (b), the superintendent shall submit an innovation plan to the local stakeholder  
140 group, the school committee, and the commissioner, all of whom may propose modifications to  
141 the plan. The superintendent shall make such plan immediately available to the public upon  
142 submission. The stakeholder group, the school committee, and the commissioner shall submit  
143 any proposed modifications to the superintendent not more than 30 days after the date of  
144 submission of the innovation plan. Such proposed modifications shall be made public  
145 immediately upon their submission to the superintendent. The superintendent shall consider and  
146 incorporate such modifications into the plan if the superintendent determines that inclusion of  
147 such modifications would further promote the rapid academic achievement of students. The  
148 superintendent may alter or reject proposed modifications submitted pursuant to this subsection.  
149 Not more than 30 days after receiving any proposed modifications, the superintendent shall issue

150 a final innovation plan for the school and shall make such plan immediately available to the  
151 public.

152 (f) Not more than 30 days of the issuance of a final innovation plan pursuant to  
153 subsection (e), a school committee or local teachers union may appeal to the commissioner  
154 regarding 1 or more components of such plan, including the absence of 1 or more modifications  
155 proposed pursuant to subsection (e). The commissioner may, in consultation with the  
156 superintendent, modify the plan if he determines that: (1) such modifications would further  
157 promote the rapid academic achievement of students in the applicable school; (2) a component of  
158 the plan was included, or a modification was excluded, on the basis of demonstrably false  
159 information or evidence; or (3) the superintendent failed to meet the requirements of subsections  
160 (b) to (e), inclusive. The decision of the commissioner regarding an appeal under this subsection  
161 shall be made within 30 days and shall be final.

162 (g) If the superintendent deems it necessary to maximize the rapid academic  
163 achievement of students at the school by altering the compensation, hours, and working  
164 conditions of the administrators, teachers, and staff at the school or other provisions of any  
165 contract or collective bargaining agreement applicable to such administrators, teachers, and staff,  
166 the superintendent may request that the school committee and any union bargain or reopen the  
167 bargaining of the relevant collective bargaining agreement to facilitate such achievement. Such  
168 bargaining shall be conducted in good faith and completed no later than 40 days from the date on  
169 which the superintendent requested the parties to bargain. The agreement shall be subject to  
170 ratification by a majority of the bargaining unit members in the school who will be subject to  
171 such agreement. If an agreement is not reached, or the agreement has not been so ratified 10  
172 days after its completion, the superintendent shall have the authority to declare an impasse and



173 unilaterally implement his last, best offer concerning proposed changes to the collective  
174 bargaining agreement; provided, however, that the superintendent shall not reduce the  
175 compensation and benefits of any administrator, teacher, or staff member unless the hours of  
176 such person are proportionately reduced.

177         If the superintendent deems it necessary to maximize the rapid academic achievement of  
178 students at the school by altering the terms and length of the contract of the principal at such  
179 school, the superintendent may renegotiate the terms and length of the contract to facilitate such  
180 achievement. Such negotiation shall be completed no later than 40 days from the date on which  
181 the superintendent requested the parties to negotiate. If an agreement has not been reached after  
182 40 days, the superintendent shall have the authority to implement the proposed changes to the  
183 contract.

184         (h)       The superintendent may, under the circumstances described in this subsection,  
185 select an external receiver to operate the school and implement the innovation plan or to assist  
186 the superintendent with such implementation. The superintendent may appoint such receiver if  
187 he determines that conditions exist in the district that are likely to negatively affect his ability to  
188 implement such plan successfully. A school committee may appeal to the commissioner the  
189 decision of the superintendent to appoint an external receiver pursuant to this subsection. The  
190 commissioner may reverse such decision only if he determines that the superintendent made the  
191 decision on the basis of demonstrably false information or evidence. A receiver shall be a non-  
192 profit entity or an individual with a demonstrated record of success in improving low-performing  
193 schools or the academic performance of disadvantaged students. A receiver shall be subject to  
194 chapter 30A, section 11A ½ and chapter 66. A receiver who is an individual shall be subject to  
195 chapter 268A.

196 (I) any external receiver selected by the superintendent to operate a school shall have  
197 full managerial and operational control over such school as provided in the innovation plan. For  
198 all other purposes, the school district in which the school is located shall remain the employer of  
199 record.

200 (j) Each innovation plan shall be authorized for a period of not more than 3 years, subject  
201 to the provisions of subsection (k). The superintendent or external receiver, as applicable, may  
202 develop additional components of the innovation plan and shall develop annual goals for each  
203 component of the plan. The superintendent or external receiver, as applicable, shall be  
204 responsible for meeting the goals of the plan.

205 (k) Each school designated by the commissioner as underperforming pursuant to  
206 subsection (a) shall be reviewed by the superintendent, in consultation with the principal of said  
207 school, on not less than an annual basis. The purpose of said review shall be to determine  
208 whether the school has met the annual goals in its innovation plan and to assess the overall  
209 implementation of the innovation plan. The review shall be in writing and shall be submitted to  
210 the commissioner and school committee no later than July 1 for the preceding school year. Such  
211 review shall be submitted in a format determined by the department of elementary and secondary  
212 education.

213 If the commissioner determines that the school has met the annual performance goals  
214 stated in the innovation plan, the review shall be deemed sufficient and the implementation of the  
215 innovation plan shall continue. If the commissioner determines that the school has not met 1 or  
216 more goals in the innovation plan and that failure to meet such goals may be corrected through  
217 reasonable modification of the plan, the superintendent may amend the innovation plan. Where

218 the commissioner determines that the school has substantially failed to meet 1 or more goals in  
219 the plan, the commissioner may appoint an examiner to conduct an evaluation of the school's  
220 implementation of the innovation plan.

221 In any case in which the commissioner determines that the school has substantially failed  
222 to meet multiple goals in the plan, the commissioner may also require changes to the innovation  
223 plan to be implemented by the superintendent in the following year. If such changes to the  
224 innovation plan require changes in a collective bargaining agreement applicable to  
225 administrators, teachers, or staff in the school, the bargaining procedure set forth in subsection  
226 (g) shall be followed. In the case of an underperforming school operated by an external receiver,  
227 the commissioner may require the superintendent to terminate such receiver and develop a new  
228 innovation plan. The superintendent shall not terminate such receiver before the completion of  
229 the first full school year of the operation of the underperforming school.

230 (l) Upon the expiration of an innovation plan, the commissioner shall conduct a  
231 review of the school to determine whether the school has improved sufficiently, requires further  
232 improvement, or has failed to improve. On the basis of such review, the commissioner may  
233 determine that (1) the school has improved sufficiently for the designation of the school as  
234 underperforming to be removed; (2) the school has improved but the school remains  
235 underperforming, in which case the superintendent may, with the approval of the commissioner,  
236 renew the plan or create a new or modified plan for an additional period of not more than 3  
237 years; or (3) consistent with the requirements of subsection (a), the school is chronically  
238 underperforming. The commissioner may recommend the appointment of an external receiver  
239 by the superintendent if the commissioner believes that a new or modified innovation plan  
240 implemented by the superintendent will not result in rapid improvement. In carrying out the

241 provisions of this subsection, the superintendent shall: (1) in the case of a renewal of an  
242 innovation plan, determine subsequent annual goals for each component of the plan with the  
243 input of the local stakeholder group as defined in subsection (b); or (2) create a new or modified  
244 innovation plan as necessary, consistent with the requirements of this section.

245 (m) Upon the designation of a school as chronically underperforming pursuant to this  
246 section, the commissioner shall create an innovation plan for the school pursuant to the  
247 provisions of subsections (m) to (p), inclusive.

248 Before creating the innovation plan required in this subsection, the commissioner shall  
249 convene a local stakeholder group of not more than 11 individuals for the purpose of soliciting  
250 recommendations on the content of such plan in order to maximize the rapid academic  
251 achievement of students. Such group shall consist of not less than the following individuals: (1)  
252 the superintendent or a designee; (2) the chair of the school committee or a designee; (3) the  
253 president of the local teachers union or a designee; (4) an administrator from the school, who  
254 may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the  
255 faculty of the school; (6) a parent from the school chosen by the local parent organization; (7)  
256 representatives of applicable state and local social service, health, and child welfare agencies,  
257 chosen by the commissioner; and (8) as appropriate, representatives of state and local workforce  
258 development agencies, chosen by the commissioner. If the school or district does not have a  
259 parent organization or if such organization does not select a parent, the commissioner shall select  
260 the parent from among volunteers from the school. The commissioner shall convene such group  
261 within 30 days of his designating a school as chronically underperforming, and such group shall  
262 make its recommendations to the commissioner within 45 days of its initial meeting. Meetings  
263 of the local stakeholder group shall be open to the public, and the recommendations submitted to

264 the commissioner pursuant to this subsection shall be publicly available immediately upon their  
265 submission.

266 (n) In creating the innovation plan required in subsection (m), the commissioner shall  
267 include, after considering the recommendations of the local stakeholder group, provisions  
268 intended to maximize the rapid academic achievement of students at the school and shall, to the  
269 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data  
270 collected pursuant to section 1I or a school or district review performed pursuant to section 55A  
271 of chapter 15; (2) student achievement on the Massachusetts comprehensive assessment system;  
272 (3) other measures of student achievement, as appropriate; (4) student promotion and graduation  
273 rates; (5) achievement data for different subgroups of students, including low-income students as  
274 defined by chapter 70, limited English proficient students, and students receiving special  
275 education; and (6) student attendance and dismissal rates.

276 The commissioner shall also include in the innovation plan, after considering the  
277 recommendations of the local stakeholder group, the following: (1) steps to address social  
278 service and health needs of students at the school, and their families, in order to help students  
279 arrive and remain at school ready to learn; (2) steps to improve or to expand child welfare  
280 services and, as appropriate, law enforcement services in the school community, in order to  
281 promote a safe and secure learning environment; (3) as applicable, steps to improve workforce  
282 development services provided to students at the school, and their families, in order to provide  
283 students and families with meaningful employment skills and opportunities; (4) steps to address  
284 achievement gaps for limited English proficient, special education and low-income students, as  
285 applicable; and (5) a budget for the school, including any additional funds to be provided by the  
286 district, commonwealth, federal government, or other sources.

287           The secretaries of health and human services, labor and workforce development, public  
288 safety and security, and other applicable state and local social service, health, and child welfare  
289 officials shall coordinate with the secretary of education and the commissioner regarding the  
290 implementation of strategies pursuant to clauses (1) to (3), inclusive, of this subsection that are  
291 included in a final innovation plan and shall, subject to appropriation, reasonably support such  
292 implementation consistent with the requirements of state and federal law applicable to the  
293 relevant programs that each such official is responsible for administering.

294           In order to assess the school across multiple measures of school performance and student  
295 success, the innovation plan shall include measurable annual goals regarding, but not limited to:  
296 (1) student attendance; (2) student safety and discipline; (3) student promotion and graduation;  
297 (4) student achievement on the Massachusetts comprehensive assessment system; (5) progress in  
298 areas of academic underperformance; (6) progress among subgroups of students, including low-  
299 income students as defined by chapter 70, limited English proficient students, and students  
300 receiving special education; (7) reduction of achievement gaps among different groups of  
301 students; (8) student acquisition and mastery of 21st-century skills; (9) development of college  
302 readiness, including at the elementary and middle school levels; (10) parent and family  
303 engagement; (11) building a culture of academic success among students; and (12) building a  
304 culture of student support and success among school faculty and staff.

305           (o)    In creating the innovation plan required in subsection (m), the commissioner may,  
306 after considering the recommendations of the group of stakeholders: (1) expand, alter, or replace  
307 the curriculum of the school, including the implementation of research-based early literacy  
308 programs and the teaching of advanced placement courses, if the school does not already have  
309 such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide

310 additional funds to the school from the budget of the district, if the school does not already  
311 receive funding from the district at least equal to the average per pupil funding received for  
312 students of the same classification and grade level in the district; (4) provide funds, subject to  
313 appropriation, to increase the salary of any administrator or teacher in the school, in order to  
314 attract and retain highly qualified administrators or teachers or to reward administrators or  
315 teachers who work in chronically underperforming schools that achieve the annual goals set forth  
316 in the innovation plan; (5) expand the school day or school year of the school; (6) for an  
317 elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not  
318 already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or  
319 collective bargaining agreement, as such contract or agreement applies to the school, which  
320 change may include the adoption of model provisions identified by the commissioner from  
321 among existing contracts or collective bargaining agreements in the commonwealth; provided,  
322 however, that the commissioner shall not reduce the compensation of any administrator, teacher  
323 or staff member unless the hours of such person are proportionately reduced; (8) require the  
324 principal and all administrators, teachers, and staff to reapply for their positions in the school,  
325 with full discretion vested in the commissioner regarding his consideration of and decisions on  
326 any such reapplications; (9) limit, suspend, or change 1 or more school district policies, as such  
327 policies relate to the school; (10) include a provision of job-embedded professional development  
328 for teachers at the school, emphasizing strategies that involve teacher input and feedback; (11)  
329 provide for increased opportunities for teacher planning time and collaboration focused on  
330 improving student instruction; (12) put in place a plan for professional development for  
331 administrators at the school, emphasizing strategies that develop leadership skills and use the  
332 principles of distributive leadership; (13) establish steps to assure a continuous pipeline of high

333 expertise teachers by aligning the following processes with the common core of professional  
334 knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher  
335 advancement, school culture, and organizational structure; (14) develop a strategy to search for  
336 and study best practices in areas of demonstrated deficiency in the school; (15) establish  
337 strategies to address mobility and transiency among the student population of the school; or (16)  
338 include additional components, at the discretion of the commissioner, based on the reasons why  
339 the school was designated as chronically underperforming and the recommendations of the group  
340 of stakeholders in subsection (m).

