

**SENATE . . . . . No. 2205**

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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 7 of the General Laws is hereby amended by striking out section  
2 22A, as appearing in the 2008 Official Edition, and inserting in place thereof the following  
3 section:-

4 Section 22A. Notwithstanding any other general or special law relating to collective  
5 purchasing, but subject to all other laws regulating public purchases and competitive bidding,  
6 the commonwealth and 1 or more of its cities, towns, districts, counties, authorities or  
7 commonwealth or Horace Mann charter schools, or 2 or more cities, towns, districts, counties,  
8 authorities or commonwealth or Horace Mann charter schools, hereinafter called political  
9 subdivisions, may make purchases of materials, supplies, equipment or services through the state  
10 purchasing agent subject to such rules, regulations and procedures as may be established from  
11 time to time by the purchasing agent; provided, however, that the political subdivision shall  
12 accept sole responsibility for any payment due the vendor for its share of such purchase.

13 SECTION 2. Chapter 40 of the General Laws is hereby amended by striking out section  
14 4E, as so appearing, and inserting in place thereof the following section:-

15           Section 4E. Two or more school committees of cities, towns and regional school districts  
16 and boards of trustees of charter schools may enter into a written agreement to conduct education  
17 programs and services which shall complement and strengthen the school programs of member  
18 school committees and charter schools and increase educational opportunities for children. The  
19 school committees and boards of trustees of charter schools shall collaborate to offer the  
20 programs and services, and the association of school committees and charter schools which is  
21 formed pursuant hereof to deliver the programs and services shall be known as an education  
22 collaborative.

23           The education collaborative shall be managed by a board of directors which shall be  
24 comprised of 1 person appointed by each member school committee and 1 person appointed by  
25 each member charter board of trustees. All appointed persons shall be either a school committee  
26 member or his designee, or the superintendent of schools or his designee, or a member of the  
27 charter board of trustees. Members of the board of directors shall be entitled to a vote according  
28 to the terms of the education collaborative agreement. The department of education shall appoint  
29 an individual to serve in an advisory capacity to the education collaborative board. The  
30 individual shall not be entitled to vote on any matter which comes before the board of directors  
31 of the education collaborative.

32           The written agreement which shall form the basis of the education collaborative shall set  
33 forth the purposes of the program or service, the financial terms and conditions of membership of  
34 the education collaborative, the method of termination of the education collaborative and of the  
35 withdrawal of member school committees, the procedure for admitting new members and for  
36 amending the collaborative agreement, the powers and duties of the board of directors of the  
37 education collaborative to operate and manage the education collaborative and any other matter

38 not incompatible with law which the member committees and charter schools consider advisable.  
39 The agreement shall be subject to the approval of the member school committees and the  
40 commissioner of education.

41 Each board of directors of an education collaborative shall establish and manage a trust  
42 fund, to be known as an Education Collaborative Trust Fund, and each such fund shall be  
43 designated by an appropriate name. All monies contributed by the member municipalities and  
44 charter schools and all grants or gifts from the federal government, state government, charitable  
45 foundations, private corporations or any other source shall be paid to the board of directors of the  
46 education collaborative and deposited in the fund.

47 The board of directors of the education collaborative shall appoint a treasurer who may  
48 be a treasurer of a city, town or regional school district belonging to the collaborative. The  
49 treasurer shall be authorized, subject to the direction of the board of directors of the education  
50 collaborative, to receive and disburse all monies of the trust fund without further appropriation.  
51 The treasurer shall give bond annually for the faithful performance of his duties as collaborative  
52 treasurer in a form approved by the department of revenue and in the sum, not less than the  
53 amount established by the department, as shall be fixed by the board of directors of the education  
54 collaborative. The board of directors of the education collaborative in its discretion may pay  
55 compensation to the treasurer for his services. No member of the board of directors of the  
56 education collaborative shall be eligible to serve as treasurer of the collaborative.

57 The treasurer of the education collaborative board of directors shall have the authority to  
58 make appropriate investments of the monies of the Education Collaborative Trust Fund  
59 consistent with section 54 of chapter 44.

60           The board of directors of an educational collaborative may borrow money, enter into  
61 long-term or short-term loan agreements or mortgages and apply for state, federal or corporate  
62 grants or contracts to obtain funds necessary to carry out the purpose for which such  
63 collaborative is established; provided, however, that the board of directors has determined that  
64 any borrowing, loan or mortgage is cost-effective and in the best interest of the collaborative and  
65 its member municipalities and charter schools. The borrowing, loans or mortgages shall be  
66 consistent with the written agreement and articles of incorporation, if any, of the educational  
67 collaborative and shall be consistent with standard lending practices.

68           The board of directors of the education collaborative may employ an executive officer  
69 who shall serve under the general direction of the board and who shall be responsible for the care  
70 and supervision of the education collaborative.

71           The board of directors of the education collaborative shall be considered to be a public  
72 employer and have the authority to employ personnel, including teachers, to carry out the  
73 purposes and functions of the education collaborative. No person shall be eligible for  
74 employment by the board of directors as an instructor of children with severe special needs,  
75 teacher of children with special needs, teacher, guidance counselor or school psychologist unless  
76 the person has been granted a certificate by the board of education under section 38G of chapter  
77 71 or section 6 of chapter 71A or an approval under the regulations promulgated by the board of  
78 education under chapter 71B or chapter 74 with respect to the type of position for which he seeks  
79 employment; provided, however, that nothing herein shall be construed to prevent a board of  
80 directors of an education collaborative from prescribing additional qualifications. A board of  
81 directors of an education collaborative may, upon its request, be exempted by the board of  
82 education for any 1 school year from the requirements of this section to employ certified or

83 approved personnel when compliance therewith would in the opinion of the board constitute a  
84 great hardship.

85 The education collaborative shall be considered to be a public entity and shall have  
86 standing to sue and be sued to the same extent as a city, town or regional school district. An  
87 education collaborative, acting through its board of directors, may enter into contracts for the  
88 purchase of supplies, materials and services and for the purchase or leasing of land, buildings  
89 and equipment as considered necessary by the board of directors.

90 A school committee of a city, town or regional school district or board of trustees of a  
91 charter school may authorize the prepayment of monies for an educational program or service of  
92 the education collaborative, to the treasurer of an education collaborative and the city, town or  
93 regional school district or charter school treasurer shall be required to approve and pay the  
94 monies in accordance with the authorization of the school committee or board of trustees.

95 SECTION 3. Chapter 69 of the General Laws, is hereby amended by striking out section  
96 1J, as so appearing, and inserting in place thereof the following section:-

97 Section 1J. (a) The commissioner of elementary and secondary education may, on the  
98 basis of student performance data collected pursuant to section 1I, a school or district review  
99 performed under section 55A of chapter 15, or regulations adopted by the board of elementary  
100 and secondary education, designate 1 or more schools in a school district other than a Horace  
101 Mann charter school as underperforming or chronically underperforming. The board shall adopt  
102 regulations establishing standards for the commissioner to make such designations on the basis  
103 of data collected pursuant to section 1I or a school or district review performed under section  
104 55A of chapter 15. Schools that score in the lowest 20 per cent statewide in the combined

105 composite performance index scores on the English language arts and mathematics  
106 Massachusetts Comprehensive Assessment System exams shall be deemed eligible for  
107 designation as underperforming or chronically underperforming status. Not more than 5 per cent  
108 of the public schools in the commonwealth may be designated as underperforming or chronically  
109 underperforming at any given time. If the department is no longer using the combined composite  
110 performance index as a measure of school and district performance, the department shall use the  
111 subsequently developed measure to determine the lowest 20 per cent of schools.

112 In adopting regulations allowing the commissioner to designate a school as  
113 underperforming or chronically underperforming, the board must ensure that such regulations  
114 take into account multiple indicators of school quality in making determinations regarding  
115 underperformance or chronic underperformance, such as student attendance, promotion rates,  
116 graduation rates or the lack of demonstrated significant improvement for 2 or more consecutive  
117 years in core academic subjects, either in the aggregate or among subgroups of students,  
118 including designations based special education, low-income, English language proficiency and  
119 racial classifications.

120 Before a school is considered chronically underperforming by the commissioner, a school  
121 must be considered underperforming and consistently fail to improve pursuant to the regulations.

122 An underperforming or chronically underperforming school described in the following  
123 subsections shall operate in accordance with laws regulating other public schools, except as such  
124 provisions may conflict with this section or any innovation plans created thereunder. A student  
125 who is enrolled in a school at the time it is designated as underperforming or chronically

126 underperforming shall retain the ability to remain enrolled in the school if the student chooses to  
127 do so.

128 (b) Upon the designation of a school as an underperforming school in accordance with  
129 regulations developed pursuant to this section, the superintendent of the district, in consultation  
130 with the commissioner, shall create an innovation plan for the school, under subsections (b) to  
131 (e), inclusive.

132 Before the superintendent creates the innovation plan required in this subsection, the  
133 superintendent shall convene a local stakeholder group of not more than 11 individuals, for the  
134 purpose of soliciting recommendations on the content of such plan in order to maximize the  
135 rapid academic achievement of students at the school. The group shall include: (1) the  
136 commissioner, or a designee; (2) the chair of the school committee, or a designee; (3) the  
137 president of the local teacher's union, or a designee; (4) an administrator from the school, who  
138 may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the  
139 faculty of the school; (6) a parent from the school chosen by the local parent organization; (7)  
140 representatives of applicable state and local social service, health, and child welfare agencies,  
141 chosen by the superintendent; and (8) as appropriate, representatives of state and local workforce  
142 development agencies, chosen by the superintendent. If the school or district does not have a  
143 parent organization or if the organization does not select a parent, the superintendent shall select  
144 a volunteer parent of a student from the school. The superintendent shall convene such group  
145 within 30 days of the commissioner designating a school as underperforming and the group shall  
146 make its recommendations to the superintendent within 45 days of its initial meeting. Meetings  
147 of the local stakeholder group shall be open to the public and the recommendations submitted to

148 the superintendent under this subsection shall be publicly available immediately upon their  
149 submission.

150 (c) In creating the innovation plan in subsection (b) the superintendent shall include,  
151 after considering the recommendations of the local stakeholder group, provisions intended to  
152 maximize the rapid academic achievement of students at the school and shall, to the extent  
153 practicable, base the plan on student outcome data, including, but not limited to: (1) data  
154 collected pursuant to section 1I or a school or district review performed under section 55A of  
155 chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System;  
156 (3) other measures of student achievement, as appropriate; (4) student promotion and graduation  
157 rates; (5) achievement data for different subgroups of students, including low-income students as  
158 defined in chapter 70, limited English-proficient students and students receiving special  
159 education; and (6) student attendance and dismissal rates.

160 The superintendent shall also include in the creation of the innovation plan, after  
161 considering the recommendations of the local stakeholder group, the following: (1) steps to  
162 address social service and health needs of students at the school and their families, in order to  
163 help students arrive and remain at school ready to learn; (2) steps to improve or expand child  
164 welfare services and, as appropriate, law enforcement services in the school community, in order  
165 to promote a safe and secure learning environment; (3) steps to improve workforce development  
166 services provided to students and their families at the school, in order to provide students and  
167 families with meaningful employment skills and opportunities; (4) steps to address achievement  
168 gaps for limited English-proficient, special education and low-income students; and (5) a budget  
169 for the school, including any additional funds to be provided by the district, commonwealth,  
170 federal government or other sources.



171           The secretaries of health and human services, labor and workforce development, public  
172 safety and other applicable state and local social service, health and child welfare officials shall  
173 coordinate with the superintendent regarding the implementation of strategies under clauses (1)  
174 to (3), inclusive, of the second paragraph that are included in a final innovation plan and shall,  
175 subject to appropriation, reasonably support such implementation consistent with the  
176 requirements of state and federal law applicable to the relevant programs that each such official  
177 is responsible for administering. The secretary of education and the commissioner of elementary  
178 and secondary education shall assist the superintendent in facilitating the coordination.

179           In order to assess the school across multiple measures of school performance and student  
180 success, the innovation plan shall include measurable annual goals including, but not limited to,  
181 the following: (1) student attendance; (2) student safety and discipline; (3) student promotion and  
182 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System;  
183 (5) progress in areas of academic underperformance; (6) progress among subgroups of students,  
184 including low-income students as defined by chapter 70, limited English-proficient students and  
185 students receiving special education; (7) reduction of achievement gaps among different groups  
186 of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college  
187 readiness, including at the elementary and middle school levels; (10) parent and family  
188 engagement; (11) building a culture of academic success among students; (12) building a culture  
189 of student support and success among school faculty; and staff and (13) developmentally  
190 appropriate child assessments from pre-kindergarten through third grade, if applicable.

191           (d) Notwithstanding any general or special law to the contrary, in creating the innovation  
192 plan required in subsection (b), the superintendent may, after considering the recommendations  
193 of the group of stakeholders: (1) expand, alter or replace the curriculum of the school, including

194 the implementation of research-based early literacy programs and the teaching of advanced  
195 placement courses, if the school does not already have such programs or courses; (2) reallocate  
196 the uses of the existing budget of the school; (3) provide additional funds to the school from the  
197 budget of the district, if the school does not already receive funding from the district at least  
198 equal to the average per pupil funding received for students of the same classification and grade  
199 level in the district; (4) provide funds, subject to appropriation and following consultation with  
200 applicable local unions, to increase the salary of any administrator or teacher in the school, in  
201 order to attract and retain highly-qualified administrators or teachers or to reward administrators  
202 or teachers who work in underperforming schools that achieve the annual goals set forth in the  
203 innovation plan; (5) expand the school day or school year of the school; (6) for an elementary  
204 school, add pre-kindergarten and full-day kindergarten classes, if the school does not already  
205 have such classes; (7) following consultation with applicable local unions, require the principal  
206 and all administrators, teachers and staff to reapply for their positions in the school, with full  
207 discretion vested in the superintendent regarding his consideration of and decisions on rehiring  
208 based on the reapplications; (8) limit, suspend or change 1 or more school district policies, as  
209 such policies relate to the school; (9) include a provision of job-embedded professional  
210 development for teachers at the school, with an emphasis on strategies that involve teacher input  
211 and feedback; (10) provide for increased opportunities for teacher planning time and  
212 collaboration focused on improving student instruction; (11) put in place a plan for professional  
213 development for administrators at the school, with an emphasis on strategies that develop  
214 leadership skills and use the principles of distributive leadership; (12) establish steps to assure a  
215 continuum of high-expertise teachers by aligning the following processes with the common core  
216 of professional knowledge and skill: hiring, induction, teacher evaluation, professional

217 development, teacher advancement, school culture and organizational structure; (13) develop a  
218 strategy to search for and study best practices in areas of demonstrated deficiency in the school;  
219 (14) establish strategies to address mobility and transiency among the student population of the  
220 school; and (15) include additional components based on the reasons why the school was  
221 designated as underperforming and the recommendations of the group of stakeholders in  
222 subsection (b).