341           If the commissioner proposes to reallocate funds to the school from the district's budget  
342 pursuant to clause (3), the commissioner shall notify the school committee, in writing, of the  
343 amount of and rationale for such reallocation.

344           If the commissioner does not accept an application submitted pursuant to clause (8) or if  
345 an employee does not submit such an application, the principal, administrator, teacher, or staff  
346 member will retain his seniority and have 12 months to obtain an open position in the school  
347 district for which the employee is qualified, but shall not be guaranteed placement in any such  
348 open position. Such an employee seeking an open position shall not have priority over any other  
349 applicant and shall not have bumping rights, so called. The commissioner may offer  
350 professional development during this time. If such a principal, administrator, teacher, or staff  
351 member has not obtained a new position within 12 months, his employment shall be terminated.

352           For a school with limited English proficient students, the professional development and  
353 planning time for teachers and administrators identified in clauses (10), (11) and (12) shall



354 include specific strategies and content designed to maximize the rapid academic achievement of  
355 limited English proficient students at the school.

356 (p) Within 30 days of the local stakeholder group making recommendations pursuant  
357 to subsection (m), the commissioner shall submit an innovation plan to the local stakeholder  
358 group, the superintendent, and the school committee, all of whom may propose modifications to  
359 the plan. The commissioner shall make such plan immediately available to the public upon said  
360 submission. The stakeholder group, the superintendent and the school committee shall submit  
361 any proposed modifications to the commissioner not more than 30 days after the date of  
362 submission of the innovation plan. Such proposed modifications shall be made public  
363 immediately upon their submission to the commissioner. The commissioner shall consider and  
364 incorporate such modifications into the plan if the commissioner determines that inclusion of  
365 such modifications would further promote the rapid academic achievement of students at the  
366 applicable school. The commissioner may alter or reject modifications submitted. Not more  
367 than 30 days after receiving any proposed modifications pursuant to this subsection, the  
368 commissioner shall issue a final innovation plan for the school and shall make such plan  
369 immediately available to the public.

370 (q) Within 30 days of the issuance of a final innovation plan pursuant to subsection  
371 (p), a superintendent, school committee, or local teachers union may appeal to the board of  
372 elementary and secondary education regarding 1 or more components of such plan, including the  
373 absence of 1 or more modifications proposed pursuant to subsection (p). A majority of the  
374 board, as fully constituted, may vote to modify the plan if the board determines that: (1) such  
375 modifications would further promote the rapid academic achievement of students in the  
376 applicable school; (2) a component of the plan was included, or a modification was excluded, on

377 the basis of demonstrably false information or evidence; or (3) the commissioner failed to meet  
378 the requirements of subsections (m) to (p), inclusive. The decision of the board regarding an  
379 appeal under this subsection shall be made within 30 days and shall be final.

380 (r) In the case of a chronically underperforming school, the commissioner  
381 may, under the circumstances described in this subsection, send a targeted assistance team to the  
382 school to assist the superintendent with the implementation of the innovation plan, require the  
383 superintendent to implement the innovation plan, or select an external receiver to operate the  
384 school and implement the innovation plan. The commissioner may appoint such external  
385 receiver if he determines that: (1) the superintendent is unlikely to implement such plan  
386 successfully or (2) conditions exist in the district that are likely to negatively affect the ability of  
387 the superintendent to implement such plan successfully. A superintendent may appeal to the  
388 board of elementary and secondary education the decision of the commissioner to appoint an  
389 external receiver pursuant to this subsection. A majority of the board, as fully constituted, may  
390 vote to reverse such decision if the board determines that the commissioner made the decision on  
391 the basis of demonstrably false information or evidence. A receiver shall be a non-profit entity  
392 or an individual with a demonstrated record of success in improving low performing schools or  
393 the academic performance of disadvantaged students. A receiver shall be subject to chapter 30A,  
394 section 11A ½ and chapter 66. An external receiver who is an individual shall also be subject to  
395 chapter 268A.

396 The commissioner may select said external receiver upon his designation of a school as  
397 chronically underperforming. Said external receiver may serve as the commissioner's designee  
398 for the purpose of creating a school's innovation plan pursuant to subsections (m) to (p),  
399 inclusive.

400 (s) Any external receiver selected by the commissioner to operate a chronically  
401 underperforming school shall have full managerial and operational control over such school as  
402 provided in the innovation plan. For all other purposes, the school district in which the school is  
403 located shall remain the employer of record.

404 (t) Each innovation plan shall be authorized for a period of not more than 3 years,  
405 subject to the provisions of subsection (v). The superintendent or external receiver, as  
406 applicable, may develop additional components of the plan and shall develop annual goals for  
407 each component of the plan, all of which shall be approved by the commissioner. The  
408 superintendent or external receiver, as applicable, shall be responsible for meeting the goals of  
409 the innovation plan.

410 (u) The commissioner or external receiver, as applicable, shall provide a written report to  
411 the school committee on a quarterly basis to provide specific information about the progress  
412 being made on the implementation of the school's innovation plan. One of the quarterly written  
413 reports shall be the annual evaluation pursuant to subsection (v).

414 (v) The commissioner shall evaluate each chronically underperforming school at least  
415 annually. The purpose of such evaluation shall be to determine whether the school has met the  
416 annual goals in its innovation plan and to assess the implementation of the plan. The review shall  
417 be in writing and shall be submitted to the superintendent and the school committee no later than  
418 July 1 for the preceding school year.

419 If the commissioner determines that the school has met the annual performance goals  
420 stated in the innovation plan, the review shall be deemed sufficient and the implementation of the

421 innovation plan shall continue. Where the commissioner determines that the school has not met  
422 1 or more goals in the plan, the commissioner may modify the plan.

423 Where the commissioner determines that the school has substantially failed to meet  
424 multiple goals in the plan, the commissioner may: (1) for a school operated by a superintendent,  
425 appoint an external receiver, as defined in subsection (r), to operate the school or (2) for a school  
426 operated by an external receiver terminate the contract of the external receiver. The  
427 commissioner shall not terminate such external receiver before the completion of the first full  
428 school year of the operation of the chronically underperforming school.

429 (w) Upon the expiration of an innovation plan for a chronically underperforming  
430 school, the commissioner shall conduct a review of the school to determine whether the school  
431 has improved sufficiently, requires further improvement, or failed to improve. After the review,  
432 the commissioner may: (1) renew the plan with the superintendent or external receiver, as  
433 applicable, for an additional period of not more than 3 years based on a superintendent's or  
434 external receiver's success in meeting the terms of the plan; (2) appoint an external receiver, as  
435 defined in subsection (r), to operate the school for a school that is operated by a superintendent  
436 and remains chronically underperforming; (3) transfer the operation of the school from the  
437 receiver to the applicable superintendent or to another external receiver for a chronically  
438 underperforming school that is operated by an external receiver and remains chronically  
439 underperforming, or (4) determine that the school has sufficiently improved and remove the  
440 designation of chronically underperforming school. In carrying out the provisions of this  
441 subsection, the commissioner shall: (1) jointly determine subsequent annual goals for each  
442 component of the plan with the superintendent or external receiver for a renewal of an innovation

443 plan; or (2) create a new or modified innovation plan as necessary, consistent with the  
444 requirements of this section.

445 (x) The board of elementary and secondary education shall adopt regulations  
446 regarding: (1) the conditions under which an underperforming or chronically underperforming  
447 school shall no longer be designated as an underperforming or chronically underperforming  
448 school and (2) the transfer of the operation of an underperforming or a chronically  
449 underperforming school from a superintendent or an external receiver, as applicable, to the  
450 school committee. Such regulations shall include provisions to allow a school to retain measures  
451 adopted in an innovation plan if, in the judgment of the commissioner, such measures would  
452 contribute to the continued improvement of the school.

453 (y) Annually, the commissioner shall report to the joint committee on education, the  
454 house and senate committees on ways and means, the speaker of the house and the senate  
455 president on the implementation and fiscal impact of this section and section 1K. Such report  
456 shall, at a minimum, include a list of all schools currently designated as underperforming or  
457 chronically unperforming; a list of all: districts currently designated as chronically  
458 underperforming; the plans and timetable for returning such schools and districts to the local  
459 school committee; and strategies used in each of the schools and districts to maximize the rapid  
460 academic achievement of students.

461 SECTION 2. Said chapter 69 of the General Laws is hereby amended by striking out  
462 section 1K, as so appearing, and inserting in place thereof the following section:-

463 Section 1K.

464 (a) Upon a determination by the board of elementary and secondary education,  
465 pursuant to regulations adopted by the board, that a school district has scored in the lowest 5 per  
466 cent statewide in the combined composite performance index for English language arts and math,  
467 the commissioner shall appoint an independent fact-finding team to determine the reasons for the  
468 underperformance and the prospects for improvement. The fact-finding team shall include at  
469 least 1 person with expertise in the academic achievement of limited English proficient students.  
470 Upon review of the findings of the fact-finding team, the board may designate the district  
471 chronically underperforming on the basis of (1) student performance data collected pursuant to  
472 section 11, (2) district review performed pursuant to section 55A, or (3) regulations adopted by  
473 the board of elementary and secondary education. Following such a designation, the board shall  
474 appoint an external receiver for the district with all the powers of the superintendent and school  
475 committee. The external receiver shall be a non-profit entity or an individual with a  
476 demonstrated record of success in improving low-performing schools or districts or the academic  
477 performance of disadvantaged students, and shall report directly to the commissioner. Any  
478 external receiver appointed by the board to operate a district under this subsection shall have full  
479 managerial and operational control over such district; provided, however, that the school district  
480 shall remain the employer of record for all other purposes. A receiver shall be subject to chapter  
481 30A section 11A1/2 and chapter 66. An external receiver who is an individual shall also be  
482 subject to chapter 268A.

483 Not more than 2 per cent of the commonwealth's school districts may be designated as  
484 chronically underperforming at any given time.

485 In adopting regulations authorizing the board to designate a district as chronically  
486 underperforming, the board shall ensure that such regulations consider multiple indicators of

487 district quality. These indicators shall include: student attendance, student promotion and  
488 graduation rates in the district, or the lack of demonstrated significant improvement for 2 or more  
489 consecutive years in core academic subjects, either in the aggregate or among subgroups of  
490 students, including designations based on special education classification, low-income, English  
491 language proficiency, and racial classifications.

492 (b) The commissioner and the external receiver shall create an innovation plan to  
493 promote the rapid improvement of the chronically underperforming district. The plan shall  
494 specifically focus on the school or schools in the district that have been labeled chronically  
495 underperforming pursuant to chapter 69 section 1J and the district policies that have contributed  
496 to chronic underperformance.

497 Before creating the innovation plan required in this subsection, the commissioner and  
498 external receiver shall convene a local stakeholder group of not more than 11 individuals for the  
499 purpose of soliciting recommendations on the content of such plan in order to maximize the  
500 rapid academic achievement of students. Such group shall consist of not less than the following  
501 individuals: (1) the superintendent, or a designee; (2) the chair of the school committee, or a  
502 designee; (3) the president of the local teachers union, or a designee; (4) a selection of  
503 administrators from the district, chosen by the commissioner from among volunteers from the  
504 district; (5) a selection of teachers from the district, chosen by the local teachers union; (6) a  
505 selection of parents from the district chosen by the local parent organization; (7) representatives  
506 of applicable state and local social service, health, and child welfare agencies chosen by the  
507 commissioner; and (8) as appropriate, representatives of state and local workforce development  
508 agencies chosen by the commissioner. If the district does not have a parent organization or if  
509 such organization does not select a parent, the commissioner shall select the parents from among

510 volunteers from the district. The commissioner and receiver shall convene such group within 30  
511 days of the board designating a district as chronically underperforming, and such a group shall  
512 make its recommendations to the commissioner and receiver within 45 days of its initial  
513 meetings. Meetings of the local stakeholder group shall be open to the public, and the  
514 recommendations submitted to the commissioner and receiver pursuant to this subsection shall  
515 be publicly available immediately upon their submission.

516 (c) In creating the innovation plan, the commissioner and receiver shall include  
517 measures intended to maximize the rapid academic achievement of students in the district and  
518 shall, to the extent practicable, base the plan on student outcome data, including, but not limited  
519 to: (1) data collected pursuant to section 1I of this chapter, or a school or district review  
520 performed pursuant to section 55A of chapter 15 of the General Laws; (2) student achievement  
521 on the Massachusetts Comprehensive Assessment System; (3) other measures of student  
522 achievement, as appropriate; (4) student promotion and graduation rates; (5) achievement data  
523 for different subgroups of students, including low-income students as defined in chapter 70,  
524 limited English proficient students, and students receiving special education; and (6) student  
525 attendance and dismissal rates. In creating the innovation plan required in subsection (b), the  
526 commissioner and receiver shall include, after considering the recommendations of the local  
527 stakeholder group, the following: (1) steps to address social service and health needs of students  
528 in the district, and their families, in order to help students arrive and remain at school ready to  
529 learn; (2) steps to improve or expand child welfare services and, as appropriate, law enforcement  
530 services in the school district community, in order to promote a safe and secure learning  
531 environment; (3) as applicable, steps to improve workforce development services provided to  
532 students in the district, and their families, in order to provide students and families with



533 meaningful employment skills and opportunities; (4) steps to address achievement gaps for  
534 limited English proficient, special education and low-income students, as applicable; and (5) a  
535 budget for the district including any additional funds to be provided by the commonwealth,  
536 federal government or other sources.