223 For a school with limited English-proficient students, the professional development and  
224 planning time for teachers and administrators identified in clauses (9) to (11), inclusive, shall  
225 include specific strategies and content designed to maximize the rapid academic achievement of  
226 limited English-proficient students at the school.

227 (e) Within 30 days of the local stakeholder group making recommendations under  
228 subsection (b), the superintendent shall submit an innovation plan to the local stakeholder group,  
229 the school committee and the commissioner, all of whom may propose modifications to the plan.  
230 The superintendent shall make such plan immediately available to the public upon the  
231 submission. The stakeholder group, the school committee and the commissioner shall submit any  
232 proposed modifications to the superintendent not more than 30 days after the date of submission  
233 of the innovation plan and the proposed modifications shall be made public immediately upon  
234 their submission to the superintendent. The superintendent shall consider and may incorporate  
235 the modifications into the plan if the superintendent determines that inclusion of the  
236 modifications would further promote the rapid academic achievement of students at the school or  
237 may alter or reject the proposed modifications submitted under this subsection. Within 30 days  
238 of receiving any proposed modifications under this subsection, the superintendent shall issue a  
239 final innovation plan for the school and the plan shall be made publicly available.

240 (f) Within 30 days of the issuance of a final innovation plan under subsection (e), a  
241 school committee or local teacher's union may appeal to the commissioner regarding 1 or more  
242 components of the plan, including the absence of 1 or more modifications proposed under  
243 subsection (e). The commissioner may, in consultation with the superintendent, modify the plan  
244 if the commissioner determines that: (1) such modifications would further promote the rapid  
245 academic achievement of students in the applicable school; (2) a component of the plan was  
246 included, or a modification was excluded, on the basis of demonstrably-false information or  
247 evidence; or (3) the superintendent failed to meet the requirements of subsections (b) to (e),  
248 inclusive. The decision of the commissioner regarding an appeal under this subsection shall be  
249 made within 30 days and shall be final.

250 (g) If the superintendent considers it necessary to maximize the rapid academic  
251 achievement of students at the school by altering the compensation, hours and working  
252 conditions of the administrators, teachers and staff at the school or by altering other provisions of  
253 a contract or collective bargaining agreement applicable to the administrators, teachers and staff,  
254 the superintendent may request that the school committee and any applicable union bargain or  
255 reopen the bargaining of the relevant collective bargaining agreement to facilitate such  
256 achievement. The bargaining shall be conducted in good faith and completed not later than 40  
257 days from the date on which the superintendent requests the parties to bargain. The agreement  
258 shall be subject to ratification by a majority of the bargaining unit members in the school who  
259 will be subject to such agreement. If an agreement is not reached or the agreement has not been  
260 so ratified 10 days after its completion, the employer shall have the authority to declare an  
261 impasse and unilaterally implement his last, best offer concerning proposed changes to the  
262 collective bargaining agreement; provided, however, that the employer shall not reduce the

263 compensation and benefits of any administrator, teacher or staff member unless the hours of such  
264 person are proportionately reduced.

265           If the superintendent considers it necessary to maximize the rapid academic achievement  
266 of students at the school by altering the terms and length of the contract of the principal at the  
267 school, the superintendent, under section 59B of chapter 71, may renegotiate the terms and  
268 length of the contract to facilitate the achievement. The negotiation shall be completed not later  
269 than 40 days from the date on which the superintendent requests the parties to negotiate. If an  
270 agreement has not been reached after 40 days, the employer shall have the authority to  
271 implement the proposed changes to the contract.

272           (h) The superintendent may select an external receiver to operate the school and  
273 implement the innovation plan or to assist the superintendent with the implementation. The  
274 superintendent may appoint the receiver if the superintendent determines that conditions exist in  
275 the district that are likely to negatively affect his ability to implement the plan successfully. A  
276 school committee may appeal to the commissioner the decision of the superintendent to appoint  
277 an external receiver. The commissioner may reverse such decision only if he determines that  
278 the superintendent made the decision on the basis of demonstrably-false information or evidence.  
279 A receiver shall be a non-profit entity or an individual with a demonstrated record of success in  
280 improving low-performing schools or the academic performance of disadvantaged students. A  
281 receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an  
282 individual shall also be subject to chapter 268A.

283           (i) An external receiver selected by the superintendent to operate a school shall have full  
284 managerial and operational control over the school as provided in the innovation plan. For all

285 other purposes, the school district in which the school is located shall remain the employer of  
286 record.

287 (j) Each innovation plan shall be authorized for a period of not more than 3 years, subject  
288 to subsection (k). The superintendent or external receiver, as applicable, may develop additional  
289 components of the innovation plan and shall develop annual goals for each component of the  
290 plan. The superintendent or external receiver, as applicable, shall be responsible for meeting the  
291 goals of the plan.

292 (k) Each school designated by the commissioner as underperforming under subsection (a)  
293 shall be reviewed by the superintendent, in consultation with the principal of the school, at least  
294 annually. The purpose of the review shall be to determine whether the school has met the annual  
295 goals in its innovation plan and to assess the overall implementation of the innovation plan. The  
296 review shall be in writing and shall be submitted to the commissioner and the relevant school  
297 committee not later than July 1 for the preceding school year. The review shall be submitted in a  
298 format determined by the department of elementary and secondary education.

299 If the commissioner determines that the school has met the annual performance goals  
300 stated in the innovation plan, the review shall be considered sufficient and the implementation of  
301 the innovation plan shall continue. If the commissioner determines that the school has not met 1  
302 or more goals in the innovation plan and that the failure to meet the goals may be corrected  
303 through reasonable modification of the plan, the superintendent may amend the innovation plan.  
304 If the commissioner determines that the school has substantially failed to meet 1 or more goals in  
305 the plan, the commissioner may appoint an examiner to conduct an evaluation of the school's  
306 implementation of the innovation plan.

307           If the commissioner determines that the school has substantially failed to meet multiple  
308 goals in the plan, the commissioner may require changes to the innovation plan to be  
309 implemented by the superintendent in the following year. If the changes to the innovation plan  
310 require changes in a collective bargaining agreement applicable to administrators, teachers or  
311 staff in the school, the bargaining procedure in subsection (g) shall be used. If an  
312 underperforming school is operated by an external receiver, the commissioner may require the  
313 superintendent to terminate the receiver and develop a new innovation plan; provided, however,  
314 that the superintendent shall not terminate the receiver before the completion of the first full  
315 school year of the operation of the underperforming school.

316           (1) Upon the expiration of an innovation plan, the commissioner shall conduct a review of  
317 the school to determine whether the school has improved sufficiently, requires further  
318 improvement or has failed to improve. On the basis of such review, the commissioner may  
319 determine that: (1) the school has improved sufficiently for the designation of the school as  
320 underperforming to be removed; (2) the school has improved, but the school remains  
321 underperforming, in which case the superintendent may, with the approval of the commissioner,  
322 renew the plan or create a new or modified plan for an additional period of not more than 3  
323 years; or (3) consistent with the requirements of subsection (a), the school is chronically  
324 underperforming. The commissioner may recommend the appointment of an external receiver  
325 by the superintendent if the commissioner believes that a new or modified innovation plan  
326 implemented by the superintendent will not result in rapid improvement. In carrying out this  
327 subsection, the superintendent shall: (1) in the case of a renewal of an innovation plan, determine  
328 subsequent annual goals for each component of the plan with the input of the local stakeholder

329 group as defined in subsection (b); or (2) create a new or modified innovation plan as necessary,  
330 consistent with the requirements of this section.

331 (m) Upon the designation of a school as a chronically underperforming school in  
332 accordance with the regulations developed under this section, the commissioner shall create an  
333 innovation plan for the school under subsections (m) to (p), inclusive.

334 Before creating the innovation plan required in this subsection, the commissioner shall  
335 convene a local stakeholder group of not more than 11 individuals for the purpose of soliciting  
336 recommendations on the content of such plan in order to maximize the rapid academic  
337 achievement of students. The group shall include: (1) the superintendent, or a designee; (2) the  
338 chair of the school committee, or a designee; (3) the president of the local teacher's union, or a  
339 designee; (4) an administrator from the school, who may be the principal, chosen by the  
340 superintendent; (5) a teacher from the school chosen by the faculty of the school; (6) a parent  
341 from the school chosen by the local parent organization; (7) representatives of applicable state  
342 and local social service, health and child welfare agencies, chosen by the commissioner; and (8)  
343 as appropriate, representatives of state and local workforce development agencies, chosen by the  
344 commissioner. If the school or district does not have a parent organization or if the organization  
345 does not select a parent, the commissioner shall select a volunteer parent of a student from the  
346 school. The commissioner shall convene the group within 30 days of the designation of a school  
347 as chronically underperforming and the group shall make its recommendations to the  
348 commissioner within 45 days of its initial meeting. Meetings of the local stakeholder group shall  
349 be open to the public and the recommendations submitted to the commissioner under this  
350 subsection shall be publicly available immediately upon their submission.



351 (n) In creating the innovation plan required in subsection (m), the commissioner shall  
352 include, after considering the recommendations of the local stakeholder group, provisions  
353 intended to maximize the rapid academic achievement of students at the school and shall, to the  
354 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data  
355 collected under section 11I or a school or district review performed under section 55A of chapter  
356 15; (2) student achievement on the Massachusetts Comprehensive Assessment System; (3) other  
357 measures of student achievement, as appropriate; (4) student promotion and graduation rates; (5)  
358 achievement data for different subgroups of students, including low-income students as defined  
359 by chapter 70, limited English-proficient students and students receiving special education; and  
360 (6) student attendance and dismissal rates.

361 The commissioner shall include in the creation of the innovation plan, after considering  
362 the recommendations of the local stakeholder group, the following: (1) steps to address social  
363 service and health needs of students at the school, and their families, in order to help students  
364 arrive and remain at school ready to learn; (2) steps to improve or expand child welfare services  
365 and, as appropriate, law enforcement services in the school community, in order to promote a  
366 safe and secure learning environment; (3) steps to improve workforce development services  
367 provided to students at the school, and their families, in order to provide students and families  
368 with meaningful employment skills and opportunities; (4) steps to address achievement gaps for  
369 limited English-proficient, special education and low-income students; and (5) a budget for the  
370 school, including any additional funds to be provided by the district, commonwealth, federal  
371 government or other sources.

372 The secretaries of health and human services, labor and workforce development, public  
373 safety and other applicable state and local social service, health and child welfare officials shall

374 coordinate with the secretary of education and the commissioner regarding the implementation of  
375 strategies under clauses (1) to (3), inclusive, of the second paragraph that are included in a final  
376 innovation plan and shall, subject to appropriation, reasonably support the implementation  
377 consistent with the requirements of state and federal law applicable to the relevant programs that  
378 each official is responsible for administering.

379         In order to assess the school across multiple measures of school performance and student  
380 success, the innovation plan shall include measurable annual goals including, but not limited to,  
381 the following: (1) student attendance; (2) student safety and discipline; (3) student promotion and  
382 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System;  
383 (5) progress in areas of academic underperformance; (6) progress among subgroups of students,  
384 including low-income students as defined by chapter 70, limited English-proficient students and  
385 students receiving special education; (7) reduction of achievement gaps among different groups  
386 of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college  
387 readiness, including at the elementary and middle school levels; (10) parent and family  
388 engagement; (11) building a culture of academic success among students; (12) building a culture  
389 of student support and success among school faculty and staff; and (13) developmentally  
390 appropriate child assessments from pre-kindergarten through third grade, if applicable.

391         (o) In creating the innovation plan required in subsection (m), the commissioner may,  
392 after considering the recommendations of the group of stakeholders: (1) expand, alter or replace  
393 the curriculum of the school, including the implementation of research-based early literacy  
394 programs and the teaching of advanced placement courses, if the school does not already have  
395 such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide  
396 additional funds to the school from the budget of the district, if the school does not already

397 receive funding from the district at least equal to the average per pupil funding received for  
398 students of the same classification and grade level in the district; (4) provide funds, subject to  
399 appropriation, to increase the salary of an administrator or teacher in the school, in order to  
400 attract and retain highly-qualified administrators or teachers or to reward administrators or  
401 teachers who work in chronically underperforming schools that achieve the annual goals set forth  
402 in the innovation plan; (5) expand the school day or school year of the school; (6) for an  
403 elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not  
404 already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or  
405 collective bargaining agreement, as the contract or agreement applies to the school; provided,  
406 however that the change may include the adoption of model provisions identified by the  
407 commissioner from among existing contracts or collective bargaining agreements , provided,  
408 further, that the commissioner shall not reduce the compensation of an administrator, teacher or  
409 staff member unless the hours of the person are proportionately reduced; (8) require the principal  
410 and all administrators, teachers and staff to reapply for their positions in the school, with full  
411 discretion vested in the commissioner regarding his consideration of and decisions on rehiring  
412 based on the reapplications; (9) limit, suspend or change 1 or more school district policies; (10)  
413 include a provision of job-embedded professional development for teachers at the school, with an  
414 emphasis on strategies that involve teacher input and feedback; (11) provide for increased  
415 opportunities for teacher planning time and collaboration focused on improving student  
416 instruction; (12) establish a plan for professional development for administrators at the school,  
417 with an emphasis on strategies that develop leadership skills and use the principles of distributive  
418 leadership; (13) establish steps to assure a continuum of high expertise teachers by aligning the  
419 following processes with the common core of professional knowledge and skill: hiring,

420 induction, teacher evaluation, professional development, teacher advancement, school culture  
421 and organizational structure; (14) develop a strategy to search for and study best practices in  
422 areas of demonstrated deficiency in the school; (15) establish strategies to address mobility and  
423 transiency among the student population of the school; and (16) include additional components,  
424 at the discretion of the commissioner, based on the reasons the school was designated as  
425 chronically underperforming and the recommendations of the local stakeholder group in  
426 subsection (m).