537         The secretaries of health and human services, public safety and security, labor and  
538 workforce development, and other applicable state and local social service, health, and child  
539 welfare officials shall coordinate with the secretary of education and the commissioner regarding  
540 the implementation of strategies pursuant to clauses (1) through (3) of this subsection that are  
541 included in an innovation plan and shall, subject to appropriation, reasonably support such  
542 implementation consistent with the requirements of state and federal law applicable to the  
543 relevant programs that each such official is responsible for administering.

544         In order to assess the district across multiple measures of district performance and student  
545 success, the innovation plan shall include measurable annual goals regarding, but not limited to,  
546 the following: (1) student attendance; (2) student safety and discipline; (3) student promotion and  
547 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System;  
548 (5) progress in areas of academic underperformance; (6) progress among subgroups of students,  
549 including low-income students as defined by chapter 70, limited English proficient students, and  
550 students receiving special education; (7) reduction of achievement gaps among different groups  
551 of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college  
552 readiness, including at the elementary and middle school levels; (10) parent and family  
553 engagement; (11) building a culture of academic success among students; and (12) building a  
554 culture of student support and success among faculty and staff.

555 (d) In creating the innovation plan under subsection (b), the commissioner and the  
556 receiver may, after considering the recommendations of the group of stakeholders: (1) expand,  
557 alter, or replace the curriculum of the district or of a school in the district, including the  
558 implementation of research-based early literacy programs and the teaching of advanced  
559 placement courses, if the district or schools in the district do not already have such programs or  
560 courses; (2) reallocate the uses of the existing budget of the district; (3) provide funds, subject to  
561 appropriation, to increase the salary of any administrator or teacher in the district, in order to  
562 attract and retain highly qualified administrators or teachers or to reward administrators or  
563 teachers who work in chronically underperforming districts that achieve the annual goals set  
564 forth in the innovation plan; (4) expand the school day or school year of schools in the district;  
565 (5) limit, suspend or change 1 or more provisions of any contract or collective bargaining  
566 agreement in the district, which change may include the adoption of model provisions identified  
567 by the commissioner from among existing contracts or collective bargaining agreements in the  
568 Commonwealth, provided, however, that the commissioner shall not reduce the compensation of  
569 any administrator, teacher, or staff member unless the hours of such person are proportionately  
570 reduced; (6) add pre-kindergarten and full-day kindergarten classes, if the district does not  
571 already have such classes; (7) require all district administrators, principals, school administrators,  
572 teachers and staff to reapply for their positions within the district, with full discretion vested in  
573 the commissioner and receiver regarding their consideration of and decisions on any such  
574 reapplications; (8) limit, suspend, or change 1 or more school district policies; (9) include a  
575 provision of job-embedded professional development for teachers in the district, with an  
576 emphasis on strategies that involve teacher input and feedback; (10) provide for increased  
577 opportunities for teacher planning time and collaboration focused on improving student

578 instruction; (11) put in place a plan for professional development for administrators in the  
579 district, with an emphasis on strategies that develop leadership skills and use the principles of  
580 distributive leadership; (12) establish steps to assure a continuous pipeline of high expertise  
581 teachers by aligning the following processes with the common core of professional knowledge  
582 and skill: hiring, induction, teacher evaluation, professional development, teacher advancement,  
583 school culture, and organizational structure; (13) develop a strategy to search for and study best  
584 practices in areas of demonstrated deficiency in the district; (14) establish strategies to address  
585 mobility and transiency among the student population of the district; or (15) include additional  
586 components, at the discretion of the commissioner and the receiver, based on the reasons why  
587 the district was designated as chronically underperforming and based on the recommendations of  
588 the local stakeholder group.

589         If the commissioner and the receiver do not accept an application submitted pursuant to  
590 clause (7) or if an employee does not submit such an application, the administrator, principal,  
591 teacher, or staff member will retain his or her seniority and have 12 months to obtain an open  
592 position in the district for which the employee is qualified, but shall not be guaranteed placement  
593 in any such open position. Such an employee seeking an open position shall not have priority  
594 over any other applicant and shall not have so-called bumping rights. The commissioner may  
595 offer professional development during this time. If such an administrator, principal, teacher, or  
596 staff member has not obtained a new position within 12 months, his or her employment will be  
597 terminated.

598         For a district with limited English proficient students, the professional development and  
599 planning time for teachers and administrators identified in clauses (9), (10) and (11) shall include

600 specific strategies and content designed to maximize the rapid academic achievement of limited  
601 English proficient students in the district.

602 (e) The innovation plan shall be authorized for a period of not more than 3 years,  
603 subject to the provisions of subsection (g). The commissioner and receiver may jointly develop  
604 additional components of the plan, and shall jointly develop annual goals for each component of  
605 the plan. The receiver shall be responsible for meeting the goals of the innovation plan.

606 (f) The commissioner and receiver shall provide a written report to the school  
607 committee on a quarterly basis to provide specific information about the progress being made on  
608 the implementation of the district's innovation plan. One of the quarterly reports shall be the  
609 annual evaluation pursuant to subsection (g).

610 (g) The commissioner shall evaluate the performance of the receiver on not less than  
611 an annual basis. The purpose of such evaluation shall be to assess the implementation of the  
612 innovation plan and determine whether the district has met the annual goals contained in the  
613 innovation plan. The evaluation shall be in writing and submitted to the board and the local  
614 school committee no later than July 1 for the preceding school year.

615 If the commissioner determines that the district has met the annual performance goals  
616 stated in the innovation plan, the evaluation shall be deemed sufficient and the implementation of  
617 the innovation plan shall continue.

618 In any case in which the commissioner determines that the receiver has not met 1 or more  
619 goals in the plan, and that the failure to meet such goals may be corrected through reasonable  
620 modification of such plan, the commissioner may amend the innovation plan, as necessary. After  
621 assessing the implementation of the innovation plan in the district, the commissioner may amend

622 the plan if the commissioner determines that such amendment is necessary in view of subsequent  
623 changes in the district that affect 1 or more components of the plan, including, but not limited to,  
624 changes to contracts, collective bargaining agreements, or school district policies. In any case in  
625 which the commissioner determines that the receiver has substantially failed to meet multiple  
626 goals in the innovation plan, the commissioner may terminate such receiver, except that such  
627 termination shall not occur before the completion of the first full school year of the receivership  
628 of the district.

629 (h) After the period of receivership, there shall be a reevaluation of a district's status  
630 under this section. The board of elementary and secondary education shall adopt regulations  
631 providing for: (1) the removal of a designation of a district as chronically underperforming; and  
632 (2) the transfer of the operation of a chronically underperforming district from an external  
633 receiver to the superintendent and school committee, based on the improvement of such district.  
634 Such regulations shall include provisions to allow a district to retain measures adopted in an  
635 innovation plan if, in the judgment of the commissioner, such measures would contribute to the  
636 continued improvement of the district. At any time after a chronically underperforming district  
637 has been placed in receivership, the school committee of such district may petition the  
638 commissioner for a determination as to whether the innovation plan adopted pursuant to  
639 subsection (b) should be modified or eliminated, and whether the school district shall no longer  
640 be designated as chronically underperforming. The decision of the commissioner shall be based  
641 on regulations adopted by the board pursuant to this subsection. A school committee may seek  
642 review by the board of elementary and secondary education of any adverse determination. The  
643 determination of the board shall be subject to judicial review in accordance with the provisions  
644 of section 14 of chapter 30A of the General Laws.

645 (I) If, on the basis of the regulations adopted by the board pursuant to subsection (h),  
646 a district has not improved sufficiently to remove the designation of such district as chronically  
647 underperforming, the commissioner may: (1) jointly determine subsequent annual goals for each  
648 component of the innovation plan with the receiver, and renew the innovation plan for an  
649 additional period of not more than 3 years or (2) create a new innovation plan, consistent with  
650 the requirements of this section.

651 (j) If a municipality has failed to fulfill its fiscal responsibilities to education under  
652 chapter 70 of the General Laws, the commissioner shall declare the school district such  
653 municipality serves as chronically underperforming, subject to the approval of the board of  
654 elementary and secondary education. The municipality's mayor or chairman of the board of  
655 selectmen shall have the opportunity to present evidence to the board. A vote by the board that a  
656 school district is chronically underperforming for fiscal reasons shall authorize the commissioner  
657 to petition the commissioner of revenue to require an increase in funds for the school district,  
658 alleging that the amount necessary in said community for the support of public schools has not  
659 been included in the annual budget appropriations. The commissioner of revenue shall  
660 determine the amount of any deficiency pursuant to the sums required under chapter 70, if any,  
661 and issue an order compelling the community to provide a sum of money equal to such  
662 deficiency. If the community does not provide a sum of money equal to such deficiency, the  
663 commissioner of revenue, in accordance with his or her powers in section 23 of chapter 59 of the  
664 General Laws, shall not approve the tax rate of the community for the fiscal year until the  
665 deficiency is alleviated. Nothing in this subsection shall be construed as creating a cause of  
666 action for educational malpractice by students or their parents, guardians or persons acting as  
667 parents.

668 If the district is declared chronically underperforming pursuant to this subsection, the  
669 provisions of this subsection shall supersede those in subsections (a) – (I).

670 SECTION 3. Chapter 71 of the General Laws, as appearing in the 2008 Official Edition,  
671 is hereby amended by inserting after section 91 the following section:-

672 Innovation Schools; approval process; innovation plan; evaluation

673 (a) An Innovation School shall be a public school, operating within a public  
674 school district, that is established for the purpose of improving school performance and student  
675 achievement through increased autonomy and flexibility. An Innovation School may be  
676 established as a new public school or as a conversion of an existing public school. Any student  
677 who is enrolled in a school at the time it is established as an Innovation School shall retain the  
678 ability to remain enrolled in such school if such student chooses to do so.

679 (b) An Innovation School may establish an advisory board of trustees. An Innovation  
680 School shall have increased autonomy and flexibility in one or more of the following areas: (1)  
681 curriculum; (2) budget; (3) school schedule and calendar; (4) staffing policies and procedures,  
682 including waivers from or modifications to contracts or collective bargaining agreements; (5)  
683 school district policies and procedures; and (6) professional development. An Innovation School  
684 shall receive each school year from the school committee the same per pupil allocation as a  
685 district school other than an Innovation School receives. An Innovation School may retain any  
686 unused funds and use such funds in subsequent school years. An Innovation School may  
687 establish a non-profit organization that may, among other things, assist the school with  
688 fundraising. A district may not reduce its funding to an Innovation School as a result of such  
689 school's fundraising activities.

690 (c) An Innovation School established pursuant to this section shall be authorized by  
691 the local school committee and shall operate according to an innovation plan, which shall  
692 articulate the areas of autonomy and flexibility under subsection (b) that the school will use. To  
693 the extent practicable, the innovation plan shall be based on student outcome data, including, but  
694 not limited to: (1) student achievement on the Massachusetts Comprehensive Assessment  
695 System; (2) other measures of student achievement, as appropriate; (3) student promotion and  
696 graduation rates; (4) achievement data for different subgroups of students, including low-income  
697 students as defined by chapter 70, limited English proficient students, and students receiving  
698 special education; and (5) student attendance and dismissal rates.

699 An Innovation School shall operate in accordance with the provisions of law regulating  
700 other public schools, except as such provisions conflict with the provisions of this section or the  
701 provisions of any innovation plans created thereunder.

702 (d) An Innovation School is a school (I) in which school faculty and leadership are  
703 primarily responsible for developing the innovation plan under which the school operates, and in  
704 which school leadership is responsible for meeting the terms of the innovation plan; or (ii) in  
705 which an external partner or partners is primarily responsible for developing the innovation plan  
706 under which the school operates, and in which the external partner or partners is responsible for  
707 meeting the terms of the innovation plan.

708 (e) Nothing in this section shall be construed as prohibiting: (1) the establishment of  
709 an Innovation School as an academy within an existing public school; (2) the establishment of an  
710 Innovation School serving students from 2 or more school districts provided that all of the  
711 provisions of this section are met by each school district; (3) the simultaneous establishment of 2



712 or more Innovation Schools as an Innovation Schools Zone within a school district; or (4) the  
713 establishment of an Innovation School as a virtual public school that provides instruction to  
714 students through distance learning, including online learning programs and courses, subject to  
715 regulations adopted by the board of elementary and secondary education.

716 (f) The following shall be eligible applicants for the purposes of establishing an  
717 Innovation School: (1) parents; (2) teachers; (3) parent-teacher organizations; (4) principals; (5)  
718 superintendents; (6) school committees; (7) teacher unions; (8) colleges and universities; (9) non-  
719 profit community-based organizations; (10) non-profit business or corporate entities; (11) non-  
720 profit charter school operators; (12) non-profit education management organizations; (13)  
721 educational collaborative; (14) consortia of these groups; and (15) any non-profit entity  
722 authorized by the commissioner. Private and parochial schools shall not be eligible to operate an  
723 Innovation School.

724 (g) The local school committee, local teachers union and superintendent of the district  
725 shall develop a process, consistent with subsections (g) through (o), for which an existing district  
726 school may be converted to an Innovation School or by which a new Innovation School may be  
727 established within the district. This process shall require that an eligible applicant proposing to  
728 establish an Innovation School prepare a prospectus regarding such proposed school. The  
729 prospectus shall include, but not be limited to, a description of: (1) whether the school will be a  
730 new school or a conversion of an existing school; (2) if the school is a new school, the proposed  
731 location of the school; (3) if the school is a conversion of an existing school, the school that is  
732 being proposed for conversion; (4) the external partners, if any, that will be involved in the  
733 school; (5) the number of students the school is anticipated to serve, and the number of staff  
734 expected to be employed at the school; (6) the overall vision for the school, including with

735 respect to improving school performance and student achievement; (7) specific needs or  
736 challenges the school will be designed to address; (8) a preliminary assessment of the autonomy  
737 and flexibility under subsection (b) that the school will seek; (9) why such flexibility is desirable  
738 to carry out the objectives of the school; (10) anticipated components of the school's innovation  
739 plan; (11) a preliminary description of the process that will be used to involve appropriate  
740 stakeholders in the development of the innovation plan; and (12) a proposed timetable for  
741 development and establishment of the proposed school.

742 (h) Upon completion of the prospectus described in subsection (g), an eligible  
743 applicant shall submit such prospectus to the superintendent, who shall within 30 days convene a  
744 screening committee consisting of the superintendent or a designee; a school committee member  
745 or a designee selected by the school committee; and a representative from the leadership of the  
746 local teachers union.

747 The screening committee shall review the prospectus for the overall purpose of  
748 determining whether the prospectus: (1) presents a sound and coherent plan for improving school  
749 performance and student achievement; (2) supports or enhances existing educational efforts in  
750 the district; and (3) reasonably can be expanded into a comprehensive innovation plan. In the  
751 case of a new school, the committee will prepare an impact statement describing how the new  
752 school will affect the children and faculty in the district. Within 30 days of receiving a  
753 prospectus, the screening committee shall decide, on the basis of a 2/3 vote, to accept or reject  
754 the prospectus, or return the prospectus to the eligible applicant for revisions. In any case in  
755 which a prospectus is rejected or returned, the screening committee shall submit a detailed  
756 explanation for such decision to the applicant. Any prospectus that is rejected or returned  
757 pursuant to this subsection may be revised and resubmitted for subsequent consideration.

758 (i) Upon the acceptance of a prospectus by the screening committee under subsection  
759 (h), within 30 days the applicant shall form an innovation plan committee of not more than 11  
760 individuals pursuant to this section. The purpose of the innovation plan committee shall be to: (1)  
761 develop the innovation plan described in subsection (c); (2) assure that appropriate stakeholders  
762 are represented in the development of the proposed Innovation School; and (3) provide  
763 meaningful opportunities for such stakeholders to contribute to the development of such school.  
764 The size and composition of the innovation plan committee shall be determined by the applicant;  
765 provided, however, that the committee shall include not less than: (1) the applicant; (2) the  
766 superintendent or a designee; (3) a school committee member or a designee; (4) a parent who has  
767 1 or more children enrolled in the school, or in the case of a new school, from the district; (5) a  
768 principal employed by the district; and (6) 2 teachers employed by the district. The applicant  
769 shall select the parent from among nominees submitted by parent-teacher organizations in the  
770 district. If the district does not contain a parent-teacher organization, or if such organization  
771 does not submit nominees, the applicant shall select the parent from among volunteers in the area  
772 or community the proposed school is expected to serve. The applicant shall select the principal  
773 and 1 teacher from among volunteers in the district, and 1 teacher from among nominees  
774 submitted by the local teachers union.

775 (j) Upon the formation of the innovation plan committee in subsection (I), such  
776 committee shall develop the innovation plan for the proposed Innovation School. The purpose of  
777 the innovation plan shall be to comprehensively articulate the areas of autonomy and flexibility  
778 under subsection (b) that the proposed school will use. The innovation plan shall include, but not  
779 be limited to: (1) a curriculum plan, which shall include a detailed description of the curriculum  
780 and related programs for the proposed school, and how such curriculum is expected to improve

781 school performance and student achievement; (2) a budget plan, which shall include a detailed  
782 description of how funds will be used differently in the proposed school to support school  
783 performance and student achievement; (3) a school schedule plan, which shall include a detailed  
784 description of the ways, if any, the program or calendar of the proposed school will be enhanced  
785 or expanded; (4) a staffing plan, which shall include a detailed description of how the school  
786 principal, administrators, faculty and staff will be recruited, employed, evaluated, and  
787 compensated in the proposed school and any proposed waivers or modifications of collective  
788 bargaining agreements; (5) a policy and procedures plan, which shall include a detailed  
789 description of the unique operational policies and procedures to be used by the proposed school,  
790 and how such procedures will support school performance and student achievement; and (6) a  
791 professional development plan, which shall include a detailed description of how the school will  
792 provide high quality professional development to its administrators, teachers and staff.

793         In order to assess the proposed school across multiple measures of school performance  
794 and student success, the innovation plan shall include measurable annual goals regarding, but not  
795 limited to, the following: (1) student attendance; (2) student safety and discipline; (3) student  
796 promotion and graduation; (4) student achievement on the Massachusetts Comprehensive  
797 Assessment System; (5) progress in areas of academic underperformance; (6) progress among  
798 subgroups of students, including low-income students as defined by chapter 70, limited English  
799 proficient students, and students receiving special education; (7) reduction of achievement gaps  
800 among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9)  
801 development of college readiness, including at the elementary and middle school levels; (10)  
802 parent and family engagement; (11) building a culture of academic success among students; and  
803 (12) building a culture of student support and success among school faculty and staff.

804 A majority vote of the innovation plan committee shall be required for approval of the  
805 innovation plan.

806 (k) The provisions of the collective bargaining agreements applicable to the  
807 administrators, teachers, and staff in the school shall be deemed to be in operation at an  
808 Innovation School, except to the extent such provisions are waived or modified under the  
809 innovation plan, and such waivers or modifications are approved pursuant to the succeeding  
810 subsections.

811 (l) Upon completion of the innovation plan in subsection (j), in the case of a school  
812 conversion, the applicant shall submit the innovation plan to teachers in the school that is  
813 proposed for conversion for approval by secret ballot within 30 days. A 2/3 vote of the teachers  
814 shall be required to approve such plan. Upon approval of an innovation plan by the teachers, the  
815 plan shall be submitted immediately to the school committee. In any case in which a 2/3 vote is  
816 not achieved, the innovation plan committee may revise the innovation plan as necessary, and  
817 submit such revised plan to the teachers for a subsequent vote.

818 Upon the completion of the innovation plan in subsection (j), in the case of a new school,  
819 the applicant, a local union, and the superintendent shall negotiate waivers or modifications to  
820 the applicable collective bargaining agreement necessary for the school to implement the  
821 innovation plan. Upon the conclusion of such negotiations, the innovation plan shall be  
822 submitted immediately to the school committee. If such negotiations have not resulted in an  
823 agreement within 40 days, either party may petition the division of labor relations for the  
824 selection of an arbitrator. The division shall select an arbitrator within three days of such  
825 petition from a list submitted by the parties. The arbitrator shall conduct a hearing within

826 fourteen days of the arbitrator's selection. The arbitrator shall consider the parties' positions and  
827 the needs of the students in the district, provided further that the arbitrator's decision shall be  
828 consistent with the contents of the innovation plan developed by the applicant. The arbitrator  
829 shall submit a decision which shall be final and binding on the parties, within fourteen days of  
830 the close of the hearing.

831 (m) Upon receipt of an innovation plan regarding an Innovation School, a school  
832 committee shall hold not less than 1 public hearing on the innovation plan. Subsequent to such  
833 public hearing, but not later than 60 days after the receipt of the innovation plan, the school  
834 committee shall, on the basis of the quality of the plan, and in consideration of comments  
835 submitted by the public, undertake a final vote to authorize the Innovation School for a period of  
836 not more than 5 years, subject to the provisions of subsection (n). Approval of the majority of  
837 the school committee as fully constituted shall be required to authorize an Innovation School. In  
838 any case in which such approval is not achieved, an innovation plan committee may revise the  
839 innovation plan and: (1) in the case of a new school, submit such revised plan to the school  
840 committee for a subsequent vote; or (2) in the case of a conversion, submit such revised plan to  
841 the teachers in the school that is proposed for conversion for a vote, pursuant to the requirements  
842 of subsection (l) and, provided the plan meets the requirements for approval under subsection (l),  
843 submit such revised plan to the school committee for a subsequent vote. A school committee  
844 shall vote on a revised plan submitted pursuant to this subsection within 60 days of the receipt of  
845 such plan and contract.

846 If the school committee does not approve the revised innovation plan, the Innovation  
847 School applicant may seek approval of such revised plan by the board of elementary and

848 secondary education. The board shall vote on the revised plan within 60 days of its receipt of a  
849 request for approval by the applicant.

850 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the  
851 superintendent on not less than an annual basis. The superintendent shall transmit such  
852 evaluation to the school committee and the commissioner of elementary and secondary  
853 education. The purpose of such evaluation shall be to determine whether the school has met the  
854 annual goals in its innovation plan and assess the implementation of the innovation plan at the  
855 school. In any case in which the school committee determines, on the advice of the  
856 superintendent, that the school has not met 1 or more goals in the innovation plan, and that the  
857 failure to meet such goals may be corrected through reasonable modification of such plan, the  
858 school committee may amend the innovation plan as necessary. After the superintendent  
859 assesses the implementation of the innovation plan at the school, the school committee may, on  
860 the advice of the superintendent, amend the plan if the school committee determines that such  
861 amendment is necessary in view of subsequent changes in the district that affect 1 or more  
862 components of the plan, including, but not limited to, changes to contracts, collective bargaining  
863 agreements, or school district policies; provided, however, that any amendment involving a  
864 subsequent change to a teacher contract shall first be approved by teachers at the school,  
865 pursuant to the procedures in subsection (l).

866 In any case in which the school committee determines, on the advice of the  
867 superintendent, that the school has substantially failed to meet multiple goals in the innovation  
868 plan, the school committee may, on the advice of the superintendent: (1) limit 1 or more  
869 components of the innovation plan, as necessary; (2) suspend 1 or more components of the  
870 innovation plan, as necessary; or (3) terminate the authorization of the school; provided,

871 however, that such limitation or suspension shall not take place before the completion of the  
872 second full year of the operation of the school, and such termination may not take place before  
873 the completion of the third full year of the operation of the school.

874 (o) At the end of the period of authorization of an Innovation School approved  
875 under subsection (m), the leadership of such school may petition the school committee to extend  
876 the authorization of the school for an additional period of not more than 5 years. Before  
877 submitting such petition, the leadership of the school shall convene a selection of school  
878 stakeholders, including, but not limited to, administrators, teachers, other school staff, parents,  
879 and external partners, as applicable, to discuss whether the innovation plan at the school requires  
880 revision, and to solicit recommendations as to such potential revisions. After considering the  
881 recommendations of the stakeholder group, the leadership of the school and the applicable  
882 superintendent shall jointly update the innovation plan as necessary; provided, however, that any  
883 proposal regarding a new waiver or exemption from the local teachers union contract shall be  
884 approved by teachers at the school, pursuant to the provisions of subsection (l). Approval of the  
885 majority of the school committee as fully constituted shall be required to extend the period of  
886 authorization of an Innovation School. In any case in which such approval is not achieved, the  
887 leadership of the school and superintendent may jointly revise the innovation plan and submit  
888 such revised plan to the school committee for a subsequent vote. If the school committee does  
889 not extend the authorization of the school, the leadership of the school may seek such  
890 authorization from the board of elementary and secondary education. The board shall vote on  
891 the requested extension within 60 days of its receipt for approval of such extension.

892 (p) The commissioner of elementary and secondary education shall be responsible for  
893 the following: (1) to the extent practicable, the provision of planning and implementation grants



894 to eligible applicants to establish Innovation Schools; (2) to the extent practicable, provision of  
895 technical assistance and support to eligible applicants; (3) the collection and publication of data  
896 and research related to the Innovation Schools initiative; (4) the collection and publication of  
897 data and research related to successful programs serving limited English proficient students  
898 attending Innovation Schools; (5) the collection and dissemination of best practices in Innovation  
899 Schools that can be adopted by other public schools. The board of elementary and secondary  
900 education shall promulgate regulations necessary to carry out the provisions of this section. On  
901 an annual basis, the commissioner shall report to the joint committee on education, the house and  
902 senate committees on ways and means, the speaker of the House of Representatives and the  
903 senate president on the implementation and fiscal impact of this section.