427           For a school with limited English-proficient students, the professional development and  
428 planning time for teachers and administrators identified in clauses (10) to (12), inclusive, shall  
429 include specific strategies and content designed to maximize the rapid academic achievement of  
430 the limited English-proficient students.

431           If the commissioner proposes to reallocate funds to the school from the budget of the  
432 district under clause (3), the commissioner shall notify the school committee, in writing, of the  
433 amount of and rationale for the reallocation.

434           (p) Within 30 days of the local stakeholder group making recommendations under  
435 subsection (m), the commissioner shall submit an innovation plan to the local stakeholder group,  
436 the superintendent and the school committee, all of whom may propose modifications to the  
437 plan. The commissioner shall make the plan immediately available to the public upon  
438 submission. The stakeholder group, the superintendent and the school committee shall submit  
439 any proposed modifications to the commissioner within 30 days after the date of submission of  
440 the innovation plan and the proposed modifications shall be made public immediately upon their  
441 submission to the commissioner. The commissioner shall consider and incorporate the

442 modifications into the plan if the commissioner determines that inclusion of the modifications  
443 would further promote the rapid academic achievement of students at the applicable school. The  
444 commissioner may alter or reject modifications submitted pursuant to this subsection. Within 30  
445 days of receiving any proposed modifications, the commissioner shall issue a final innovation  
446 plan for the school and the plan shall be made publicly available.

447 (q) Within 30 days of the issuance of a final innovation plan under subsection (p), a  
448 superintendent, school committee or local teacher's union may appeal to the board of elementary  
449 and secondary education regarding 1 or more components of the plan, including the absence of 1  
450 or more modifications proposed under subsection (p). A majority of the board, as fully  
451 constituted, may vote to modify the plan if the board determines that: (1) such modifications  
452 would further promote the rapid academic achievement of students in the applicable school; (2) a  
453 component of the plan was included, or a modification was excluded, on the basis of  
454 demonstrably-false information or evidence; or (3) the commissioner failed to meet the  
455 requirements of subsections (m) to (p), inclusive. The decision of the board regarding an appeal  
456 under this subsection shall be made within 30 days and shall be final.

457 (r) In the case of a chronically underperforming school, the commissioner may, under the  
458 circumstances described in this subsection, send a targeted assistance team to the school to assist  
459 the superintendent with the implementation of the innovation plan, require the superintendent to  
460 implement the innovation plan, or select an external receiver to operate the school and  
461 implement the innovation plan. The commissioner may appoint such receiver if the  
462 commissioner determines that: (1) the superintendent is unlikely to implement the plan  
463 successfully; or (2) conditions exist in the district that are likely to negatively affect the ability of  
464 the superintendent to implement such plan successfully. A receiver shall be a non-profit entity or

465 an individual with a demonstrated record of success in improving low performing schools or the  
466 academic performance of disadvantaged students. A receiver shall be subject to section 11A½ of  
467 chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter  
468 268A.

469 The commissioner may select the external receiver upon the designation of a school as  
470 chronically underperforming. The external receiver may serve as the commissioner's designee  
471 for the purpose of creating a school's innovation plan under subsections (m) to (p), inclusive.

472 (s) An external receiver selected by the commissioner to operate a chronically  
473 underperforming school shall have full managerial and operational control over the school as  
474 provided in the innovation plan. For all other purposes, the school district in which the school is  
475 located shall remain the employer of record.

476 (t) Each innovation plan shall be authorized for a period of not more than 3 years, subject  
477 to subsection (v). The superintendent or external receiver, as applicable, may develop  
478 additional components of the plan and shall develop annual goals for each component of the  
479 plan, all of which must be approved by the commissioner. The superintendent or external  
480 receiver, as applicable, shall be responsible for meeting the goals of the innovation plan.

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

485 (v) The commissioner shall evaluate each chronically underperforming school at least  
486 annually. The purpose of the evaluation shall be to determine whether the school has met the

487 annual goals in its innovation plan and assess the implementation of the plan at the school. The  
488 review shall be in writing and shall be submitted to the superintendent and the school committee  
489 not later than July 1 for the preceding school year.

490 If the commissioner determines that the school has met the annual performance goals  
491 stated in the innovation plan, the review shall be considered sufficient and the implementation of  
492 the innovation plan shall continue. If the commissioner determines that the school has not met 1  
493 or more goals in the plan, the commissioner may modify the plan.

494 If the commissioner determines that the school has substantially failed to meet multiple  
495 goals in the plan, the commissioner may: (1) if the school is operated by a superintendent, appoint  
496 an external receiver, as defined in subsection (r), to operate the school; or (2) if the school is  
497 operated by an external receiver terminate the contract of the external receiver; provided,  
498 however, that the commissioner shall not terminate the receiver before the completion of the first  
499 full school year of the operation of the chronically underperforming school.

500 (w) Upon the expiration of an innovation plan for a chronically underperforming school,  
501 the commissioner shall conduct a review of the school to determine whether the school has  
502 improved sufficiently, requires further improvement or has failed to improve. On the basis of  
503 such review, the commissioner may: (1) on the basis of a superintendent's or external receiver's  
504 success in meeting the terms of the plan, renew the plan with the superintendent or external  
505 receiver for an additional period of not more than 3 years; (2) if a school that is operated by a  
506 superintendent and remains chronically underperforming, appoint an external receiver, as defined  
507 in subsection (r), to operate the school; (3) if a chronically underperforming school that is  
508 operated by an external receiver and remains chronically underperforming, transfer the operation

509 of the school from the receiver to the applicable superintendent or to another external receiver; or  
510 (4) determine that the school has improved sufficiently for the designation of chronically  
511 underperforming to be removed. The commissioner shall: (1) in the case of a renewal of an  
512 innovation plan, jointly determine subsequent annual goals for each component of the plan with  
513 the superintendent or external receiver, as applicable; or (2) create a new or modified innovation  
514 plan as necessary, consistent with the requirements of this section.

515 (x) The board of elementary and secondary education shall adopt regulations  
516 regarding: (1) the conditions under which an underperforming or chronically underperforming  
517 school shall no longer be designated as an underperforming or chronically underperforming  
518 school; and (2) the transfer of the operation of an underperforming or a chronically  
519 underperforming school from a superintendent or an external receiver, as applicable, to the  
520 school committee. The regulations shall include provisions to allow a school to retain measures  
521 adopted in an innovation plan if, in the judgment of the commissioner, the measures would  
522 contribute to the continued improvement of the school.

523 (y) The commissioner shall report annually to the joint committee on education, the  
524 house and senate committees on ways and means, the speaker of the house of representatives and  
525 the senate president on the implementation and fiscal impact of this section and section 1K. The  
526 report include, but not be limited to, a list of all schools currently designated as underperforming  
527 or chronically underperforming, a list of all districts currently designated as chronically  
528 underperforming, the plans and timetable for returning the schools and districts to the local  
529 school committee and strategies used in each of the schools and districts to maximize the rapid  
530 academic achievement of students.



531 SECTION 4. Chapter 69 of the General Laws is hereby amended by striking out section  
532 1K, as so appearing, and inserting in place thereof the following section:-

533 Section 1K. (a) Upon a determination by the board of elementary and secondary  
534 education, pursuant to regulations, that a school district has scored in the lowest 5 per cent  
535 statewide in the combined composite performance index for English language arts and math, the  
536 commissioner shall appoint an independent fact-finding team to assess the reasons for the  
537 underperformance and the prospects for improvement. The fact-finding team shall include at  
538 least one person with expertise in the academic achievement of limited English-proficient  
539 students. Upon review of the findings of the fact-finding team, the board may declare the district  
540 chronically underperforming on the basis of student performance data collected pursuant to  
541 section 1I, district review performed under section 55A of chapter 15, or upon regulations  
542 adopted by the board. Following such a declaration, the board shall designate a receiver for the  
543 district with all the powers of the superintendent and school committee. The receiver shall be a  
544 non-profit entity or an individual with a demonstrated record of success in improving low-  
545 performing schools or districts or the academic performance of disadvantaged students who shall  
546 report directly to the commissioner. An external receiver designated by the board to operate a  
547 district under this subsection shall have full managerial and operational control over such  
548 district; provided, however, that the school district shall remain the employer of record for all  
549 other purposes. A receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A  
550 receiver who is an individual shall also be subject to chapter 268A.

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

553 In adopting regulations allowing the board to designate a district as chronically  
554 underperforming, the board must ensure that the regulations account for multiple indicators of  
555 district quality including student attendance, student promotion and graduation rates in the  
556 district, or the lack of demonstrated significant improvement for 2 or more consecutive years in  
557 core academic subjects, either in the aggregate or among subgroups of students, including  
558 designations based on special education classification, low-income, English language proficiency  
559 and racial classifications.

560 (b) The commissioner and the receiver shall jointly create an innovation plan to promote  
561 the rapid improvement of the chronically underperforming district. The plan shall specifically  
562 focus on the school or schools in the district that have been labeled chronically underperforming  
563 under section 1J and the district policies that have contributed to chronic underperformance.

564 Before creating the innovation plan required in this subsection, the commissioner and  
565 receiver shall convene a local stakeholder group of not more than 11 individuals for the purpose  
566 of soliciting recommendations on the content of such plan in order to maximize the rapid  
567 academic achievement of students. The group shall include: (1) the superintendent, or a  
568 designee; (2) the chair of the school committee, or a designee; (3) the president of the local  
569 teacher's union, or a designee; (4) a selection of administrators from the district, chosen by the  
570 commissioner from among volunteers from the district; (5) a selection of teachers from the  
571 district, chosen by the local teacher's union; (6) a selection of parents from the district chosen by  
572 the local parent organization; (7) representatives of applicable state and local social service,  
573 health, and child welfare agencies chosen by the commissioner; and (8) as appropriate,  
574 representatives of state and local workforce development agencies chosen by the commissioner.  
575 If the district does not have a parent organization or if the organization does not select a parent,

576 the commissioner shall select a volunteer parent of a student from the district. The commissioner  
577 and receiver shall convene the group within 30 days of the board designating a district as  
578 chronically underperforming and the group shall make its recommendations to the commissioner  
579 and receiver within 45 days of its initial meetings. Meetings of the local stakeholder group shall  
580 be open to the public and the recommendations submitted to the commissioner and receiver shall  
581 be publicly available immediately upon their submission.

582 (c) In creating the innovation plan, the commissioner and receiver shall include measures  
583 intended to maximize the rapid academic achievement of students in the district and shall, to the  
584 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data  
585 collected pursuant to section 1I, or a school or district review performed under section 55A of  
586 chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System;  
587 (3) other measures of student achievement, as appropriate; (4) student promotion and graduation  
588 rates; (5) achievement data for different subgroups of students, including low-income students as  
589 defined in chapter 70, limited English-proficient students and students receiving special  
590 education; and (6) student attendance and dismissal rates. In creating the innovation plan  
591 required in subsection (b), the commissioner and receiver shall include, after considering the  
592 recommendations of the local stakeholder group, the following: (1) steps to address social  
593 service and health needs of students and their families in the district in order to help students  
594 arrive and remain at school ready to learn; (2) steps to improve or expand child welfare services  
595 and, as appropriate, law enforcement services in the school district community, in order to  
596 promote a safe and secure learning environment; (3) as applicable, steps to improve workforce  
597 development services provided to students and their families in the district in order to provide  
598 students and families with meaningful employment skills and opportunities; (4) steps to address

599 achievement gaps for limited English-proficient, special education and low-income students, as  
600 applicable; and (5) a budget for the district including any additional funds to be provided by the  
601 commonwealth, federal government or other sources.

602         The secretaries of health and human services, public safety, labor and workforce  
603 development and other applicable state and local social service, health and child welfare officials  
604 shall coordinate with the secretary of education and the commissioner regarding the  
605 implementation of strategies pursuant to clauses (1) to (3), inclusive, of this subsection that are  
606 included in an innovation plan and shall, subject to appropriation, reasonably support the  
607 implementation consistent with the requirements of state and federal law applicable to the  
608 relevant programs that each such official is responsible for administering.

609         In order to assess the district across multiple measures of district performance and student  
610 success, the innovation plan shall include measurable annual goals including, but not limited to,  
611 the following: (1) student attendance; (2) student safety and discipline; (3) student promotion and  
612 graduation; (4) student achievement on the Massachusetts Comprehensive Assessment System;  
613 (5) progress in areas of academic underperformance; (6) progress among subgroups of students,  
614 including low-income students as defined by chapter 70, limited English-proficient students and  
615 students receiving special education; (7) reduction of achievement gaps among different groups  
616 of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college  
617 readiness, including at the elementary and middle school levels; (10) parent and family  
618 engagement; (11) building a culture of academic success among students; (12) building a culture  
619 of student support and success among faculty and staff; and (13) developmentally appropriate  
620 child assessments from pre-kindergarten through third grade, if applicable.