904 SECTION 4. Chapter 71 is hereby amended by striking out section 89 and inserting in  
905 place thereof the following:-

906 Section 89. Commonwealth charter schools; Horace Mann charter schools; applications;  
907 enrollment; employees; funding

908 Section 89. (a) The purposes for establishing charter schools are: (1) to stimulate the  
909 development of innovative programs within public education; (2) to provide opportunities for  
910 innovative learning and assessments; (3) to provide parents and students with greater options in  
911 choosing schools within and outside their school districts; (4) to provide teachers with a vehicle  
912 for establishing schools with alternative, innovative methods of educational instruction and  
913 school structure and management; (5) to encourage performance-based educational programs; (6)  
914 to hold teachers and school administrators accountable for students' educational outcomes; and  
915 (7) to provide models for replication in other public schools.

916 (b) A commonwealth charter school shall be a public school, operated under a charter  
917 granted by the board of elementary and secondary education, which operates independently of  
918 any school committee and is managed by a board of trustees. The board of trustees of a  
919 commonwealth charter school, upon receiving a charter from the board of elementary and  
920 secondary education, shall be deemed to be public agents authorized by the commonwealth to  
921 supervise and control the charter school. The board of elementary and secondary education may  
922 grant a charter or amend an existing charter designating a commonwealth charter school as a  
923 regional charter school if such school enrolls students from more than one district.

924 A Horace Mann charter school shall be a public school or part of a public school  
925 operated under a charter approved by the school committee in the district in which the school is  
926 located; provided, however, that the school committee shall consult with the local teachers union  
927 prior to such approval; and provided further that all charters shall be granted by the board of  
928 elementary and secondary education. A Horace Mann charter school shall have a memorandum  
929 of understanding with the school committee of the district in which the charter school is located  
930 which, at a minimum, defines the services and facilities to be provided by the district to the  
931 charter school and states the funding of the charter school by the district. A Horace Mann charter  
932 school shall be operated and managed by a board of trustees independent of the school  
933 committee which approved said school. The board of trustees may include a member of the  
934 school committee.

935 (c) For the purposes of this section, the words “charter school” or “charter schools” shall  
936 refer to both commonwealth charter schools and Horace Mann charter schools unless specifically  
937 stated otherwise.

938 (d) The following shall be eligible to apply to establish a charter school: (1) parents; (2)  
939 teachers; (3) parent-teacher organizations; (4) principals; (5) superintendents; (6) school  
940 committees; (7) teacher unions; (8) colleges and universities; (9) non-profit community-based  
941 organizations; (10) non-profit business or corporate entities; (11) non-profit charter school  
942 operators; (12) non-profit education management organizations; (13) non-profit educational  
943 collaboratives; (14) consortia of these groups; and (15) any non-profit entity authorized by the  
944 commissioner. Private and parochial schools shall not be eligible to establish a charter school.  
945 The commissioner shall provide technical assistance to public school districts to assist in the  
946 development of proposals for Horace Mann charter schools.

947 (e) The board of elementary and secondary education shall establish the information  
948 needed in an application for the approval of a charter school; provided, however, that said  
949 application shall include but not be limited to a description of: (1) the mission, purpose,  
950 innovation and specialized focus of the proposed charter school; (2) the innovative methods to be  
951 used in the charter school and how they differ from the district or districts from which the charter  
952 school will enroll students; (3) efforts made by the applicant, if any, to implement the proposed  
953 educational program or model in the school district or districts from which the charter will enroll  
954 students; (4) the organization of the school in terms of ages of students or grades to be taught  
955 along with an estimate of the total enrollment of the school and the district or districts from  
956 which the school will enroll students; (5) the method for admission to the charter school; (6) a  
957 student recruitment and retention plan; (7) the educational program, instructional methodology  
958 and services to be offered to students, including research on how the proposed program will  
959 improve the academic performance of the subgroups listed in the recruitment and retention plan;  
960 (8) the school's capacity to address the particular needs of limited English proficient students, if

961 applicable, to learn English and learn content matter, including the employment of staff that  
962 meets the criteria established by the department; (9) how the school will involve parents as  
963 partners in the education of their children; (10) the school governance and bylaws; (11) any  
964 proposed or signed arrangements or contracts with an organization that would manage or operate  
965 the school, including any proposed or agreed upon payments to such organization; (12) the  
966 financial plan for the operation of the school; (13) the provision of school facilities and pupil  
967 transportation; (14) the number and qualifications of teachers and administrators to be employed;  
968 (15) procedures for evaluation and professional development for teachers and administrators;  
969 (16) a statement of equal educational opportunity which shall state that the charter school shall  
970 be open to all students, on a space available basis, and shall not discriminate on the basis of race,  
971 color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age,  
972 ancestry, athletic performance, special need, proficiency in the English language, or academic  
973 achievement; and (17) parental intent to register forms from a significant percentage of the  
974 projected first year enrollment of the charter school; such forms shall include the student's home  
975 address and grade level, a parent's signature, and other information necessary for the verification  
976 of this information through census or department databases; the names and addresses on the  
977 intent to register forms shall be validated by the clerk of the municipality in which the student  
978 resides. In the case of a Horace Mann charter school, the application shall include a draft  
979 memorandum of understanding, as described in subsection (b).

980 (f) The aforementioned student recruitment and retention plan shall include but not be  
981 limited to a detailed description of deliberate, specific strategies the charter school will use to  
982 attract, enroll, and retain a student population that, when compared to students in similar grades  
983 in schools from which the charter school will enroll students, contains a comparable or greater

984 percentage of students from 3 or more of the following categories: eligible for free lunch as  
985 defined in chapter 70 section 2; eligible for reduced price lunch as defined in chapter 70, section  
986 2; special education; limited English proficient of similar language proficiency level as measured  
987 by the Massachusetts English Proficiency Assessment examination; sub-proficient, which shall  
988 mean students who have scored in the “needs improvement,” “warning” or “failing” categories  
989 on the mathematics or English language arts exams of the Massachusetts Comprehensive  
990 Assessment System for 2 of the past 3 years or as defined by the department using a similar  
991 measurement; students who are determined to be at risk of dropping out of school based on  
992 predictors determined by the department; students who have dropped out of school; or other at-  
993 risk students who should be targeted in order to eliminate achievement gaps among different  
994 groups of students. If a school is or will be in a district with 10 percent or more of limited  
995 English proficient students, the recruitment strategies shall include a variety of outreach efforts  
996 in the most prevalent languages of the district. The student recruitment and retention plan shall  
997 include, but not be limited to, a detailed description of deliberate, specific strategies the school  
998 will use to: maximize the number of students who successfully complete all school requirements;  
999 prevent students from dropping out; and minimize the number of students in the categories  
1000 enumerated in this subsection from returning to district schools. The student recruitment and  
1001 retention plan shall include annual benchmarks, including for (i) recruitment activities, (ii) the  
1002 number of students in the categories of students identified in the plan who seek to enroll in the  
1003 school (iii), student retention activities, and (iv) student retention. The recruitment and retention  
1004 plan shall be updated each year to account for changes in both district and charter school  
1005 enrollment. A charter school whose charter was granted prior to January 1, 2010 shall have a

1006 recruitment and retention plan in effect for the 2011-2012 school year or at the time of its next  
1007 charter renewal, whichever occurs first.

1008 (g) In order to ensure that commonwealth charter schools authorized under this section  
1009 are able to recruit and serve the categories of students enumerated in subsection (f), the school  
1010 district or districts from which the commonwealth charter school will enroll students shall  
1011 annually provide to a third party mail house authorized by the department the addresses for all  
1012 students in the district eligible to enroll in the school, unless a student's parent or guardian  
1013 requests that the district withhold this information. Each commonwealth charter school  
1014 authorized under this section shall annually supply a mailing in the most prevalent languages of  
1015 the district or districts the charter school is authorized to serve to the third party mail house and  
1016 pay for it to be copied and mailed to such eligible students.

1017 At the request of a school district from which a commonwealth charter school enrolls  
1018 students, said charter school shall provide to said third party mail house the addresses for all  
1019 students currently enrolled in the commonwealth charter school from said district, unless a  
1020 student's parent or guardian requests that the school withhold the information. Each district shall  
1021 be permitted to supply a mailing to the third party mail house and pay for it to be copied and  
1022 mailed to families of students from said district enrolled in the commonwealth charter school.

1023 (h) An application submitted for the establishment of a commonwealth charter school  
1024 shall: (1) be submitted to the board of elementary and secondary education for approval pursuant  
1025 to this section; and (2) be filed with the local school committee for each school district from  
1026 which the charter school will enroll students. Before final approval to establish a  
1027 commonwealth charter school, the board of elementary and secondary education shall hold a

1028 public hearing on said application in the school district in which the proposed charter school is to  
1029 be located. In the case of a regional commonwealth charter school, such public hearing shall be  
1030 held in a location within the region. At least one member of the board of elementary and  
1031 secondary education shall attend each public hearing soliciting comment on a pending  
1032 application and shall report to the board of elementary and secondary education on the hearing.  
1033 Before final approval to establish a commonwealth charter school, the board of elementary and  
1034 secondary education shall solicit and review comments on the application from the local school  
1035 committee for each school district from which the charter school will enroll students. The town  
1036 or city clerk for any municipality from which the commonwealth charter school will enroll  
1037 students shall review and confirm the home address of any resident signing a petition submitted  
1038 to the board of elementary and secondary education in support of or in opposition to a  
1039 commonwealth charter school.

1040 All information submitted to the board of elementary and secondary education by a  
1041 commonwealth charter school applicant shall be submitted simultaneously to affected districts  
1042 and shall be immediately made available by the board of elementary and secondary education to  
1043 members of the public without a request pursuant to chapter 66 section 10. Any department  
1044 report regarding the application shall be made available to the commonwealth charter school  
1045 applicant and affected districts within ten days of the completion of said report. All material in  
1046 support of or in opposition to the school submitted to the department or the board of elementary  
1047 and secondary education shall be made available to the applicant and affected school districts at  
1048 least 10 working days in advance of the meeting at which the board of elementary and secondary  
1049 education will consider the application. There shall be a ten working day freeze on any new

1050 material to be made available to the board of elementary and secondary education prior to the  
1051 day of the board vote on a commonwealth charter school application.

1052 (i) In any fiscal year, a public school district's total charter school tuition payment to  
1053 commonwealth charter schools shall not exceed 9 percent of said district's net school spending;  
1054 provided, however, that a public school district's total charter tuition payment to commonwealth  
1055 charter schools shall not exceed 18 percent of said district's net school spending if the board of  
1056 elementary and secondary education determines the combined Composite Performance Index  
1057 scores on the English language arts and mathematics Massachusetts Comprehensive Assessment  
1058 System exams for a school district place said district in the lowest ten percent of all statewide  
1059 MCAS test performance scores released in the two consecutive school years prior to the date the  
1060 charter school application is submitted.

1061 If the department is no longer using the combined composite performance index as a  
1062 measure of school and district performance, the department shall use the subsequently developed  
1063 measure to determine the lowest ten percent of districts.

1064 The commonwealth shall incur charter school tuition payments for siblings attending  
1065 commonwealth charter schools to the extent that their attendance would otherwise cause said  
1066 school district's charter school tuition payments to exceed 9 per cent of said school district's net  
1067 school spending or 18 percent in the case of the lowest performing 10 percent of school districts.  
1068 If a district is no longer in the lowest 10 percent, the net school spending cap shall be 9 percent,  
1069 unless the district net school spending was above 9 percent in the year prior to moving out of  
1070 the lowest 10 percent in which case the net school spending cap shall remain at the higher level.



1071 If a district is again ranked in the lowest 10 percent based on 2 consecutive years of performance,  
1072 the net school spending cap shall increase pursuant to this section.

1073 As early as possible in the application process and no later than October 15, the board of  
1074 elementary and secondary education shall determine and make available to the public a list of the  
1075 school districts in said lowest 10 percent and shall provide information about net school spending  
1076 in each such district. Applications to establish a charter school shall be submitted to the board of  
1077 elementary and secondary education each year by November 15. The board of elementary and  
1078 secondary education shall review the applications and grant new charters in February of the  
1079 following year.

1080 Not less than three of the new commonwealth charters approved by the board of  
1081 elementary and secondary education in any year shall be granted for commonwealth charter  
1082 schools located in districts where overall student performance on the statewide assessment  
1083 system approved by the board of elementary and secondary education pursuant to section 1I of  
1084 chapter 69 is in the lowest 10 percent statewide in the two years preceding said charter  
1085 application. In any year, the board of elementary and secondary education shall approve only one  
1086 regional charter school application of any commonwealth charter school located in a school  
1087 district where overall student performance on the statewide assessment system is in the top 10  
1088 per cent in the year preceding charter application.

1089 For districts scoring in the lowest 10 percent in the state for the previous 2 years as  
1090 measured by the combined Composite Performance Index scores on the English language arts  
1091 and mathematics Massachusetts Comprehensive Assessment System exams, the board of  
1092 elementary and secondary education may only approve an application for the establishment of a

1093 commonwealth charter school under this subsection for eligible applicants. In order to be eligible  
1094 to apply to operate a commonwealth charter school serving students in districts scoring in the  
1095 lowest 10 percent an applicant, or a provider with which an applicant proposes to contract, must  
1096 have a record of operating at least 1 school or similar program that demonstrates academic  
1097 success and organizational viability and serves student populations similar to those the proposed  
1098 school seeks to serve, from among the categories defined in subsection (f).