621 (d) Notwithstanding any general or special law to the contrary, in creating the innovation  
622 plan under subsection (b), the commissioner and the receiver may, after considering the  
623 recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum of the  
624 district or of a school in the district, including the implementation of research-based early  
625 literacy programs and the teaching of advanced placement courses, if the district or schools in the  
626 district do not already have such programs or courses; (2) reallocate the uses of the existing  
627 budget of the district; (3) provide funds, subject to appropriation, to increase the salary of an  
628 administrator or teacher in the district, in order to attract and retain highly-qualified  
629 administrators or teachers or to reward administrators or teachers who work in chronically  
630 underperforming districts that achieve the annual goals set forth in the innovation plan; (4)  
631 expand the school day or school year of schools in the district; (5) limit, suspend or change 1 or  
632 more provisions of any contract or collective bargaining agreement in the district, including the  
633 adoption of model provisions identified by the commissioner from among existing contracts or  
634 collective bargaining agreements in the commonwealth; provided, however, that the  
635 commissioner shall not reduce the compensation of an administrator, teacher or staff member  
636 unless the hours of the person are proportionately reduced; (6) add pre-kindergarten and full-day  
637 kindergarten classes, if the district does not already have the classes; (7) require all district  
638 administrators, principals, school administrators, teachers and staff to reapply for their positions  
639 within the district, with full discretion vested in the commissioner and receiver regarding their  
640 consideration of and decisions on any rehiring based on the reapplications; (8) limit, suspend or  
641 change 1 or more school district policies; (9) include a provision of job-embedded professional  
642 development for teachers in the district, with an emphasis on strategies that involve teacher input  
643 and feedback; (10) provide for increased opportunities for teacher planning time and

644 collaboration focused on improving student instruction; (11) establish a plan for professional  
645 development for administrators in the district, with an emphasis on strategies that develop  
646 leadership skills and use the principles of distributive leadership; (12) establish steps to assure a  
647 continuum of high expertise teachers by aligning the following processes with the common core  
648 of professional knowledge and skill: hiring, induction, teacher evaluation, professional  
649 development, teacher advancement, school culture and organizational structure; (13) develop a  
650 strategy to search for and study best practices in areas of demonstrated deficiency in the district;  
651 (14) establish strategies to address mobility and transiency among the student population of the  
652 district; and (15) include additional components, at the discretion of the commissioner and the  
653 receiver, based on the reasons the district was designated as chronically underperforming and  
654 based on the recommendations of the local stakeholder group in subsection (b).

655           For a district with limited English-proficient students, the professional development and  
656 planning time for teachers and administrators identified in clauses (9) to (11), inclusive, shall  
657 include specific strategies and content designed to maximize the rapid academic achievement of  
658 limited English-proficient students in the district.

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

663           (f) The commissioner and receiver shall provide a written report to the school committee  
664 on a quarterly basis to provide specific information about the progress being made on the

665 implementation of the district's innovation plan. One of the quarterly reports shall be the annual  
666 evaluation required in subsection (g).

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

672 If the commissioner determines that the district has met the annual performance goals  
673 stated in the innovation plan, the evaluation shall be considered sufficient and the  
674 implementation of the innovation plan shall continue.

675 If the commissioner determines that the receiver has not met 1 or more goals in the plan  
676 and the failure to meet the goals may be corrected through reasonable modification of the plan,  
677 the commissioner may amend the innovation plan, as necessary. After assessing the  
678 implementation of the innovation plan in the district, the commissioner may amend the plan if  
679 the commissioner determines that the amendment is necessary in view of subsequent changes in  
680 the district that affect 1 or more components of the plan, including, but not limited to, changes to  
681 contracts, collective bargaining agreements, or school district policies. If the commissioner  
682 determines that the receiver has substantially failed to meet multiple goals in the innovation plan,  
683 the commissioner may terminate such receiver; provided, however, that the termination shall not  
684 occur before the completion of the first full school year of the receivership of the district.

685 (h) After the period of receivership, there shall be a reevaluation of a district's status  
686 under this section. The board of elementary and secondary education shall adopt regulations

687 providing for: (1) the removal of a designation of a district as chronically underperforming; and  
688 (2) the transfer of the operation of a chronically underperforming district from an external  
689 receiver to the superintendent and school committee, based on the improvement of the district.  
690 The regulations shall include provisions to allow a district to retain measures adopted in an  
691 innovation plan if, in the judgment of the commissioner, the measures would contribute to the  
692 continued improvement of the district. At any time after a chronically underperforming district  
693 has been placed in receivership, the school committee of the district may petition the  
694 commissioner for a determination as to whether the innovation plan adopted under subsection (b)  
695 should be modified or eliminated and whether the school district shall no longer be designated as  
696 chronically underperforming. The decision of the commissioner shall be based on regulations  
697 adopted by the board. A school committee may seek review by the board of elementary and  
698 secondary education of an adverse determination. The determination of the board shall be  
699 subject to judicial review under section 14 of chapter 30A.

700 (i) If, on the basis of the regulations adopted by the board pursuant to subsection (h), a  
701 district has not improved sufficiently to remove the designation of the district as chronically  
702 underperforming, the commissioner may: (1) jointly determine subsequent annual goals for each  
703 component of the innovation plan with the receiver and renew the innovation plan for an  
704 additional period of not more than 3 years; or (2) create a new innovation plan, consistent with  
705 the requirements of this section.

706 (j) If a municipality has failed to fulfill its fiscal responsibilities to education under  
707 chapter 70, the commissioner shall declare the school district of the municipality or  
708 municipalities as applicable, as chronically underperforming, subject to the approval of the board  
709 of elementary and secondary education. The municipality's mayor or chairman of the board of



710 selectmen shall have the opportunity to present evidence to the board. A vote by the board that a  
711 school district is chronically underperforming for fiscal reasons shall authorize the commissioner  
712 to petition the commissioner of revenue to require an increase in funds for the school district,  
713 alleging that the amount necessary in the municipality for the support of public schools has not  
714 been included in the annual budget appropriations. The commissioner of revenue shall  
715 determine the amount of any deficiency pursuant to the sums required under chapter 70, if any,  
716 and issue an order compelling the municipality to provide a sum of money equal to the  
717 deficiency. If the municipality does not provide a sum of money equal to the deficiency, the  
718 commissioner of revenue, in accordance with powers in section 23 of chapter 59, shall not  
719 approve the tax rate of the community for the fiscal year until the deficiency is alleviated.  
720 Nothing in this subsection shall be construed as creating a cause of action for educational  
721 malpractice by students or their parents, guardians or persons acting as parents.

722           If the district is declared chronically underperforming under this subsection, this section  
723 shall supersede subsections (m) to (x), inclusive of section 1J. .

724           SECTION 5: Subsection (b) of section 15 of chapter 70B as so appearing, is hereby  
725 amended by adding the following paragraph:-

726           Before the sale or lease of an assisted structure or facility or a portion of that structure or  
727 facility, the school district in control of the structure or facility shall submit to the authority a  
728 district-wide school facility use plan that shall include, but not be limited to, a listing of all  
729 school facilities under the control of the school district, a detailed description of both the current  
730 use and proposed use of each school facility, the most recent enrollment data, by school facility,  
731 then available to the school district, a detailed floor plan of each school facility that shows and

732 labels each space in the facility and whether it is used as a classroom or has some other use and  
733 any other information that may be required by the authority to understand the district's school  
734 facility use plan. If the plan includes the closure, sale or lease of a school facility or any part of a  
735 school facility, the authority may conduct, with the full cooperation of the district, an analysis of  
736 district-wide enrollment capacity and future enrollment trends for the district. If the capacity  
737 analysis and enrollment projection indicate an extended period of significant excess capacity  
738 within the district's educational facilities, the district shall, prior to consideration of any other  
739 disposition of the identified excess capacity, make a good faith offer to sell or lease at fair market  
740 value the identified excess capacity to a commonwealth charter school established pursuant to  
741 section 89 of chapter 71 or an applicant for a commonwealth charter school pursuant to said  
742 section 89 of said chapter 71 that serves or is seeking to serve students who live in the school  
743 district. The authority shall not recapture commonwealth and authority assistance for any such  
744 excess capacity that is sold or leased to a commonwealth charter school or applicant for a  
745 commonwealth charter school.

746 SECTION 6. Chapter 71 is hereby amended by striking out section 89, as so appearing,  
747 and inserting in place thereof the following section:-

748 Section 89. (a) Charter schools shall be established: (1) to stimulate the development of  
749 innovative programs within public education; (2) to provide opportunities for innovative learning  
750 and assessments; (3) to provide parents and students with greater options in choosing schools  
751 inside and outside their school districts; (4) to provide teachers with a vehicle for establishing  
752 schools with alternative and innovative methods of educational instruction and school structure  
753 and management; (5) to encourage performance-based educational programs; (6) to hold teachers

754 and school administrators accountable for students' educational outcomes; and (7) to provide  
755 models for replication in other public schools.

756 (b) A commonwealth charter school shall be a public school, operated under a charter  
757 granted by the board of elementary and secondary education, which operates independently of a  
758 school committee and is managed by a board of trustees. The board of trustees of a  
759 commonwealth charter school, upon receiving a charter from the board of elementary and  
760 secondary education, shall be considered to be public agents authorized to supervise and control  
761 the charter school. The board of elementary and secondary education may grant a charter or  
762 amend an existing charter designating a commonwealth charter school as a regional charter  
763 school if the school enrolls students from more than 1 district.

764 A Horace Mann charter school shall be a public school or part of a public school operated  
765 under a charter approved by the school committee in the district in which the school is located;  
766 provided, however, that the school committee shall consult with the local teacher's union before  
767 the approval; and provided further, that all charters shall be granted by the board of elementary  
768 and secondary education. A Horace Mann charter school shall have a memorandum of  
769 understanding with the school committee of the district in which the charter school is located  
770 which, at a minimum, defines the services and facilities to be provided by the district to the  
771 charter school and states the funding of the charter school by the district. A Horace Mann charter  
772 school shall be operated and managed by a board of trustees independent of the school  
773 committee which approved the school. The board of trustees may include a member of the school  
774 committee.

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

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

787 (e) The board of elementary and secondary education shall establish the information  
788 needed in an application for the approval of a charter school; provided, however, that the  
789 application shall include, but not be limited to, a description of: (1) the mission, purpose,  
790 innovation and specialized focus of the proposed charter school; (2) the innovative methods to be  
791 used in the charter school and how they differ from the district or districts from which the charter  
792 school will enroll students; (3) whether the proposed educational program or model was being  
793 successfully implemented in the school district or districts from which the charter will enroll  
794 students; (4) the organization of the school in terms of ages of students or grades to be taught  
795 along with an estimate of the total enrollment of the school and the district from which the  
796 school may enroll students; (5) the method for admission to the charter school; (6) a student  
797 recruitment and retention plan; (7) the educational program, instructional methodology and

798 services to be offered to students, including research on how the proposed program may improve  
799 the academic performance of the subgroups listed in the recruitment and retention plan; (8) the  
800 school's capacity to address the particular needs of limited English-proficient students, if  
801 applicable, to learn English and learn content matter, including the employment of staff that  
802 meets the criteria established by the department; (9) how the school shall involve parents as  
803 partners in the education of their children; (10) the school governance and bylaws; (11) a  
804 proposed or signed arrangements or contracts with an organization that would manage or operate  
805 the school, including any proposed or agreed upon payments to the organization; (12) the  
806 financial plan for the operation of the school; (13) the provision of school facilities and pupil  
807 transportation; (14) the number and qualifications of teachers and administrators to be employed;  
808 (15) procedures for evaluation and professional development for teachers and administrators; and  
809 (16) a statement of equal educational opportunity which shall state that the charter school shall  
810 be open to all students, on a space available basis, and shall not discriminate on the basis of race,  
811 color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age,  
812 ancestry, athletic performance, special need, proficiency in the English language or academic  
813 achievement; In the case of a Horace Mann charter school, the application shall include a draft  
814 memorandum of understanding, as described in subsection (b).

815 (f) The student recruitment and retention plan of clause (6) of subsection (e) shall  
816 include, but not be limited to, a detailed description of deliberate, specific strategies the charter  
817 school shall use to attract, enroll and retain a student population that, when compared to students  
818 in similar grades in schools from which the charter school shall enroll students, contains a  
819 comparable or greater percentage of students from 3 or more of the following categories:  
820 students eligible for free lunch as defined in section 2 of chapter 70; students eligible for reduced

821 price lunch as defined in said section 2 of said chapter 70; special education students; limited  
822 English-proficient students of similar language proficiency level as measured by the  
823 Massachusetts English Proficiency Assessment examination; sub-proficient students, which shall  
824 mean students who have scored in the needs improvement, warning or failing categories on the  
825 mathematics or English language arts exams of the Massachusetts Comprehensive Assessment  
826 System for 2 of the past 3 years or as defined by the department using a similar measurement;  
827 students who are determined to be at risk of dropping out of school based on predictors  
828 determined by the department; students who have dropped out of school; or other at-risk students  
829 who should be targeted in order to eliminate achievement gaps among different groups of  
830 students as enumerated above. If the charter school is in a district with 10 per cent or more of  
831 limited English-proficient students, the recruitment strategies shall include a variety of outreach  
832 efforts in the most prevalent languages of the district. The student recruitment and retention plan  
833 shall include, but not be limited to, a detailed description of deliberate, specific strategies the  
834 school shall use to maximize the number of students who successfully complete all school  
835 requirements, prevent students from dropping out and minimize the number of students in the  
836 categories enumerated in this subsection from returning to district schools. The student  
837 recruitment and retention plan shall include annual goals for: (1) recruitment activities; (2) the  
838 number of students in the categories of students identified in the plan who seek to enroll in the  
839 school; (3), student retention activities; and (4) student retention. The recruitment and retention  
840 plan shall be updated annually to account for changes in both district and charter school  
841 enrollment.

842 (g) In order to ensure that commonwealth charter schools authorized under this section  
843 are able to recruit and serve the categories of students enumerated in subsection (f), the school

844 district or districts from which the commonwealth charter school may enroll students shall  
845 annually provide to a third party mail house authorized by the department the addresses for all  
846 students in the district eligible to enroll in the school; provided, however, that the information  
847 shall not be provided if a student's parent or guardian requests that the district withhold this  
848 information. Each commonwealth charter school authorized under this section shall annually  
849 supply a mailing in the most prevalent languages of the district the charter school is authorized to  
850 serve to the third party mail house and pay for it to be copied and mailed to eligible students.

851           At the request of a school district from which a commonwealth charter school enrolls  
852 students, the charter school shall provide to a third party mail house the addresses for all students  
853 currently enrolled in the commonwealth charter school from the district; provided, however, that  
854 the information shall not be provided if a student's parent or guardian requests that the school  
855 withhold the information. Each district shall be permitted to supply a mailing to the third party  
856 mail house and pay for it to be copied and mailed to families of students from said district  
857 enrolled in the commonwealth charter school.

858           (h) An application submitted for the establishment of a commonwealth charter school  
859 shall be: (1) submitted to the board of elementary and secondary education for approval pursuant  
860 to this section; and (2) filed with the local school committee for each school district from which  
861 the charter school may enroll students. Before final approval to establish a commonwealth  
862 charter school, the board of elementary and secondary education shall hold a public hearing on  
863 the application in the school district in which the proposed charter school is to be located. If the  
864 school is a regional commonwealth charter school, the public hearing shall be held in a location  
865 within the region. At least 1 member of the board shall attend each public hearing soliciting  
866 comment on a pending application and shall report to the board on the hearing. Before final

867 approval to establish a commonwealth charter school, the board of elementary and secondary  
868 education shall solicit and review comments on the application from the local school committee  
869 for each school district from which the charter school may enroll students. A department  
870 report regarding the application shall be made available to the commonwealth charter school  
871 applicant and affected districts within 10 days of the completion of the report.

872 (i) In a fiscal year, a public school district's total charter school tuition payment to  
873 commonwealth charter schools shall not exceed 9 per cent of the district's net school spending;  
874 provided, however, that a public school district's total charter tuition payment to commonwealth  
875 charter schools shall not exceed 18 per cent of the district's net school spending if the board  
876 determines the combined Composite Performance Index scores on the English language arts and  
877 mathematics Massachusetts Comprehensive Assessment System exams for a school district place  
878 the district in the lowest 10 percent of all statewide MCAS test performance scores released in  
879 the 2 consecutive school years before the date the charter school application is submitted.

880 If the department is no longer using the combined composite performance index as a  
881 measure of school and district performance, then the department shall use the subsequently  
882 developed measure to determine the lowest 10 per cent of districts.

883 The commonwealth shall incur charter school tuition payments for siblings attending  
884 commonwealth charter schools to the extent that their attendance would otherwise cause the  
885 school district's charter school tuition payments to exceed 9 per cent of the school district's net  
886 school spending or 18 per cent in the case of the lowest performing 10 per cent of school  
887 districts. If a district is no longer in the lowest 10 per cent, the net school spending cap shall be 9  
888 per cent, unless the district net school spending was above 9 per cent in the year before moving



889 out of the lowest 10 per cent in which case the net school spending cap shall remain at the higher  
890 level plus enrollment already approved by the board. If a district is again ranked in the lowest 10  
891 per cent based on 2 consecutive years of performance, the net school spending cap shall increase  
892 pursuant to this section.

893           As early as possible in the application process and not later than October 15, the board  
894 shall determine and make available to the public a list of the school districts in the lowest 10 per  
895 cent and shall provide information about net school spending in each such district. Applications  
896 to establish a charter school shall be submitted to the board annually by November 15. The board  
897 shall review the applications and grant new charters in February of the following year. At least 3  
898 of the new commonwealth charters approved by the board in any year shall be granted for  
899 commonwealth charter schools located in districts where overall student performance on the  
900 statewide assessment system approved by the board of elementary and secondary education  
901 pursuant to section 11 of chapter 69 is in the lowest 10 per cent statewide in the 2 years preceding  
902 the charter application. In any year, the board shall approve only 1 regional charter school  
903 application of a commonwealth charter school located in a school district where overall student  
904 performance on the statewide assessment system is in the top 10 per cent in the year preceding  
905 charter application.

906           For districts scoring in the lowest 10 per cent for the previous 2 years as measured by the  
907 combined Composite Performance Index scores on the English language arts and mathematics  
908 Massachusetts Comprehensive Assessment System exams, the board may only approve an  
909 application for the establishment of a commonwealth charter school under this subsection for  
910 eligible applicants. In order to be eligible to apply to operate a commonwealth charter school  
911 serving students in districts scoring in the lowest 10 per cent, an applicant or a provider with

912 which an applicant proposes to contract, must have a record of operating at least 1 school or  
913 similar program that demonstrates academic success and organizational viability and serves  
914 student populations similar to those the proposed school seeks to serve, from among the  
915 categories defined in subsection (f).

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

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

926 In reviewing applications, the board shall consider whether the school committee where  
927 the charter school is to be located has been asked to implement the educational program being  
928 proposed by the applicant and has declined to do so.

929 No board member shall vote on a charter application if that member serves on a charter  
930 school board or is an employee of a charter school.

931 (k) The board of elementary and secondary education may authorize a single board of  
932 trustees to manage more than 1 charter school authorized under this section; provided, however,  
933 that each school holds its own charter. In addition to those listed in subsection (d), the board of

934 elementary and secondary education shall accept applications from existing charter school  
935 boards of trustees.

936 Each applicant shall submit an application for each charter school it proposes; provided,  
937 however that applicants proposing to create more than 1 charter school in more than 1  
938 geographically proximate district may submit 1 application for such schools.

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

941 The board shall not approve a new commonwealth charter school in a community with a  
942 population of less than 30,000, as determined by the most recent United States census, unless it  
943 is a regional charter school.

944 If a final application is fundamentally flawed, the department may provide feedback to  
945 the applicant and invite it to submit a stronger application in the future. Once a final application  
946 has been filed, only minor, non-substantive amendments shall be allowed. The department shall  
947 maintain a written record of interviews it conducts with final charter applicants and include that  
948 record with the final application materials that are provided to the board, local school officials  
949 and the public.

950 If a charter school has not obtained intent to register forms of at least 75 per cent of its  
951 projected first year enrollment from parents or guardians of students living in the sending district  
952 by May 1 of the school year before the school's opening, the opening of the charter school shall  
953 be delayed for 1 year. If the school has not achieved the 75 per cent by the following May 1, the  
954 board shall revoke the school's charter.

955 (1) A charter school established under a charter granted by the board shall be a body  
956 politic and corporate with all powers necessary or desirable for carrying out its charter program,  
957 including, but not limited to, the following:(1) to adopt a name and corporate seal; provided,  
958 however, that the name selected must include the words charter school; (2) to sue and be sued,  
959 but only to same extent and upon the same conditions that a municipality can be sued; (3) to  
960 acquire real property, from public or private sources, by lease, lease with an option to purchase  
961 or by gift, for use as a school facility; provided, however, in the case of a Horace Mann charter  
962 school, the approval of the local school committee shall be obtained before acquisition of such  
963 real property owned or controlled by the body; (4) to receive and disburse funds for school  
964 purposes; (5) to make contracts and leases for the procurement of services, equipment and  
965 supplies; provided, however, that if the charter school intends to procure substantially all  
966 educational services under contract with another person, the terms of the a contract must be  
967 approved by the board either as part of the original charter or by way of an amendment thereto;  
968 and provided further, that the board shall not approve contract terms whose purpose or effect are  
969 to avoid the prohibitions of this section against the charter school status for private and parochial  
970 schools or a for-profit entity operating a charter school;(6) to incur temporary debt in anticipation  
971 of receipt of funds; provided, however, that a Horace Mann school shall obtain the approval of  
972 the local school committee and appropriate local appropriating authorities and officials relative  
973 to a proposed lien or encumbrance upon public school property or relative to a financial  
974 obligation for which the local school district shall become legally obligated; and provided  
975 further, that notwithstanding any law to the contrary, the terms of repayment of a charter  
976 school's debt shall not exceed the duration of the school's charter without the approval of the  
977 board; (7) to solicit and accept any grants or gifts for school purposes; and (8) to have such other

978 powers available to a business corporation formed under chapter 156B that are not inconsistent  
979 with this chapter.

980 (m) Charter schools shall not charge a public school for the use or replication of any part  
981 of their curriculum subject to the prescriptions of a contract between the charter schools and a  
982 third party provider.

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

991 A commonwealth charter school shall only enroll students from the district identified in  
992 its charter. If a commonwealth charter school wants to enroll students from other districts or  
993 move the school to a district not identified in its charter, it must seek an amendment to its charter  
994 from the board. Priority for enrollment in a Horace Mann charter school shall be given first to  
995 students actually enrolled in the school on the date that the application is filed with the board of  
996 elementary and secondary and to their siblings if the school is a conversion of an existing school,  
997 second to other students actually enrolled in the public schools of the district where the Horace  
998 Mann charter school is to be located and third, to other resident students.

999 (o) A charter school may not administer tests to potential applicants or predicate  
1000 enrollment on results from a test of ability or achievement, unless the school is a performing,  
1001 visual or graphics arts school, which may hold auditions for applicants. Requirements for  
1002 enrollment in a charter school, including, but not limited to, attendance at informational meetings  
1003 and interviews, a parent's commitment to volunteer at the school or a parent's agreement to sign  
1004 a contract or other form of written agreement with the school, shall not be designed, intended or  
1005 used to discriminate against a student or to deny a student enrollment in a charter school. If the  
1006 total number of students who are eligible to attend and apply to a charter school and who reside  
1007 in a district from which the charter school is permitted to enroll students, or are siblings of  
1008 students already attending said charter school, is greater than the number of spaces available, an  
1009 admissions lottery, including all eligible students applying, shall be held to fill all of the spaces  
1010 in that school from among the students. The names of students who entered the lottery but did  
1011 not gain admission shall be maintained on a waitlist, which shall be forwarded to the department  
1012 not later than June 1 in the year in which the lottery is held. In addition to the names of students,  
1013 the school shall supply to the department each student's home address, telephone number, grade  
1014 level, and other information the department deems necessary. The department shall maintain a  
1015 consolidated waitlist for each municipality in order to determine the number of individual  
1016 students in each municipality seeking admission to a charter school.

1017 (p) Each charter school shall annually, not later than April 1, notify each public school  
1018 district in writing of the number and grade levels of students who shall be attending the charter  
1019 school from that district the following September as well as the number of new students who will  
1020 be transferring from that district to the charter school in the following September.

1021 (q) A student may withdraw from a charter school at any time and enroll in another  
1022 public school where the student resides. When a student stops attending a charter school for any  
1023 reason, the charter school shall fill the vacancy with the next available student on the waitlist for  
1024 the grade in which the vacancy occurs and shall continue through the waitlist until a student fills  
1025 the vacant seat. If there is no waitlist, a charter school shall publicize an open seat to the  
1026 students of the sending district and make attempts to fill the vacant seat. Charter schools shall  
1027 attempt to fill vacant seats up to February 15, excluding seats that open in grade 12. Charter  
1028 schools may fill vacant seats after February 15. If a vacancy occurs after February 15, the  
1029 vacancy shall remain with the grade cohort and shall be filled in the following September if it  
1030 has not previously been filled. A vacancy occurring after February 15 shall not be filled by  
1031 adding a student to a lower grade level. Within 30 days of a vacancy being filled, the charter  
1032 school shall send the name of the student filling the vacancy to the department for the purpose of  
1033 the department updating its waitlist. This subsection is subject to rules and regulations  
1034 promulgated by the department.

1035 A student may be expelled from a charter school based on criteria determined by the  
1036 board of trustees and approved by the board of elementary and secondary education, with the  
1037 advice of the principal and teachers; provided, however, that charter school policies shall be  
1038 consistent with sections 37H and 37H½.

1039 (r) A charter school may be located in part of an existing public school building, in space  
1040 provided on a private work site, in a public building or any other suitable location. A charter  
1041 school may own, lease or rent its space. Notwithstanding this section, no school building  
1042 assistance funds shall be awarded to a commonwealth charter school for the purpose of  
1043 constructing, reconstructing or improving the school.

1044           After an applicant has filed a charter school application, the applicant may request a  
1045 facilities assessment from the Massachusetts School Building Authority. A charter school may  
1046 request an assessment at any time. The authority, at the request of a charter school or applicant  
1047 for a charter school, may conduct an assessment of a facility intended for use or used as a school  
1048 building. The facilities assessment shall be conducted by the authority in a format and manner  
1049 prescribed by the authority and the charter school shall pay for the cost of conducting the  
1050 facilities assessment. The charter school shall provide complete access to its school facilities for  
1051 the purpose of the authority conducting a facilities assessment. The facilities assessment shall  
1052 include an assessment of the charter school's maintenance process and a review of the  
1053 maintenance practices and procedures in place at the school. The maintenance review shall be  
1054 conducted in a format and manner prescribed by the authority.

1055           The authority shall bear no responsibility for a decision not to undertake a facilities  
1056 assessment or the results of a facilities assessment undertaken. If the authority decides to  
1057 conduct a facilities assessment, the conducting of the assessment shall in no way be construed,  
1058 interpreted or deemed to imply responsibility on the part of the authority for the results of the  
1059 assessment, nor shall the authority assume any duty or responsibility with respect to the  
1060 maintenance, renovation, repair or construction of a school facility that may be assessed.

1061           Upon receiving an application for a charter school, the department shall notify the  
1062 authority that an application has been filed and shall identify the district from which the school  
1063 intends to enroll students. At such time, the charter school applicant may contact the authority to  
1064 ask if the authority is aware of surplus facilities or excess school building capacity in the relevant  
1065 district. The authority, if contacted by the applicant, shall share any information it has regarding  
1066 the availability of surplus facilities or excess capacity in that school district.



1067 (s) The school committee of each district where a Horace Mann charter school is located  
1068 shall develop a plan to disseminate innovative practices of the charter school to other public  
1069 schools within the district subject to the provisions of any contract between the Horace Mann  
1070 charter school and a third party provider.

1071 The commissioner of elementary and secondary education shall facilitate the  
1072 dissemination of successful innovative programs of charter schools and provide technical  
1073 assistance for school districts to replicate the programs. Each charter school and sending districts  
1074 shall be required to demonstrate a good faith effort to collaborate on the sharing of innovative  
1075 practices.

1076 (t) The department of elementary and secondary education may annually send evaluation  
1077 teams to visit each charter school to corroborate and augment the information provided in the  
1078 annual report in accordance with guidelines issued by the department. Site visit teams may also  
1079 gather other evidence relevant to the school's performance, student academic achievement and  
1080 adherence to recruitment and retention plans. The written reports from these site visits shall  
1081 become part of the charter school's record. A charter school may add to the record a written  
1082 response to the report.