1099           For districts not scoring in the lowest 10 percent in the state for the previous 2 years as  
1100 measured by the combined Composite Performance Index scores on the English language arts  
1101 and mathematics Massachusetts Comprehensive Assessment System exams, preference shall be  
1102 given to applicants who have a record of operating at least 1 school or similar program that  
1103 demonstrates academic success and organizational viability and serves student populations  
1104 similar to those the proposed school seeks to serve, from among the categories defined in  
1105 subsection (f).

1106           (j) The board of elementary and secondary education shall make the final determination  
1107 on granting charter school status and may condition charters on the applicant's taking certain  
1108 actions or maintaining certain conditions.

1109           The board of elementary and secondary education and department shall create and use a  
1110 rubric for the approval of a charter application. The board of elementary and secondary  
1111 education and department shall report the review of each charter application against the rubric at  
1112 each stage in the process. In reviewing applications, the board of elementary and secondary  
1113 education shall consider whether the school committee where the charter school is to be located

1114 has been asked to implement the educational program being proposed by the applicant and has  
1115 declined to do so.

1116 No board of elementary and secondary education member shall vote on a charter  
1117 application if that member serves on a charter school board or is an employee of a charter school.

1118 A Horace Mann charter school shall have a final memorandum of understanding, as  
1119 described in subsection (b), prior to the final board of elementary and secondary education vote  
1120 on its application.

1121 (k) The board of elementary and secondary education may authorize a single board of  
1122 trustees to manage more than 1 charter school authorized under this section, provided however  
1123 that each school holds its own charter. In addition to those listed in subsection (d), the board of  
1124 elementary and secondary education shall accept applications from existing charter school  
1125 boards of trustees.

1126 Each applicant shall submit an application for each charter school it proposes, except that  
1127 applicants proposing to create more than 1 charter school in more than 1 geographically  
1128 proximate district may submit 1 application for such schools.

1129 The board of elementary and secondary education shall give preference to applications  
1130 from providers building networks of schools in more than 1 municipality.

1131 The board of elementary and secondary education shall not approve a new  
1132 commonwealth charter school in any community with a population of less than 30,000, as  
1133 determined by the most recent United States census, unless it is a regional charter school.

1134           If a final application is fundamentally flawed, the department may provide feedback to  
1135 the applicant and invite it to submit a stronger application in the future. Once a final application  
1136 has been filed, only minor, non-substantive amendments shall be allowed. The department shall  
1137 maintain a written record of interviews it conducts with final charter applicants, and include that  
1138 record with the final application materials that are provided to the board of elementary and  
1139 secondary education, local school officials and the public.

1140           If a charter school has not obtained intent to register forms equal to or greater than 75%  
1141 of its projected first year enrollment from parents or guardians of students living in the sending  
1142 district or districts by May 1 of the school year prior to the school's opening, the opening of the  
1143 charter school shall be delayed for one year. If the school has not achieved said 75% by the  
1144 following May 1, the board of elementary and secondary education shall revoke the school's  
1145 charter.

1146           (1) A charter school established under a charter granted by the board of elementary and  
1147 secondary education shall be a body politic and corporate with all powers necessary or desirable  
1148 for carrying out its charter program, including, but not limited to, the following:—

1149           (1) to adopt a name and corporate seal; provided, however, that any name selected must  
1150 include the words "charter school";

1151           (2) to sue and be sued, but only to same extent and upon the same conditions that a  
1152 municipality can be sued;

1153           (3) to acquire real property, from public or private sources, by lease, lease with an option  
1154 to purchase, or by gift, for use as a school facility; however, in the case of a Horace Mann charter

1155 school, the approval of the local school committee shall be obtained before acquisition of any  
1156 such real property owned or controlled by such body;

1157 (4) to receive and disburse funds for school purposes;

1158 (5) to make contracts and leases for the procurement of services, equipment and supplies;  
1159 provided, however, that if the charter school intends to procure substantially all educational  
1160 services under contract with another person, the terms of such a contract must be approved by  
1161 the board of elementary and secondary education either as part of the original charter or by way  
1162 of an amendment thereto; provided, further that the board shall not approve any such contract  
1163 terms, the purpose or effect of which is to avoid the prohibitions of this section against (i) charter  
1164 school status for private and parochial schools or (ii) for-profit entity operating a charter school.

1165 (6) to incur temporary debt in anticipation of receipt of funds; provided that a Horace  
1166 Mann school shall obtain the approval of the local school committee and appropriate local  
1167 appropriating authorities and officials relative to any proposed lien or encumbrance upon public  
1168 school property or relative to any financial obligation for which the local school district shall  
1169 become legally obligated; and provided further that notwithstanding any law to the contrary, the  
1170 terms of repayment of any charter school's debt shall not exceed the duration of the school's  
1171 charter without the approval of the board of elementary and secondary education;

1172 (7) to solicit and accept any grants or gifts for school purposes;

1173 (8) to have such other powers available to a business corporation formed under chapter  
1174 156B that are not inconsistent with this chapter.

1175 (m) Charter schools shall not charge any public school for the use or replication of any  
1176 part of their curriculum subject to the prescriptions of any contract between the charter schools  
1177 and any third party providers.

1178 (n) Charter schools shall be open to all students, on a space available basis, and shall not  
1179 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation,  
1180 mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in  
1181 the English language or a foreign language, and academic achievement. Charter schools may  
1182 limit enrollment to specific grade levels and may structure curriculum around particular areas of  
1183 focus such as mathematics, science, or the arts. There shall be no application fee for admission to  
1184 a charter school. A charter school shall not charge tuition or any fee related to the provision of  
1185 required educational programs.

1186 A commonwealth charter school shall only enroll students from the district or districts  
1187 identified in its charter. If a commonwealth charter school wants to enroll students from other  
1188 districts or move the school to a district not identified in its charter, it must seek an amendment  
1189 to its charter from the board of elementary and secondary education. Priority for enrollment in a  
1190 Horace Mann charter school shall be given first to students actually enrolled in said school on the  
1191 date that the application is filed with the board of elementary and secondary and to their siblings  
1192 if the school is a conversion of an existing school; second to other students actually enrolled in  
1193 the public schools of the district where the Horace Mann charter school is to be located; and  
1194 third, to other resident students.

1195 (o) A charter school may not administer tests to potential applicants or predicate  
1196 enrollment on results from any test of ability or achievement, unless the school is a performing,

1197 visual, or graphics arts school, which may hold auditions for applicants. Requirements for  
1198 enrollment in a charter school, including but not limited to attendance at informational meetings  
1199 and interviews, a parent's commitment to volunteer at the school or a parent's agreement to sign  
1200 a contract or other form of written agreement with the school, shall not be designed, intended, or  
1201 used to discriminate against a student or to deny a student enrollment in a charter school. If the  
1202 total number of students who are eligible to attend and apply to a charter school and who reside  
1203 in a district from which the charter school is permitted to enroll students, or are siblings of  
1204 students already attending said charter school, is greater than the number of spaces available, an  
1205 admissions lottery, including all eligible students applying, shall be held to fill all of the spaces  
1206 in that school from among said students. The names of students who entered the lottery but did  
1207 not gain admission shall be maintained on a waitlist, which shall be forwarded to the department  
1208 no later than June 1 in the year in which the lottery is held. In addition to the names of students,  
1209 the school shall supply to the department each student's home address, telephone number, grade  
1210 level, and other information the department deems necessary. The department shall maintain a  
1211 consolidated waitlist for each municipality in order to determine the number of individual  
1212 students in each municipality seeking admission to a charter school.

1213 (p) Each charter school shall annually, no later than April 1, notify each public school  
1214 district in writing of the number and grade levels of students who will be attending the charter  
1215 school from that district the following September as well as the number of new students who will  
1216 be transferring from that district to the charter school in the following September.

1217 (q) A student may withdraw from a charter school at any time and enroll in another  
1218 public school where said student resides. When a student stops attending a charter school for  
1219 any reason, the charter school shall fill the vacancy with the next available student on the waitlist

1220 for the grade in which the vacancy occurs and shall continue through the waitlist until a student  
1221 fills the vacant seat. If there is no waitlist, a charter school shall publicize an open seat to the  
1222 students of the sending district or districts and make attempts to fill said vacant seat. Charter  
1223 schools shall attempt to fill vacant seats up to February 15, excluding seats that open in grade 12.  
1224 Charter schools may but are not required to fill vacant seats after February 15. If a vacancy  
1225 occurs after February 15, such vacancy shall remain with the grade cohort and shall be filled in  
1226 the following September if it has not previously been filled. A vacancy occurring after February  
1227 15 shall not be filled by adding a student to a lower grade level. Within 30 days of a vacancy  
1228 being filled, the charter school shall send the name of the student filling such vacancy to the  
1229 department for the purpose of the department updating its waitlist.

1230 A student may be expelled from a charter school based on criteria determined by the  
1231 board of trustees, and approved by the board of elementary and secondary education, with the  
1232 advice of the principal and teachers; provided, however, that charter school policies shall be  
1233 consistent with sections 37H and 37H½.

1234 (r) A charter school may be located in part of an existing public school building, in space  
1235 provided on a private work site, in a public building, or any other suitable location. A charter  
1236 school may own, lease or rent its space. Notwithstanding any other provision of this section, no  
1237 school building assistance funds, so-called, shall be awarded to a commonwealth charter school  
1238 for the purpose of constructing, reconstructing or improving said school.

1239 At any time after an applicant has filed a charter school application, it may request a  
1240 facilities assessment from the Massachusetts School Building Authority. A charter school may  
1241 request such an assessment at any time. The authority, at the request of a charter school or



1242 applicant for a charter school, may conduct an assessment of a facility or facilities intended for  
1243 use or used as a school building. The facilities assessment shall be conducted by the authority in  
1244 a format and manner prescribed by the authority and the charter school shall pay for the cost of  
1245 conducting such facilities assessment. The charter school shall provide complete access to its  
1246 school facilities for the purpose of the authority conducting a facilities assessment. The facilities  
1247 assessment shall include an assessment of the charter school's maintenance process and a review  
1248 of the maintenance practices and procedures in place at the school. Such maintenance review  
1249 shall be conducted in a format and manner prescribed by the authority.

1250           The authority shall bear no responsibility for a decision not to undertake a facilities  
1251 assessment or the results of any facilities assessment undertaken. In the event that the authority  
1252 decides to conduct a facilities assessment, the conducting of said assessment shall in no way be  
1253 construed, interpreted or deemed to imply any responsibility on the part of the authority for the  
1254 results of said assessment, nor shall the authority assume any duty or responsibility with respect  
1255 to the maintenance, renovation, repair, or construction of any school facility that may be  
1256 assessed.

1257           Upon receiving an application for a charter school, the department shall notify the  
1258 authority that an application has been filed, and shall identify the district or districts from which  
1259 the school intends to enroll students. At such time, the charter school applicant may contact the  
1260 authority to ask if the authority is aware of surplus facilities or excess school building capacity in  
1261 the relevant district or districts. The authority, if contacted by such applicant, shall share any  
1262 information it has regarding the availability of surplus facilities or excess capacity in that school  
1263 district or districts.

1264 (s) The school committee of each district where a Horace Mann charter school is  
1265 located shall develop a plan to disseminate innovative practices of said charter school to other  
1266 public schools within the district subject to the provisions of any contract between the Horace  
1267 Mann charter school and any third party provider.

1268 The commissioner of elementary and secondary education shall facilitate the  
1269 dissemination of successful innovative programs of charter schools and provide technical  
1270 assistance for school districts to replicate such programs. Each charter school shall be required to  
1271 collaborate with its sending district or districts on the sharing of innovative practices.

1272 (t) The department of elementary and secondary education may, on an annual basis, send  
1273 evaluation teams to visit each charter school to corroborate and augment the information  
1274 provided in the annual report in accordance with guidelines issued by the department. Site visit  
1275 teams may also gather any other evidence relevant to the school's performance, student academic  
1276 achievement, and adherence to recruitment and retention plans. The written reports from these  
1277 site visits shall become part of the charter school's record. A charter school may add to the  
1278 record any written response to said report.

1279 (u) A charter school shall operate in accordance with its charter and the provisions of law  
1280 regulating other public schools; provided, however, that the provisions of sections 41 and 42  
1281 shall not apply to employees of commonwealth charter schools. Charter schools shall comply  
1282 with the provisions of chapters 71A and 71B; provided, however, that the fiscal responsibility of  
1283 any special needs student currently enrolled in or determined to require a private day or  
1284 residential school shall remain with the school district where the student resides. If a charter  
1285 school expects that a special needs student currently enrolled in the charter school may be in

1286 need of the services of a private day or residential school, it shall convene an individual  
1287 education plan team meeting for said student. Notice of the team meeting shall be provided to the  
1288 special education department of the school district in which the child resides at least five days in  
1289 advance. Personnel from the school district in which the child resides shall be allowed to  
1290 participate in the team meeting concerning future placement of the child.

1291 (v) A Horace Mann charter school shall be exempt from local collective bargaining  
1292 agreements to the extent provided by the terms of its charter; provided, however, that employees  
1293 of the Horace Mann charter school shall continue to be members of the local collective  
1294 bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and  
1295 benefits established in the contract of the local collective bargaining unit where said Horace  
1296 Mann charter school is located. Employees of Horace Mann charter schools shall be exempt  
1297 from all union and school committee work rules to the extent provided by said school's charter.  
1298 Employees in Horace Mann charter schools shall be required to work the full work day and work  
1299 year to the extent provided by the terms of the school's charter.