1083 (u) A charter school shall operate in accordance with its charter and the law regulating  
1084 other public schools; provided, however, that the sections 41 and 42 shall not apply to employees  
1085 of commonwealth charter schools. Charter schools shall comply with chapters 71A and 71B;  
1086 provided, however, that the fiscal responsibility of a special needs student currently enrolled in  
1087 or determined to require a private day or residential school shall remain with the school district  
1088 where the student resides. If a charter school expects that a special needs student currently

1089 enrolled in the charter school may be in need of the services of a private day or residential  
1090 school, it shall convene an individual education plan team meeting for the student. Notice of the  
1091 team meeting shall be provided to the special education department of the school district in  
1092 which the child resides at least 5 days in advance. Personnel from the school district in which the  
1093 child resides shall be allowed to participate in the team meeting concerning future placement of  
1094 the child.

1095 (v) A Horace Mann charter school shall be exempt from local collective bargaining  
1096 agreements to the extent provided by the terms of its charter; provided, however, that employees  
1097 of the Horace Mann charter school shall continue to be members of the local collective  
1098 bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and  
1099 benefits established in the contract of the local collective bargaining unit where the Horace Mann  
1100 charter school is located. Employees of Horace Mann charter schools shall be exempt from all  
1101 union and school committee work rules to the extent provided by the school's charter.  
1102 Employees in Horace Mann charter schools shall be required to work the full work day and work  
1103 year to the extent provided by the terms of the school's charter.

1104 (w) Notwithstanding this section or any other general or special law to the contrary, for  
1105 the purposes of chapter 268A: (1) a charter school shall be deemed to be a state agency; and (2)  
1106 the appointing official of a member of the board of trustees of a charter school shall be deemed  
1107 to be the commissioner of education. Members of boards of trustees of charter schools operating  
1108 under this section shall file a disclosure annually with the state ethics commission, the  
1109 department of secondary and elementary education and the city or town clerk where the charter  
1110 school is located. The disclosure is in addition to the requirements of said chapter 268A and a  
1111 member of a board of trustees shall also comply with the disclosure and other requirements of

1112 said chapter 268A. The form of the disclosure shall be prescribed by the ethics commission and  
1113 shall be signed under penalty of perjury. The form shall be limited to a statement in which  
1114 members of the board of trustees shall disclose any financial interest that they or a member of  
1115 their immediate families, as defined in section 1 of said chapter 268A, have in a charter school  
1116 located in the commonwealth or in any other state or with a person doing business with a charter  
1117 school.

1118           Each member of a board of trustees of a charter school shall file the disclosure for the  
1119 preceding calendar year with the commission within 30 days after becoming a member of the  
1120 board of trustees, by September 1 of each year thereafter that the person is a member of the  
1121 board and by September 1 of the year after the person ceases to be a member of the board;  
1122 provided, however, that no member of a board of trustees shall be required to file such disclosure  
1123 for the year in which the member ceases to be a member of the board if the member served less  
1124 than 30 days in that year.

1125           (x) Students in charter schools shall be required to meet the same performance standards,  
1126 testing and portfolio requirements set by the board of elementary and secondary education for  
1127 students in other public schools.

1128           (y) The board of trustees, in consultation with the teachers, shall determine the school's  
1129 curriculum and develop the school's annual budget. The board of trustees of a Horace Mann  
1130 charter school shall annually submit to the superintendent and school committee of the district in  
1131 which the school is located a budget request for the following fiscal year. The school committee  
1132 shall act on the budget request in conjunction with its actions on the district's overall budget.  
1133 Each Horace Mann charter school shall receive in response to the budget request not less than it

1134 would have under the district's budgetary allocation rules. The board of trustees may appeal a  
1135 disproportionate budgetary allocation to the commissioner, who shall determine an equitable  
1136 funding level for the school and shall require the school committee to provide the funding.

1137           Following the appropriation of the district's operating budget for the fiscal year, the  
1138 amount approved by the local appropriating authority for the operation of a Horace Mann charter  
1139 school shall be available for expenditure by the board of trustees of the school for any lawful  
1140 purpose without further approval by the superintendent or the school committee. A Horace Mann  
1141 charter school shall not expend or incur obligations in excess of its budget request; provided,  
1142 however, that a Horace Mann charter school may spend federal and state grants and other funds  
1143 received independent of the school district not accounted for in the charter school's budget  
1144 request without prior approval from the superintendent or the school committee.

1145           (z) Upon approval of a Horace Mann charter school by the board of elementary and  
1146 secondary education, the superintendent of the school district where the Horace Mann charter  
1147 school is to be located shall reassign, to the extent provided by the terms of its charter, any  
1148 faculty member who wishes to be reassigned to another school located within the district.

1149           (aa) Employees of charter schools shall be considered public employees for purposes of  
1150 tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The  
1151 board of trustees shall be considered the public employer for purposes of tort liability under said  
1152 chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however,  
1153 that in the case of a Horace Mann charter school, the school committee of the school district in  
1154 which the Horace Mann charter school is located shall remain the employer for collective  
1155 bargaining purposes under said chapter 150E. Teachers employed by a charter school shall be

1156 subject to the state teacher retirement system under chapter 32 and service in a charter school  
1157 shall be creditable service within the meaning thereof.

1158 A charter school shall recognize an employee organization designated by the  
1159 authorization cards of 60 per cent of its employees in the appropriate bargaining unit as the  
1160 exclusive representative of all the employees in the unit for the purpose of collective bargaining.

1161 (bb) Each local school district shall be required to grant a leave of absence to a teacher in  
1162 the public schools system requesting leave in order to teach in a commonwealth charter school.  
1163 A teacher may request a leave of absence for up to 2 years.

1164 At the end of the second year the teacher may either return to their former teaching  
1165 position or, if they choose to continue teaching at the commonwealth charter school, resign from  
1166 their school district position.

1167 (cc) Notwithstanding section 59C, the internal form of governance of a charter school  
1168 shall be determined by the school's charter.

1169 (dd) A charter school shall comply with all applicable state and federal health and safety  
1170 laws and regulations.

1171 (ee) The students who reside in the school district in which the charter school is located  
1172 shall be provided transportation to the charter school by the resident district's school committee  
1173 on similar terms and conditions as transportation is provided to students attending local district  
1174 schools, if such transportation is requested by the charter school. In providing the transportation,  
1175 the school committee shall accommodate the particular school day and school year of the charter  
1176 school; provided, however, that in the event that a school committee limits transportation for

1177 district school students, the school district shall not be required to provide transportation to a  
1178 commonwealth charter school beyond those limitations. A charter school and the sending district  
1179 shall meet to plan bus routes and charter school starting and ending times in order to assist the  
1180 district with cost effective means of transportation. Schools operating pursuant to a charter  
1181 granted after January 1, 1997, and all charter schools during fiscal year 1999 and thereafter, shall  
1182 not receive funds for transportation above the amount actually required by the charter school for  
1183 the transportation services to eligible students. If the sending district provides an alternative  
1184 method of transportation for students enrolled in the sending district's public schools, it shall not  
1185 be assessed for transportation costs which exceed the per pupil cost of the alternative. Costs for  
1186 transportation shall be included only if transportation is provided for students in the same  
1187 program and grade level as those in the charter school. Students who do not reside in the district  
1188 in which the charter school is located shall be eligible for transportation in accordance with  
1189 section 12B of chapter 76. A regional charter school as designated by the board of elementary  
1190 and secondary education whose charter provides for transportation of all students from charter  
1191 municipalities shall also be reimbursed under section 16C of chapter 71 for transportation  
1192 provided to pupils residing outside the municipality where the charter school is located;  
1193 provided, however, that no reimbursement for transportation between the charter school and a  
1194 student's home shall be made if a pupil resides less than 1 1/2 miles from the charter school,  
1195 measured by a commonly traveled route. If a charter school provides its own transportation, the  
1196 school shall coordinate and collaborate with the sending district to provide cost effective means  
1197 of transportation. All transportation shall be determined in advance of the approval of the  
1198 district's final budget for a fiscal year.

1199 (ff) If a charter school plans to make a major change in its operations, the school’s board  
1200 of trustees shall submit in writing to the board of elementary and secondary education a request  
1201 to amend its charter. Major changes are defined as those that fundamentally affect a school’s  
1202 mission, organizational structure or educational program, as further defined by regulation.

1203 If a charter school plans to make a minor change in its operations, the school’s board of  
1204 trustees shall submit in writing to the commissioner of elementary and secondary education a  
1205 request to amend its charter. Minor changes are defined as changes that do not fundamentally  
1206 alter a school’s organizational structure or educational program, as further defined by regulation.

1207 The board or the commissioner, as applicable, shall approve or deny amendment requests  
1208 within 90 days after receiving complete requests. A request for a change to a Horace Mann  
1209 charter school’s charter also requires the approval of the local school committee.

1210 If a commonwealth charter school seeks an amendment to change its maximum  
1211 enrollment, including grades served, the municipality of its location or the districts specified in  
1212 its charter, the department shall provide a copy of the request to the superintendents of the  
1213 affected districts and provide them notice of their right to submit written comment to the  
1214 commissioner within 30 days.

1215 If the commissioner denies an amendment request, the charter school’s board of trustees  
1216 may seek review of the commissioner’s decision by the board.

1217 (gg) The initial charter granted by the board of elementary and secondary education shall  
1218 be for 5 years. The board may renew a charter for up to 5 years. At the time of the second  
1219 renewal or subsequent renewals, a charter school may apply for and receive an extension of the  
1220 charter for up to 10 years.

1221           The board of elementary and secondary education shall develop procedures and  
1222 guidelines for revocation and renewal of a school’s charter; provided, however, that a charter for  
1223 a Horace Mann charter school shall not be renewed by the board without a vote of support from  
1224 the school committee in the district where the charter school is located; provided, however, that a  
1225 commonwealth charter shall not be renewed unless the board of trustees of the charter school has  
1226 documented in a manner approved by the board of elementary and secondary education that the  
1227 commonwealth charter school has provided models for replication and best practices to the  
1228 commissioner and to other public schools in the district where the charter school is located.

1229           When deciding on charter renewal, the board shall consider the extent to which the  
1230 school has followed its recruitment and retention plan by using deliberate, specific strategies  
1231 towards recruiting and retaining the categories of students enumerated in subsection (f) and the  
1232 extent to which the school has followed and enhanced its plan as necessary. The board may  
1233 impose conditions or financial sanctions on the charter school upon renewal if sufficient progress  
1234 towards recruitment and retention goals has not been made. When deciding on charter renewal,  
1235 the board shall take into account the annual attrition of students, teachers and administrators. The  
1236 board shall also consider innovations that have been successfully implemented by the charter  
1237 school and the evidence that supports the effectiveness of those practices. The board shall also  
1238 consider progress made in student academic achievement. Upon renewal of its charter, a school  
1239 shall update and enhance its recruitment and retention plan as necessary to account for changes  
1240 in enrollment.

1241           The board may revoke a school’s charter if the school has not fulfilled a conditions  
1242 imposed by the board in connection with the grant of the charter or the school has violated a  
1243 provision of its charter.



1244           The board may place a charter school on a probationary status to allow the  
1245 implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be  
1246 summarily revoked.

1247           If the board revokes a charter or if a charter school ceases to exist for any reason, the  
1248 charter school shall, within 6 months of the revocation of the charter or closure of the school,  
1249 submit to the board a detailed financial accounting of all the school's assets, including all real  
1250 property, vehicles, equipment and supplies. Upon the revocation, non-renewal or voluntary  
1251 return of a commonwealth charter, title to all of the property of the charter school shall  
1252 immediately vest in the commonwealth, subject to the rights of a secured party holding a  
1253 perfected security interest in the property of the charter school. Funds remaining after the  
1254 satisfaction of the charter school's obligations shall be returned to sending districts in proportion  
1255 to each district's average enrollment during the previous 5 years.

1256           (hh) Commonwealth charter schools shall be funded under this subsection. The  
1257 commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the  
1258 tuition amounts calculated separately for each district sending students to the charter school.  
1259 Tuition amounts for each sending district shall be calculated by the department using the formula  
1260 set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that  
1261 would be expended in the district if the students attended the district schools. The tuition amount  
1262 shall be calculated separately for each district sending students to a charter school and for each  
1263 charter school to which a district sends students. Each district's per pupil tuition amount for each  
1264 charter school to which it sends students shall include a per pupil foundation budget component,  
1265 adjusted to reflect the actual net school spending in the sending district.

1266           In calculating the per pupil foundation budget component, the department shall calculate  
1267 a foundation budget for the students from each sending district attending the charter school in the  
1268 previous fiscal year, under section 2 of chapter 70; provided, however, that the department shall  
1269 not include in the calculation the assumed tuitioned-out special education enrollment nor any  
1270 amounts generated by the assumed enrollment, as defined by said section 2 of said chapter 70.  
1271 The per pupil foundation budget component for the charter school shall be the district's  
1272 foundation budget, as so calculated, divided by the number of students attending the charter  
1273 school from the sending district in the previous fiscal year. The per pupil foundation budget  
1274 component shall be calculated separately for each charter school to which a district sends  
1275 students. The foundation budget for a charter school shall be the sum of the foundation budgets  
1276 for the charter school for each district sending students to the charter school.

1277           In adjusting the per pupil foundation budget component, the department shall calculate  
1278 for each sending district an above foundation spending percentage, which shall be the percentage  
1279 by which the district's actual net school spending exceeds the foundation budget for the district,  
1280 as calculated under chapter 70. The department shall further calculate the percentage of actual  
1281 net school spending reported by the sending district associated with tuition costs for tuitioned-out  
1282 special education students, including education that occurs in educational collaboratives, and  
1283 with spending on health care costs for retired employees for any district for which the costs are  
1284 included in net school spending, and shall reduce the district's above foundation spending  
1285 percentage proportionately. The per pupil foundation budget component for each charter school  
1286 to which the sending district sends students shall be increased by the adjusted above foundation  
1287 spending percentage. In a fiscal year in which a school district's chapter 70 aid is reduced during  
1288 the course of the fiscal year, under authorization by the legislature under sections 9B and 9C of

1289 chapter 29 and the reduction lowers the above foundation percentage, the department shall adjust  
1290 the total tuition amount proportionately, in a manner consistent with the provisions of this  
1291 section, and shall notify the affected sending district and charter school of any reductions.

1292         The total tuition amount owed to a charter school shall be the per pupil tuition amount as  
1293 defined above, multiplied by the total number of students attending the charter school from that  
1294 district in the current fiscal year. The amount shall be composed of district sponsored tuition and  
1295 state sponsored tuition. District sponsored tuition shall be the total tuition amount owed to the  
1296 charter school on behalf of district students for the previous fiscal year. State sponsored tuition  
1297 shall be the positive difference, if any, between the total tuition amount for the current fiscal year  
1298 and the district sponsored tuition amount.

1299         The sending district's total charter school tuition amount for purposes of this section shall  
1300 be the sum of the district-sponsored tuition amounts for each charter school to which the district  
1301 sends students, calculated using the provisions of this section. The state sponsored tuition  
1302 amount shall be distributed by the commonwealth to the charter school. The receiving charter  
1303 school's total charter school tuition amount shall be the sum of the tuition amounts calculated for  
1304 the charter school for each district sending students to the charter school.

1305         The state treasurer shall deduct a sending district's total charter school tuition amount, as  
1306 calculated herein, from the total state school aid, as defined in said section 2 of said chapter 70,  
1307 of the district in which the student resides before the distribution of the aid. If a child resides in a  
1308 municipality which belongs to a regional school district, the sending district's total charter school  
1309 tuition amount shall be deducted from said chapter 70 education aid of the school district  
1310 appropriate to the grade level of the child. If, in a single district, the total of all the deductions

1311 exceeds the total of the education aid, this excess amount shall be deducted from other aid  
1312 appropriated to the city or town. If, in a single district, the total of all the deductions exceeds the  
1313 total state aid appropriated, the commonwealth shall appropriate this excess amount; provided,  
1314 however, that if the district has exempted itself from the provisions of said chapter 70 by  
1315 accepting section 14 of said chapter 70, the commonwealth shall assess said district for the  
1316 excess amount.

1317           The state treasurer shall disburse to the charter school an amount equal to the charter  
1318 school's total charter school tuition amount.

1319           If more than 1 charter school is managed by a single network or board of trustees funding  
1320 shall not be transferred among individual schools within the network unless the schools are  
1321 located in the same school district.

1322           The department shall, subject to appropriation, provide funding to charter schools for a  
1323 portion of the per pupil capital needs component included in the charter tuition amount for the  
1324 purpose of construction, renovation, purchase, acquisition or improvement of school buildings  
1325 and land. In fiscal year 2011 and thereafter, the funding shall be the per pupil amount provided in  
1326 fiscal year 2010, adjusted by the foundation inflation index, as defined in section 2 of said  
1327 chapter 70.

1328           (ii) In a year during which a sending district's total district-sponsored charter school  
1329 tuition amount is greater than the sending district's total district-sponsored charter school tuition  
1330 amount for the previous year, the sending district shall be reimbursed by the commonwealth in  
1331 accordance with this paragraph and subject to appropriation; provided, however, that no funds  
1332 for the reimbursements shall be deducted from funds distributed under chapter 70. The

1333 reimbursement amount shall be equal to 25 per cent of the increase in the year in which the  
1334 increase occurs, and 25 per cent in the second, third, fourth, and fifth years following.

1335           Subject to appropriation, these reimbursements, in addition to the state-sponsored tuition  
1336 amounts and the facilities fee, shall be paid from a single line item and any reductions to the item  
1337 shall be made proportionately across all 7 categories of spending; provided, however, that the  
1338 reimbursements required by this subsection shall be paid to the sending district and the state-  
1339 sponsored reimbursement amount and the facilities fee shall be paid directly to the charter school  
1340 by the commonwealth.

1341           (jj) If the unencumbered amount of cumulative surplus revenue from tuition held by a  
1342 charter school at the end of a fiscal year, less: (1) the amount of the fourth quarter tuition  
1343 payment, (2) the amount held in reserve for the purchase or renovation under a capital plan for  
1344 academic facilities, and (3) any reserve funds held as security for bank loans, exceeds 20 per cent  
1345 of its operating budget and its budgeted capital costs for the succeeding fiscal year, the amount in  
1346 excess of the 20 per cent shall be returned by the charter school to the sending district and the  
1347 state in proportion to their share of tuition paid during the fiscal year. At the end of each fiscal  
1348 year, the commissioner shall certify the amounts described above and the amount, if any, by  
1349 which it exceeds 20 per cent of the school's operating budget and its budgeted capital costs for  
1350 the succeeding fiscal year and shall report annually the amount to the school committee of the  
1351 sending district and the applicable board of selectmen or city council by December 1. A charter  
1352 school shall make a payment required by this subsection not later than December 31 annually.

1353 (kk) No teacher shall be hired by a commonwealth charter school who is not certified  
1354 under section 38G unless the teacher has successfully passed the state teacher test as required in  
1355 said section 38G.

1356 (ll) Each charter school shall submit an annual report to the board of elementary and  
1357 secondary education, to the local school committee of each district from which the charter school  
1358 enrolls students, to each parent or guardian of its enrolled students and to each parent or guardian  
1359 contemplating enrollment in that charter school. The annual report shall be issued not later than  
1360 August 1 for the preceding school year. The annual report shall be in the form as may be  
1361 prescribed by the board of elementary and secondary education and shall include at least the  
1362 following components: (1) discussion of progress made toward the achievement of the goals set  
1363 forth in the charter; (2) discussion of progress made toward the goals and retention efforts  
1364 described in the school's recruitment and retention plan; provided, however, that if a charter  
1365 school has not enrolled and retained a student population matching such goals, the report must  
1366 explain why this is the case; (3) an accounting of how many students were designated as  
1367 requiring special education services or English language services by language proficiency level  
1368 as measured by the Massachusetts English Proficiency Assessment examination upon enrollment  
1369 and how many of these students were subsequently no longer designated as such, along with a  
1370 description of methods used by the school to achieve these outcomes and the rationale behind the  
1371 methodologies used; (4) the number of students, teachers and administrators who have left each  
1372 charter school and their reasons for leaving; (5) the number of students enrolled in the charter  
1373 school eligible for free lunch as defined in section 2 of chapter 70; (6) the number of students  
1374 enrolled in the charter school eligible for reduced price lunch as defined in section 2 of said  
1375 chapter 70; (7) the number of homeless students enrolled in the charter school; and (8) the

1376 number of students in the care of the department of youth services enrolled in each charter  
1377 school.

1378           The department shall adopt regulations creating a reporting requirement for a charter  
1379 school's net asset balance at the end of the fiscal year. The report shall include, but not be  
1380 limited to, the following types of information: (1) the revenue and expenditures for the year just  
1381 ended with a specific accounting of the uses of public and private dollars; (2) how the capital  
1382 needs component of the charter school's tuition was spent; (3) compensation and benefits for  
1383 teachers, staff, administrators, executives and the board of trustees; (4) the amount of funds  
1384 transferred to a management company; (5) the sources of surplus funds, specifically whether they  
1385 are private or public; (6) how surplus funds were used in the previous fiscal year; and (7) the  
1386 planned use of any surplus funds in the upcoming fiscal year or in future fiscal years. The  
1387 regulations shall authorize the commissioner to recommend withholding the release of all or  
1388 some part of the quarterly tuition payments for a school that has not timely filed the required  
1389 report. The report shall be filed annually by January 1 with the department and the state auditor  
1390 and shall be in a form prescribed by the state auditor. The state auditor may investigate the  
1391 budget and finances of charter schools and their financial dealings, transactions and relationships  
1392 and shall have the power to examine the records of charter schools and to prescribe methods of  
1393 accounting and the rendering of periodic reports.

1394           (mm) The commissioner shall collect data on the racial, ethnic, and socio-economic  
1395 make-up of the student enrollment of each charter school. The commissioner shall also collect  
1396 data on the number of students enrolled in each charter school who have individual education  
1397 plans under chapter 71B and those requiring English language learners programs under chapter  
1398 71A. The commissioner shall file the data annually with the clerks of the house and senate and

1399 with the joint committee on education not later than December 1. The commissioner shall also  
1400 make these reports available on the department's website.

1401 (nn) Individuals or groups may complain to a charter school's board of trustees  
1402 concerning any claimed violations of this section by the school. If, after presenting their  
1403 complaint to the trustees, the individuals or groups believe their complaint has not been  
1404 adequately addressed, they may submit their complaint to the board of elementary and secondary  
1405 education which shall investigate the complaint and make a formal response.

1406 (oo) The board of elementary and secondary education shall adopt regulations for  
1407 implementing the provisions of this section, including, but not limited to, regulations for  
1408 determining the actual per pupil net school spending amounts in districts and for calculating  
1409 charter school tuition amounts and regulations governing the financial conditions and  
1410 obligations of management contracts. In adopting the regulations, the department shall consult  
1411 with the executive office for administration and finance.

1412 SECTION 7. Chapter 71 of the General Laws, is hereby amended by inserting after  
1413 section 90 the following section:-

1414 Section 91. (a) An Innovation School shall be a public school, operating within a  
1415 public school district, that is established for the purpose of improving school performance and  
1416 student achievement through increased autonomy and flexibility. An Innovation School may be  
1417 established as a new public school or as a conversion of an existing public school. A student  
1418 who is enrolled in a school at the time it is established as an Innovation School shall retain the  
1419 ability to remain enrolled in the school if the student chooses to do so.



1420 (b) An Innovation School may establish an advisory board of trustees. An Innovation  
1421 School shall have increased autonomy and flexibility in 1 or more of the following areas: (1)  
1422 curriculum; (2) budget; (3) school schedule and calendar; (4) staffing policies and procedures,  
1423 including waivers from or modifications to, contracts or collective bargaining agreements; (5)  
1424 school district policies and procedures; and (6) professional development. An Innovation School  
1425 shall receive each school year from the school committee the same per pupil allocation as any  
1426 other district school receives. An Innovation School may retain any unused funds and use the  
1427 funds in subsequent school years. An Innovation School may establish a non-profit organization  
1428 that may, among other things, assist the school with fundraising. A district may not reduce its  
1429 funding to an Innovation School as a result of the school's fundraising activities.

1430 (c) An Innovation School established under this section shall be authorized by the local  
1431 school committee and shall operate according to an innovation plan, which shall articulate the  
1432 areas of autonomy and flexibility under subsection (b). To the extent practicable, the innovation  
1433 plan shall be based on student outcome data, including, but not limited to: (1) student  
1434 achievement on the Massachusetts Comprehensive Assessment System; (2) other measures of  
1435 student achievement, as appropriate; (3) student promotion and graduation rates; (4) achievement  
1436 data for different subgroups of students, including low-income students as defined by chapter 70,  
1437 limited English-proficient students and students receiving special education; and (5) student  
1438 attendance and dismissal rates.

1439 An Innovation School shall operate in accordance with the law regulating other public  
1440 schools, except as the law conflicts with this section or any innovation plans created thereunder.

1441 (d) An Innovation School is a school in which: (i) faculty and leadership are primarily  
1442 responsible for developing the innovation plan under which the school operates and leadership is  
1443 responsible for meeting the terms of the innovation plan; or (ii) an external partner or partners is  
1444 primarily responsible for developing the innovation plan under which the school operates and the  
1445 external partner or partners are responsible for meeting the terms of the innovation plan.

1446 (e) Nothing in this section shall be construed to prohibit: (1) the establishment of an  
1447 Innovation School as an academy within an existing public school; (2) the establishment of an  
1448 Innovation School serving students from 2 or more school districts; provided, however, that all  
1449 of the provisions of this section are met by each school district; (3) the simultaneous  
1450 establishment of 2 or more Innovation Schools as an Innovation Schools Zone within a school  
1451 district; or (4) the establishment of an Innovation School as a virtual public school that provides  
1452 instruction to students through distance learning, including online learning programs and  
1453 courses, subject to regulations adopted by the board of elementary and secondary education.

1454 (f) The following shall be eligible applicants for the purposes of establishing an  
1455 Innovation School: (1) parents; (2) teachers; (3) parent-teacher organizations; (4) principals; (5)  
1456 superintendents; (6) school committees; (7) teacher unions; (8) colleges and universities; (9) non-  
1457 profit community-based organizations; (10) non-profit business or corporate entities; (11) non-  
1458 profit charter school operators; (12) non-profit education management organizations; (13)  
1459 educational collaboratives; (14) consortia of these groups; and (15) non-profit entities authorized  
1460 by the commissioner. Private and parochial schools shall not be eligible to operate an Innovation  
1461 School.

1462 (g) The local school committee, local teacher’s union and superintendent of the district  
1463 shall follow a process, consistent with this subsection and subsections (h) to (o), inclusive, for  
1464 which an existing district school may be converted to an Innovation School or by which a new  
1465 Innovation School may be established within the district. This process shall require that an  
1466 eligible applicant proposing to establish an Innovation School prepare a prospectus regarding the  
1467 proposed school. The prospectus shall include, but not be limited to, a description of: (1)  
1468 whether the school will be a new school or a conversion of an existing school; (2) if the school is  
1469 a new school, the proposed location of the school; (3) if the school is a conversion of an existing  
1470 school, the school that is being proposed for conversion; (4) the external partners, if any, that  
1471 will be involved in the school; (5) the number of students the school is anticipated to serve and  
1472 the number of staff expected to be employed at the school; (6) the overall vision for the school,  
1473 including improving school performance and student achievement; (7) specific needs or  
1474 challenges the school shall be designed to address; (8) a preliminary assessment of the autonomy  
1475 and flexibility under subsection (b) that the school will seek; (9) why such flexibility is desirable  
1476 to carry out the objectives of the school; (10) anticipated components of the school’s innovation  
1477 plan; (11) a preliminary description of the process that shall be used to involve appropriate  
1478 stakeholders in the development of the innovation plan; and (12) a proposed timetable for  
1479 development and establishment of the proposed school.