1300 (w) Notwithstanding the provisions of this section or any other general or special law to  
1301 the contrary, for the purposes of chapter 268A: (i) a charter school shall be deemed to be a state  
1302 agency; and (ii) the appointing official of a member of the board of trustees of a charter school  
1303 shall be deemed to be the commissioner of education. Members of boards of trustees of charter  
1304 schools operating under the provisions of this section shall file a disclosure annually with the  
1305 state ethics commission, the department of secondary and elementary education, and the city or  
1306 town clerk wherein such charter school is located. Said disclosure is in addition to the  
1307 requirements of chapter 268A, and a member of a board of trustees must also comply with the  
1308 disclosure and other requirements of said chapter 268A. The form of the disclosure shall be

1309 prescribed by the ethics commission and shall be signed under penalty of perjury. Such form  
1310 shall be limited to a statement in which members of the board of trustees shall disclose any  
1311 financial interest that they or a member of their immediate families, as defined in section 1 of  
1312 said chapter 268A, have in any charter school located in the commonwealth or in any other state  
1313 or with any person doing business with any charter school.

1314           Each member of a board of trustees of a charter school shall file such disclosure for the  
1315 preceding calendar year with the commission within 30 days after becoming a member of such  
1316 board of trustees, on or before September 1 of each year thereafter that such person is a member  
1317 of such board and on or before September 1 of the year after such person ceases to be a member  
1318 of such board; provided, however, that no member of a board of trustees shall be required to file  
1319 such disclosure for the year in which he ceases to be a member of such board if he served less  
1320 than 30 days in such year.

1321           (x) Students in charter schools shall be required to meet the same performance standards,  
1322 testing and portfolio requirements set by the board of elementary and secondary education for  
1323 students in other public schools.

1324           (y) The board of trustees, in consultation with the teachers, shall determine the school's  
1325 curriculum and develop the school's annual budget. The board of trustees of each Horace Mann  
1326 charter school shall annually submit to the superintendent and school committee of the district in  
1327 which such school is located a budget request for the following fiscal year. The school  
1328 committee shall act on such budget request in conjunction with its actions on the district's  
1329 overall budget. Each Horace Mann charter school shall receive in response to the budget request  
1330 not less than it would have under the district's budgetary allocation rules. The board of trustees

1331 may appeal any disproportionate budgetary allocation to the commissioner, who shall determine  
1332 an equitable funding level for such school and shall require the school committee to provide such  
1333 funding.

1334       Following the appropriation of the district's operating budget for the fiscal year, the  
1335 amount approved by the local appropriating authority for the operation of each Horace Mann  
1336 charter school shall be available for expenditure by the board of trustees of such school for any  
1337 lawful purpose without further approval by the superintendent or the school committee. In no  
1338 case shall a Horace Mann charter school expend or incur obligations in excess of its budget  
1339 request; provided, however, that a Horace Mann charter school shall be authorized to spend  
1340 federal and state grants and other funds received independent of the school district not accounted  
1341 for in said charter school's budget request without prior approval from the superintendent or the  
1342 school committee.

1343       (z) Upon approval of a Horace Mann charter school by the board of elementary and  
1344 secondary education, the superintendent of the school district where the Horace Mann charter  
1345 school is to be located shall reassign, to the extent provided by the terms of its charter, any  
1346 faculty member who wishes to be reassigned to another school located within said district.

1347       (aa) Employees of charter schools shall be considered public employees for purposes of  
1348 tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The  
1349 board of trustees shall be considered the public employer for purposes of tort liability under said  
1350 chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however,  
1351 that in the case of a Horace Mann charter school, the school committee of the school district in  
1352 which the Horace Mann charter school is located shall remain the employer for collective

1353 bargaining purposes under said chapter 150E. Teachers employed by a charter school shall be  
1354 subject to the state teacher retirement system under chapter 32 and service in a charter school  
1355 shall be “creditable service” within the meaning thereof.

1356 A charter school shall recognize an employee organization designated by the  
1357 authorization cards of 60 per cent of its employees in the appropriate bargaining unit as the  
1358 exclusive representative of all the employees in such unit for the purpose of collective  
1359 bargaining.

1360 (bb) Each local school district shall be required to grant a leave of absence to any teacher  
1361 in the public schools system requesting such leave in order to teach in a commonwealth charter  
1362 school. A teacher may request a leave of absence for up to two years.

1363 At the end of the second year the teacher may either return to his former teaching position  
1364 or, if he chooses to continue teaching at said commonwealth charter school, resign from his  
1365 school district position.

1366 (cc) Notwithstanding section 59C, the internal form of governance of a charter school  
1367 shall be determined by the school’s charter.

1368 (dd) A charter school shall comply with all applicable state and federal health and safety  
1369 laws and regulations.

1370 (ee) The children who reside in the school district in which the charter school is located  
1371 shall be provided transportation to the charter school by the resident district’s school committee  
1372 on similar terms and conditions as transportation is provided to children attending local district  
1373 schools, if such transportation is requested by the charter school. In providing such

1374 transportation, said school committee shall accommodate the particular school day and school  
1375 year of the charter school; provided, however, that in the event that a school committee limits  
1376 transportation for district school students, the school district shall not be required to provide  
1377 transportation to any commonwealth charter school beyond said limitations. A charter school and  
1378 the sending district shall meet to plan bus routes and charter school starting and ending times in  
1379 order to assist the district with the provision of cost effective means of transportation. Schools  
1380 operating pursuant to a charter granted after January 1, 1997, and all charter schools during fiscal  
1381 year 1999 and thereafter, shall not receive funds for transportation above the amount actually  
1382 required by such charter school for the provision of transportation services to eligible students. If  
1383 the sending district provides an alternative method of transportation for students enrolled in the  
1384 sending district's public schools, it shall not be assessed for transportation costs which exceed  
1385 the per pupil cost of said alternative. Costs for transportation shall be included only if  
1386 transportation is provided for students in the same program and grade level as those in the charter  
1387 school. Students who do not reside in the district in which the charter school is located shall be  
1388 eligible for transportation in accordance with section 12B of chapter 76. A regional charter  
1389 school as designated by the board of elementary and secondary education, and whose charter  
1390 provides for transportation of all students from charter municipalities shall also be reimbursed by  
1391 the commonwealth under section 16C of chapter 71 for transportation provided to pupils residing  
1392 outside the municipality where the charter school is located, but no reimbursement for  
1393 transportation between the charter school and home shall be made on account of any pupil who  
1394 resides less than one and one-half miles from the charter school, measured by a commonly  
1395 traveled route. If a charter school provides its own transportation, the school shall coordinate  
1396 and collaborate with the sending district or districts to provide cost effective means of

1397 transportation. All such transportation shall be determined in advance of the approval of the  
1398 district's final budget for a fiscal year.

1399 (ff) If a charter school plans to make a major change in its operations, the  
1400 school's board of trustees shall submit in writing to the board of elementary and secondary  
1401 education a request to amend its charter. Major changes are defined as those that fundamentally  
1402 affect a school's mission, organizational structure, or educational program, as further defined by  
1403 regulation.

1404 If a charter school plans to make a minor change in its operations, the school's board of  
1405 trustees shall submit in writing to the commissioner of elementary and secondary education a  
1406 request to amend its charter. Minor changes are defined as changes that do not fundamentally  
1407 alter a school's organizational structure or educational program, as further defined by regulation.

1408 The board of elementary and secondary education or the commissioner, as applicable,  
1409 shall approve or deny amendment requests within 90 days after receiving complete requests. A  
1410 request for a change to a Horace Mann charter school's charter also requires the approval of the  
1411 local school committee.

1412 If a commonwealth charter school seeks an amendment to change its maximum  
1413 enrollment, including grades served, the municipality of its location, or the districts specified in  
1414 its charter, the department will provide a copy of the request to the superintendents of the  
1415 affected districts and provide them notice of their right to submit written comment to the  
1416 commissioner within 30 days.

1417 Should the commissioner deny an amendment request, the charter school's board of  
1418 trustees may seek review of the commissioner's decision by the board.



1419 (gg) The initial charter granted by the board of elementary and secondary education shall  
1420 be for five years. The board may renew a charter for up to five years. At the time of the second  
1421 renewal or subsequent renewals, a charter school may apply for and receive an extension of the  
1422 charter for up to ten years.

1423 The board of elementary and secondary education shall develop procedures and  
1424 guidelines for revocation and renewal of a school's charter; provided, however, that a charter for  
1425 a Horace Mann charter school shall not be renewed by the board without a vote of support from  
1426 the school committee in the district where said charter school is located; provided that a  
1427 commonwealth charter shall not be renewed unless the board of trustees of the charter school has  
1428 documented in a manner approved by the board of elementary and secondary education that said  
1429 commonwealth charter school has provided models for replication and best practices to the  
1430 commissioner and to other public schools in the district where the charter school is located.

1431 When deciding on charter renewal, the board of elementary and secondary education  
1432 shall consider the extent to which the school has followed its recruitment and retention plan by  
1433 using deliberate, specific strategies towards recruiting and retaining the categories of students  
1434 enumerated in subsection (f) and the extent to which the school has enhanced its plan as  
1435 necessary. The board of elementary and secondary education may impose conditions or financial  
1436 sanctions on the charter school upon renewal if sufficient progress towards recruitment and  
1437 retention benchmarks has not been made. When deciding on charter renewal, the board of  
1438 elementary and secondary education shall take into account the annual attrition of students,  
1439 teachers, and administrators. The board shall also consider innovations that have been  
1440 successfully implemented by the charter school and the evidence that supports the effectiveness  
1441 of these practices. The board shall also consider progress made in student academic

1442 achievement. Upon renewal of its charter, a school shall update and enhance its recruitment and  
1443 retention plan as necessary to account for changes in enrollment.

1444           The board of elementary and secondary education may revoke a school’s charter if the  
1445 school has not fulfilled any conditions imposed by the board in connection with the grant of the  
1446 charter or the school has violated any provision of its charter.

1447           The board of elementary and secondary education may place a charter school on a  
1448 probationary status to allow the implementation of a remedial plan after which, if said plan is  
1449 unsuccessful, the charter may be summarily revoked.

1450           In the event that the board of elementary and secondary education revokes a charter, or if  
1451 a charter school ceases to exist for any reason, the charter school shall, within six months of the  
1452 revocation of said charter or closure of the school, submit to the board a detailed financial  
1453 accounting of all the school’s assets, including all real property, vehicles, equipment and  
1454 supplies. Upon the revocation, non-renewal, or voluntary return of a commonwealth charter, title  
1455 to all of the property of the charter school shall immediately vest in the Commonwealth, subject  
1456 to the rights of any secured party holding a perfected security interest in the property of such  
1457 charter school. Any funds remaining after the satisfaction of the charter school’s obligations  
1458 shall be returned to sending districts in proportion to each district’s average enrollment during  
1459 the previous five years.

1460           (hh) Commonwealth charter schools shall be funded pursuant to this subsection. The  
1461 commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the  
1462 tuition amounts calculated separately for each district sending students to the charter school.  
1463 Tuition amounts for each sending district shall be calculated by the department using the formula

1464 set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that  
1465 would be expended in the district if the students attended the district schools. The tuition amount  
1466 shall be calculated separately for each district sending students to a charter school, and for each  
1467 charter school to which a district sends students. Each district's per pupil tuition amount for each  
1468 charter school to which it sends students shall include a per pupil foundation budget component,  
1469 adjusted to reflect the actual net school spending in the sending district.

1470           In calculating the per pupil foundation budget component, the department shall calculate  
1471 a foundation budget for the students from each sending district attending the charter school in the  
1472 previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the  
1473 department shall not include in said calculation the assumed tuitioned-out special education  
1474 enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2.  
1475 The per pupil foundation budget component for the charter school shall be the district's  
1476 foundation budget, as so calculated, divided by the number of students attending the charter  
1477 school from the sending district in the previous fiscal year. The per pupil foundation budget  
1478 component shall be calculated separately for each charter school to which a district sends  
1479 students. The foundation budget for a charter school shall be the sum of the foundation budgets  
1480 for the charter school for each district sending students to the charter school.

1481           In adjusting the per pupil foundation budget component, the department shall calculate  
1482 for each sending district an above foundation spending percentage, which shall be the percentage  
1483 by which the district's actual net school spending exceeds the foundation budget for the district,  
1484 as calculated pursuant to the provisions of chapter 70. The department shall further calculate the  
1485 percentage of actual net school spending reported by the sending district associated with tuition  
1486 costs for tuitioned-out special education students, including education that occurs in educational

1487 collaboratives, and with spending on health care costs for retired employees, for any district for  
1488 which such costs are included in net school spending, and shall reduce the district's above  
1489 foundation spending percentage proportionately. The per pupil foundation budget component for  
1490 each charter school to which the sending district sends students shall be increased by said  
1491 adjusted above foundation spending percentage. In a fiscal year in which a school district's  
1492 chapter 70 aid is reduced, and said reduction lowers the above foundation percentage, the  
1493 department shall adjust the per pupil foundation budget component and total tuition amount as  
1494 calculated by this section proportionately, and shall notify the affected sending district and  
1495 charter school of any reductions.