1480 (h) Upon completion of the prospectus under subsection (g), an eligible applicant shall  
1481 submit the prospectus to the superintendent, who shall within 30 days convene a screening  
1482 committee consisting of the superintendent or a designee, a school committee member or a  
1483 designee selected by the school committee and a representative from the leadership of the local  
1484 teacher’s union.

1485           The screening committee shall review the prospectus for the purpose of determining  
1486 whether the prospectus: (1) presents a sound and coherent plan for improving school  
1487 performance and student achievement; (2) supports or enhances existing educational efforts in  
1488 the district; and (3) reasonably can be expanded into a comprehensive innovation plan. In the  
1489 case of a new school, the committee will prepare an impact statement describing how the new  
1490 school will affect the children and faculty in the district. Within 30 days of receiving a  
1491 prospectus, the screening committee shall decide, on the basis of a two-thirds vote, to accept or  
1492 reject the prospectus, or return the prospectus to the eligible applicant for revisions. If a  
1493 prospectus is rejected or returned, the screening committee shall submit a detailed explanation  
1494 for the decision to the applicant. A prospectus that is rejected or returned may be revised and  
1495 resubmitted for subsequent consideration.

1496           (i) Upon the acceptance of a prospectus by the screening committee under subsection  
1497 (h), the applicant shall form an innovation plan committee of not more than 11 individuals within  
1498 30 days. The purpose of the innovation plan committee shall be to: (1) develop the innovation  
1499 plan described in subsection (c); (2) assure that appropriate stakeholders are represented in the  
1500 development of the proposed Innovation School; and (3) provide meaningful opportunities for  
1501 the stakeholders to contribute to the development of such school. The size and composition of  
1502 the innovation plan committee shall be determined by the applicant; provided, however, that the  
1503 committee shall include: (1) the applicant; (2) the superintendent or a designee; (3) a school  
1504 committee member or a designee; (4) a parent who has 1 or more children enrolled in the school,  
1505 or in the case of a new school, from the district; (5) a principal employed by the district; and (6)  
1506 2 teachers employed by the district. The applicant shall select the parent from among nominees  
1507 submitted by parent-teacher organizations in the district. If the district does not contain a parent-

1508 teacher organization or if the organization does not submit nominees, the applicant shall select  
1509 the parent from among volunteers in the area or community the proposed school is expected to  
1510 serve. The applicant shall select the principal and 1 teacher from among volunteers in the district  
1511 and 1 teacher from among nominees submitted by the local teacher's union.

1512 (j) Upon the formation of the innovation plan committee in subsection (i), the committee  
1513 shall develop the innovation plan for the proposed Innovation School. The purpose of the  
1514 innovation plan shall be to comprehensively articulate the areas of autonomy and flexibility  
1515 under subsection (b) that the proposed school will use. The innovation plan shall include, but not  
1516 be limited to: (1) a curriculum plan, which shall include a detailed description of the curriculum  
1517 and related programs for the proposed school and how the curriculum is expected to improve  
1518 school performance and student achievement; (2) a budget plan, which shall include a detailed  
1519 description of how funds shall be used differently in the proposed school to support school  
1520 performance and student achievement; (3) a school schedule plan, which shall include a detailed  
1521 description of the ways, if any, the program or calendar of the proposed school will be enhanced  
1522 or expanded; (4) a staffing plan, which shall include a detailed description of how the school  
1523 principal, administrators, faculty and staff will be recruited, employed, evaluated and  
1524 compensated in the proposed school and any proposed waivers or modifications of collective  
1525 bargaining agreements; (5) a policy and procedures plan, which shall include a detailed  
1526 description of the unique operational policies and procedures to be used by the proposed school  
1527 and how the procedures shall support school performance and student achievement; and (6) a  
1528 professional development plan, which shall include a detailed description of how the school may  
1529 provide high-quality professional development to its administrators, teachers and staff.

1530 In order to assess the proposed school across multiple measures of school performance  
1531 and student success, the innovation plan shall include measurable annual goals including, but not  
1532 limited to, the following: (1) student attendance and dismissal rates; (2) student safety and  
1533 discipline; (3) student promotion and graduation; (4) student achievement on the Massachusetts  
1534 Comprehensive Assessment System; (5) progress in areas of academic underperformance; (6)  
1535 progress among subgroups of students, including low-income students as defined by chapter 70,  
1536 limited English-proficient students and students receiving special education; (7) reduction of  
1537 achievement gaps among different groups of students; (8) student acquisition and mastery of  
1538 21st-century skills; (9) development of college readiness, including at the elementary and middle  
1539 school levels; (10) parent and family engagement; (11) building a culture of academic success  
1540 among students; and (12) building a culture of student support and success among school faculty  
1541 and staff.

1542 A majority vote of the innovation plan committee shall be required for approval of the  
1543 innovation plan.

1544 (k) The provisions of the collective bargaining agreements applicable to the  
1545 administrators, teachers and staff in the school shall be considered to be in operation at an  
1546 Innovation School, except to the extent the provisions are waived or modified under the  
1547 innovation plan and such waivers or modifications are approved under subsections (l) and (m).

1548 (l) In the case of a school conversion, upon completion of the innovation plan in  
1549 subsection (j), , the applicant shall submit the innovation plan to teachers in the school that is  
1550 proposed for conversion for approval by secret ballot within 30 days. A two-thirds vote of the  
1551 teachers shall be required to approve the plan. Upon approval of an innovation plan by the

1552 teachers, the plan shall be submitted immediately to the school committee. If a two-thirds vote is  
1553 not achieved, the innovation plan committee may revise the innovation plan as necessary and  
1554 submit the revised plan to the teachers for a subsequent vote.

1555           In the case of a new school, upon the completion of the innovation plan in subsection (j),  
1556 the applicant, a local union and the superintendent shall negotiate waivers or modifications to the  
1557 applicable collective bargaining agreement necessary for the school to implement the innovation  
1558 plan. Upon the conclusion of the negotiations, the innovation plan shall be submitted  
1559 immediately to the school committee. If the negotiations have not resulted in an agreement  
1560 within 40 days, either party may petition the division of labor relations for the selection of an  
1561 arbitrator. The division shall select an arbitrator within 3 days of the petition from a list  
1562 submitted by the parties. The arbitrator shall conduct a hearing within 14 days of the arbitrator's  
1563 selection. The arbitrator shall consider the parties' positions and the needs of the students in the  
1564 district. The arbitrator's decision shall be consistent with the contents of the innovation plan  
1565 developed by the applicant. The arbitrator shall submit a decision which shall be final and  
1566 binding on the parties, within 14 days of the close of the hearing.

1567           (m) Upon receipt of an innovation plan regarding an Innovation School, a school  
1568 committee shall hold at least 1 public hearing on the innovation plan. After the public hearing,  
1569 but not later than 60 days after the receipt of the innovation plan, the school committee shall, on  
1570 the basis of the quality of the plan and in consideration of comments submitted by the public,  
1571 undertake a final vote to authorize the Innovation School for a period of not more than 5 years,  
1572 subject to subsection (n). Approval of the majority of the school committee as fully constituted  
1573 shall be required to authorize an Innovation School. If the approval is not obtained, an  
1574 innovation plan committee may revise the innovation plan and: (i) in the case of a new school,

1575 submit the revised plan to the school committee for a subsequent vote; or (ii) in the case of a  
1576 conversion, submit the revised plan to the teachers in the school that is proposed for conversion  
1577 for a vote, pursuant to subsection (l); provided, however, that the plan meets the requirements  
1578 for approval under subsection (l), submit the revised plan to the school committee for a  
1579 subsequent vote. A school committee shall vote on a revised plan submitted pursuant to this  
1580 subsection within 60 days of the receipt of such plan and contract.

1581 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the  
1582 superintendent at least annually. The superintendent shall transmit the evaluation to the school  
1583 committee and the commissioner of elementary and secondary education. The purpose of the  
1584 evaluation shall be to determine whether the school has met the annual goals in its innovation  
1585 plan and assess the implementation of the innovation plan at the school. If the school committee  
1586 determines, on the advice of the superintendent, that the school has not met 1 or more goals in  
1587 the innovation plan and that the failure to meet the goals may be corrected through reasonable  
1588 modification of the plan, the school committee may amend the innovation plan as necessary.  
1589 After the superintendent assesses the implementation of the innovation plan at the school, the  
1590 school committee may, on the advice of the superintendent, amend the plan if the school  
1591 committee determines that the amendment is necessary in view of subsequent changes in the  
1592 district that affect 1 or more components of the plan, including, but not limited to, changes to  
1593 contracts, collective bargaining agreements, or school district policies; provided, however, that  
1594 an amendment involving a subsequent change to a teacher contract shall first be approved by  
1595 teachers at the school, under the procedures in subsection (l).

1596 If the school committee determines, on the advice of the superintendent, that the school  
1597 has substantially failed to meet multiple goals in the innovation plan, the school committee may:



1598 (1) limit 1 or more components of the innovation plan; (2) suspend 1 or more components of the  
1599 innovation plan; or (3) terminate the authorization of the school; provided, however, that the  
1600 limitation or suspension shall not take place before the completion of the second full year of the  
1601 operation of the school and the termination may not take place before the completion of the third  
1602 full year of the operation of the school.

1603 (o) At the end of the period of authorization of an Innovation School approved under  
1604 subsection (m), the leadership of the school may petition the school committee to extend the  
1605 authorization of the school for an additional period of not more than 5 years. Before submitting  
1606 the petition, the leadership of the school shall convene a selection of school stakeholders,  
1607 including, but not limited to, administrators, teachers, other school staff, parents and external  
1608 partners, as applicable, to discuss whether the innovation plan at the school requires revision and  
1609 to solicit recommendations as to the potential revisions. After considering the recommendations  
1610 of the stakeholder group, the leadership of the school and the applicable superintendent shall  
1611 jointly update the innovation plan as necessary; provided, however, that a proposal regarding a  
1612 new waiver or exemption from the local teacher's union contract shall be approved by teachers at  
1613 the school, under subsection (l). Approval of the majority of the school committee as fully  
1614 constituted shall be required to extend the period of authorization of an Innovation School. If the  
1615 approval is not obtained, the leadership of the school and superintendent may jointly revise the  
1616 innovation plan and submit the revised plan to the school committee for a subsequent vote. If the  
1617 school committee does not extend the authorization of the school, the leadership of the school  
1618 may seek the authorization from the board of elementary and secondary education. The board  
1619 shall vote on the requested extension within 60 days of its receipt for approval of such extension.

1620 (p) The commissioner of elementary and secondary education shall, to the extent  
1621 practicable, be responsible for the following: (1) the provision of planning and implementation  
1622 grants to eligible applicants to establish Innovation Schools; (2) provision of technical assistance  
1623 and support to eligible applicants; (3) the collection and publication of data and research related  
1624 to the Innovation Schools initiative; (4) the collection and publication of data and research  
1625 related to successful programs serving limited English-proficient students attending Innovation  
1626 Schools; and (5) the collection and dissemination of best practices in Innovation Schools that  
1627 may be adopted by other public schools. The board of elementary and secondary education shall  
1628 promulgate regulations necessary to carry out this section. Annually, the commissioner shall  
1629 report to the joint committee on education, the house and senate committees on ways and means,  
1630 the speaker of the house of representatives and the senate president on the implementation and  
1631 fiscal impact of this section.

1632 SECTION 8. For the school districts in which net school spending on charter school  
1633 tuition does not exceed 18 per cent as set forth in subsection (i) of section 89 of chapter 71, the  
1634 following shall apply: (1) in fiscal year 2011, a public school district's total charter school tuition  
1635 payment to commonwealth charter schools shall be limited to 12 per cent of the district's net  
1636 school spending; (2) in fiscal year 2012, a public school district's total charter school tuition  
1637 payment to commonwealth charter schools shall be limited to 13 per cent of the district's net  
1638 school spending; (3) in fiscal year 2013, a public school district's total charter school tuition  
1639 payment to commonwealth charter schools shall be limited to 14 per cent of the district's net  
1640 school spending; (4) in fiscal year 2014, a public school district's total charter school tuition  
1641 payment to commonwealth charter schools shall be limited to 15 per cent of the district's net  
1642 school spending; (5) in fiscal year 2015, a public school district's total charter school tuition

1643 payment to commonwealth charter schools shall be limited to 16 per cent of the district's net  
1644 school spending; (6) in fiscal year 2016, a public school district's total charter tuition payment to  
1645 commonwealth charter schools shall be limited to 17 per cent of the district's net school  
1646 spending; and (7) in fiscal year 2017, a public school district's total charter tuition payment to  
1647 commonwealth charter schools shall be limited to 18 per cent of the district's net school  
1648 spending.

1649           SECTION 9. Notwithstanding any general or special law to the contrary the department  
1650 of elementary and secondary education shall draft a model policy for school districts regarding  
1651 the grade placement and eligibility for high school graduation of students leaving a  
1652 commonwealth charter school and seeking to enroll in a district school. In drafting the model  
1653 policy, the department shall confer with school districts and commonwealth charter schools. The  
1654 model policy shall be made available not later than December 31, 2010. Until a school district  
1655 adopts a policy regarding the grade placement or eligibility for high school graduation of  
1656 students leaving a commonwealth charter school, when determining the appropriate grade  
1657 placement or eligibility for high school graduation of a student leaving a commonwealth charter  
1658 school and enrolling in a district school, a district shall examine the course of study and level of  
1659 academic attainment of the student.

1660           SECTION 10. Notwithstanding any general or special law to the contrary, a charter  
1661 school whose charter was granted before January 1, 2010 shall have a recruitment and retention  
1662 plan required under subsection (f) of section 89 of chapter 71 of the General Laws in effect for  
1663 the 2011-2012 school year or at the time of its next charter renewal, whichever occurs first.

1664 SECTION 11. Notwithstanding subsection (ii) of section 89 of chapter 71 of the General  
1665 Laws, any district that incurred an increase in commonwealth charter tuition costs between July  
1666 1, 2008 and June 30, 2010 shall be reimbursed in an amount equal to 100 per cent of the increase  
1667 in the year in which the increase occurs, 60 per cent of that amount in the first year following and  
1668 40 per cent of that amount in the second year following.