1496         The total tuition amount owed by a sending district to a charter school shall be the per  
1497 pupil tuition amount as defined above, multiplied by the total number of students attending the  
1498 charter school from that district in the current fiscal year. The sending district's total charter  
1499 school tuition amount for purposes of the following paragraphs shall be the sum of the district's  
1500 tuition amounts for each charter school to which the district sends students, calculated using the  
1501 provisions of this section. The receiving charter school's total charter school tuition amount shall  
1502 be the sum of the tuition amounts calculated for the charter school for each district sending  
1503 students to the charter school.

1504         The sending district's total charter school tuition amount for purposes of the following  
1505 paragraphs shall be the sum of the district's tuition amounts for each charter school to which the  
1506 district sends students, calculated using the provisions of this section. The receiving charter  
1507 school's total charter school tuition amount shall be the sum of the tuition amounts calculated for  
1508 the charter school for each district sending students to the charter school.

1509           The state treasurer is hereby authorized and directed to deduct a sending district's total  
1510 charter school tuition amount, as calculated herein, from the total state school aid, as defined in  
1511 section 2 of said chapter 70, of the district in which the student resides prior to the distribution of  
1512 said aid. In the case of a child residing in a municipality which belongs to a regional school  
1513 district, the sending district's total charter school tuition amount shall be deducted from said  
1514 chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a  
1515 single district, the total of all such deductions exceeds the total of said education aid, this excess  
1516 amount shall be deducted from other aid appropriated to the city or town. If, in a single district,  
1517 the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall  
1518 appropriate this excess amount; provided, however, that if said district has exempted itself from  
1519 the provisions of chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall  
1520 assess said district for said excess amount.

1521           The state treasurer is hereby further authorized and directed to disburse to the charter  
1522 school an amount equal to the charter school's total charter school tuition amount as defined  
1523 above.

1524           In the case of more than one charter school managed by a single network or board of  
1525 trustees, in no instance shall funding be transferred among individual schools within the network,  
1526 unless such schools are located in the same school district.

1527           The department shall, subject to appropriation, provide funding to charter schools for a  
1528 portion of the per pupil capital needs component included in the charter tuition amount for the  
1529 purpose of construction, renovation, purchase, acquisition or improvement of school buildings

1530 and land. In fiscal year 2011 and thereafter, such funding shall not be less than the per pupil  
1531 amount provided in fiscal year 2010.

1532 (ii) Beginning in fiscal year 1999, any district whose total charter school tuition amount  
1533 is greater than its total charter school tuition amount for the previous year shall be reimbursed by  
1534 the commonwealth in accordance with this paragraph and subject to appropriation; provided,  
1535 however, that no funds for said reimbursements shall be deducted from funds distributed  
1536 pursuant to chapter 70. The reimbursement amount shall be equal to 100 per cent of the increase  
1537 in the year in which the increase occurs; 60 per cent of that amount in the first year following;  
1538 and 40 per cent of that amount in the second year following.

1539 (jj) If the unencumbered amount of cumulative surplus revenue from tuition held by a  
1540 charter school at the end of a fiscal year, less (i) the amount of the fourth quarter tuition payment,  
1541 (ii) the amount held in reserve for the purchase or renovation of a school building, and (iii) any  
1542 reserve funds held as security for bank loans, exceeds twenty per cent of its operating budget and  
1543 its budgeted capital costs for the succeeding fiscal year, the amount in excess of the said twenty  
1544 per cent shall be returned by the charter school to the sending district or districts and the state in  
1545 proportion to their share of tuition paid during the fiscal year. At the end of each fiscal year, the  
1546 commissioner shall certify the amounts described above and the amount, if any, by which it  
1547 exceeds twenty per cent of the school's operating budget and its budgeted capital costs for the  
1548 succeeding fiscal year, and shall report such amount to the school committee of the sending  
1549 district or districts and the applicable board of selectmen or city council by December first of  
1550 each year. A charter school shall make any payment required by this subsection no later than  
1551 December thirty-first of each year.

1552 (kk) No teacher shall be hired by a commonwealth charter school who is not certified  
1553 pursuant to section 38G unless the teacher has successfully passed the state teacher test as  
1554 required in said section 38G.

1555 (ll) Each charter school shall submit an annual report to the board of elementary and  
1556 secondary education, to the local school committee of each district from which the charter school  
1557 enrolls students, to each parent or guardian of its enrolled students, and to each parent or  
1558 guardian contemplating enrollment in that charter school. The annual report shall be issued no  
1559 later than August 1 of each year for the preceding school year. The annual report shall be in such  
1560 form as may be prescribed by the board of elementary and secondary education and shall include  
1561 at least the following components: (1) discussion of progress made toward the achievement of  
1562 the goals set forth in the charter; (2) discussion of progress made toward the benchmarks and  
1563 retention efforts described in the school's recruitment and retention plan; if a charter school has  
1564 not enrolled and retained a student population matching such benchmarks, the report must  
1565 explain why this is the case; (3) an accounting of how many students were designated as  
1566 requiring special education services or English language services by language proficiency level  
1567 as measured by the Massachusetts English Proficiency Assessment examination upon enrollment  
1568 and how many of these students were subsequently no longer designated as such, along with a  
1569 description of methods used by the school to achieve these outcomes and the rationale behind the  
1570 methodologies used; (4) the number of students, teachers, and administrators who have left each  
1571 charter school and their reasons for leaving; (5) the number of students enrolled in the charter  
1572 school eligible for free lunch as defined in chapter 70 section 2; (6) the number of students  
1573 enrolled in the charter school eligible for reduced price lunch as defined in chapter 70 section 2;

1574 (7) the number of homeless students enrolled in the charter school; and (8) the number of  
1575 students in the care of the Department of Youth Services enrolled in each charter school.

1576 The department shall adopt regulations creating a reporting requirement for a charter  
1577 school's net asset balance at the end of the fiscal year. The report shall include, but not be  
1578 limited to, the following types of information: the revenue and expenditures for the year just  
1579 ended with a specific accounting of the uses of public and private dollars; how the capital needs  
1580 component of the charter school's tuition was spent; compensation and benefits for teachers,  
1581 staff, administrators, executives, and board of trustees; the amount of any and all funds  
1582 transferred to a management company; the sources of any surplus funds, specifically whether  
1583 they are private or public; how any surplus funds were used in the previous fiscal year; and the  
1584 planned use of any surplus funds in the upcoming fiscal year on in future fiscal years. The  
1585 regulations shall authorize the commissioner to recommend withholding the release of all or  
1586 some part of the quarterly tuition payments for any school that has not timely filed the required  
1587 report. Such report shall be filed annually on or before January 1 with the department and the  
1588 state auditor and shall be in a form prescribed by said auditor. Said auditor may investigate the  
1589 budget and finances of charter schools and their financial dealings, transactions and  
1590 relationships, and shall have the power to examine the records of charter schools and to prescribe  
1591 methods of accounting and the rendering of periodic reports.

1592 (mm) The commissioner shall collect data on the racial, ethnic, and socio-economic  
1593 make-up of the student enrollment of each charter school. The commissioner shall also collect  
1594 data on the number of students enrolled in each charter school who have individual education  
1595 plans pursuant to chapter 71B and those requiring English language learners programs under  
1596 chapter 71A. The commissioner shall file said data annually with the clerks of the house and



1597 senate and with the joint committee on education not later than December 1. The commissioner  
1598 shall also make these reports available on the department's website.

1599 (nn) Individuals or groups may complain to a charter school's board of trustees  
1600 concerning any claimed violations of the provisions of this section by the school. If, after  
1601 presenting their complaint to the trustees, the individuals or groups believe their complaint has  
1602 not been adequately addressed, they may submit their complaint to the board of elementary and  
1603 secondary education which shall investigate such complaint and make a formal response.

1604 (oo) The board of elementary and secondary education shall adopt regulations for  
1605 implementing the provisions of this section, including, but not limited to, regulations for  
1606 determining the actual per pupil net school spending amounts in districts, and for calculating  
1607 charter school tuition amounts; and regulations governing the financial conditions and  
1608 obligations of management contracts. In adopting said regulations, the department shall consult  
1609 with the executive office for administration and finance.

1610 SECTION 5. For the school districts in which net school spending on charter school  
1611 tuition shall not exceed 18% as set forth in section 89(i) of chapter 71, the following shall apply:  
1612 in fiscal year 2011, a public school district's total charter school tuition payment to  
1613 commonwealth charter schools shall be limited to 12 percent of said district's net school  
1614 spending. In fiscal year 2012, a public school district's total charter school tuition payment to  
1615 commonwealth charter schools shall be limited to 13 percent of said district's net school  
1616 spending. In fiscal year 2013, a public school district's total charter school tuition payment to  
1617 commonwealth charter schools shall be limited to 14 percent of said district's net school  
1618 spending. In fiscal year 2014, a public school district's total charter school tuition payment to

1619 commonwealth charter schools shall be limited to 15 percent of said district's net school  
1620 spending. In fiscal year 2015, a public school district's total charter school tuition payment to  
1621 commonwealth charter schools shall be limited to 16 percent of said district's net school  
1622 spending. In fiscal year 2016, a public school district's total charter tuition payment to  
1623 commonwealth charter schools shall be limited to 17 percent of said district's net school  
1624 spending. In fiscal year 2017, a public school district's total charter tuition payment to  
1625 commonwealth charter schools shall be limited to 18 percent of said district's net school  
1626 spending.

1627           SECTION 6. The department shall draft a model policy for school districts regarding the  
1628 grade placement and eligibility for high school graduation of students leaving a commonwealth  
1629 charter school and seeking to enroll in a district school. In drafting said model policy, the  
1630 department shall confer with school districts and commonwealth charter schools. Said model  
1631 policy shall be made available no later than December 31, 2010. Until a school district adopts a  
1632 policy regarding the grade placement or eligibility for high school graduation of students leaving  
1633 a commonwealth charter school, when determining the appropriate grade placement or eligibility  
1634 for high school graduation of a student leaving a commonwealth charter school and enrolling in a  
1635 district school, a district shall examine the course of study and level of academic attainment of  
1636 the student.

1637           SECTION 7. Section 4E of Chapter 40 of the General Laws, as appearing in the 2008  
1638 Official Edition, is hereby amended by inserting after the word "districts" in line 2 the following:  
1639 "and boards of trustees of charter schools". Said section is further amended in line 5 by inserting  
1640 "and charter schools" after the word "committees". Said section is further amended in line 6 by  
1641 inserting "and boards of trustees of charter schools" after "committees". Said section is further

1642 amended in line 7 by inserting “and charter schools” after “school committees”. Said section is  
1643 further amended in line 12 by inserting “and board of trustees” after “member school  
1644 committee”. Said section is further amended in line 13 by inserting “or board of trustee” before  
1645 “or his designee”. Said section is further amended in line 28 by inserting “and charter schools”  
1646 after “member committees”. Said section is further amended in line 34 by inserting “and charter  
1647 schools” after “member municipalities.” Said section is further amended in line 64 by inserting  
1648 “and charter schools” after “municipalities”. Said section is further amended in line 97 by  
1649 inserting “or board of trustees of any charter school” after “regional school district”. Said section  
1650 is further amended in line 100 by inserting “or charter school” after “regional school district.”  
1651 Said section is further amended in line 102 by inserting “or board of trustees” after “school  
1652 committee”.

1653 Section 22A of Chapter 7 of the General Laws, as appearing in the 2008 Official Edition,  
1654 is hereby amended in the following lines: line 4 by striking “or” appearing immediately before  
1655 “authorities”, and inserting “or commonwealth or Horace Mann charter schools” after  
1656 “authorities,”; and line 5 by striking the “or” appearing immediately before “authorities”, and  
1657 inserting “or commonwealth or Horace Mann charter schools” after “authorities,”.

1658 SECTION 8: Chapter 70B, Section 15 shall be amended by adding the following  
1659 paragraph at the end of subsection (b):

1660 Prior to the sale or lease of an assisted structure or facility, or a portion of that structure  
1661 or facility, the school district in control of said structure or facility shall submit to the authority a  
1662 district-wide school facility use plan that shall include, but not be limited to, a listing of all  
1663 school facilities under the control of the school district, a detailed description of both the current

1664 use and proposed use of each school facility, the most recent enrollment data, by school facility,  
1665 then available to the school district, a detailed floor plan of each school facility that shows and  
1666 labels each space in the facility and whether it is used as a classroom or has some other use, and  
1667 any other information that may be required by the authority to understand the district's school  
1668 facility use plan. If such plan includes the closure, sale or lease of a school facility, or any part  
1669 of a school facility, the authority may conduct, with the full cooperation of the district, an  
1670 analysis of district-wide enrollment capacity and future enrollment trends for the district. If the  
1671 capacity analysis and enrollment projection indicate an extended period of significant excess  
1672 capacity within the district's educational facilities, the district shall, prior to consideration of any  
1673 other disposition of the identified excess capacity, make a good faith offer to sell or lease at fair  
1674 market value the identified excess capacity to a commonwealth charter school established  
1675 pursuant to section 89 of chapter 71 of the Massachusetts General Laws or an applicant for a  
1676 commonwealth charter school pursuant to said section 89 that serves or is seeking to serve  
1677 students who live in the school district. The authority shall not recapture commonwealth and  
1678 authority assistance for any such excess capacity that is sold or leased to a commonwealth  
1679 charter school or applicant for a commonwealth charter school.