

SENATE No. 2216

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. Upon the release of the proposed regulations, the board shall file a copy

105 thereof with the clerks of the house of representatives and the senate who shall refer the
106 regulations to the joint committee on education. Within 30 of the filing, the committee may hold
107 a public hearing on the regulations, shall issue a report and file a copy thereof with the board.
108 The board, pursuant to applicable law, may adopt final regulations making the revisions in the
109 proposed regulations as it deems appropriate after consideration of the report and shall forthwith
110 file a copy of the regulations with the chairpersons of the joint committee on education and, not
111 earlier than 30 days of the filing, the board shall file the final regulations with the state secretary.
112 Schools that score in the lowest 20 per cent statewide in their respective school level based on (i)
113 the combined composite performance index scores on the English language arts and mathematics
114 Massachusetts Comprehensive Assessment System exams and (ii) beginning on July 1, 2011, the
115 growth model used to evaluate improvement in student performance shall be deemed eligible for
116 designation as underperforming or chronically underperforming status. Not more than 5 per cent
117 of the public schools in the commonwealth may be designated as underperforming or chronically
118 underperforming at any given time. If the department is no longer using the combined composite
119 performance index as a measure of school and district performance, the department shall use the
120 subsequently developed measure in conjunction with the growth model to determine the lowest
121 20 per cent of schools.

122 In adopting regulations allowing the commissioner to designate a school as
123 underperforming or chronically underperforming, the board must ensure that such regulations
124 take into account multiple indicators of school quality in making determinations regarding
125 underperformance or chronic underperformance, such as student attendance and dismissal rates,
126 promotion rates, graduation rates or the lack of demonstrated significant improvement for 2 or
127 more consecutive years in core academic subjects, either in the aggregate or among subgroups of

128 students, including designations based special education, low-income, English language
129 proficiency and racial classifications.

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

132 An underperforming or chronically underperforming school described in the following
133 subsections shall operate in accordance with laws regulating other public schools, except as such
134 provisions may conflict with this section or any innovation plans created thereunder. A student
135 who is enrolled in a school at the time it is designated as underperforming or chronically
136 underperforming shall retain the ability to remain enrolled in the school if the student chooses to
137 do so.

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

142 Before the superintendent creates the innovation plan required in this subsection, the
143 superintendent shall convene a local stakeholder group of not more than 11 individuals, for the
144 purpose of soliciting recommendations on the content of such plan in order to maximize the
145 rapid academic achievement of students at the school. The group shall include: (1) the
146 commissioner, or a designee; (2) the chair of the school committee, or a designee; (3) the
147 president of the local teacher's union, or a designee; (4) an administrator from the school, who
148 may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the
149 faculty of the school; (6) a parent from the school chosen by the local parent organization; (7)

150 representatives of applicable state and local social service, health, and child welfare agencies,
151 chosen by the superintendent; and (8) as appropriate, representatives of state and local workforce
152 development agencies, chosen by the superintendent. If the school or district does not have a
153 parent organization or if the organization does not select a parent, the superintendent shall select
154 a volunteer parent of a student from the school. The superintendent shall convene such group
155 within 30 days of the commissioner designating a school as underperforming and the group shall
156 make its recommendations to the superintendent within 45 days of its initial meeting. Meetings
157 of the local stakeholder group shall be open to the public and the recommendations submitted to
158 the superintendent under this subsection shall be publicly available immediately upon their
159 submission.

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

170 The superintendent shall also include in the creation of the innovation plan, after
171 considering the recommendations of the local stakeholder group, the following: (1) steps to
172 address social service and health needs of students at the school and their families, in order to

173 help students arrive and remain at school ready to learn; provided, however, that this may
174 include mental health and substance abuse screening; (2) steps to improve or expand child
175 welfare services and, as appropriate, law enforcement services in the school community, in order
176 to promote a safe and secure learning environment; (3) steps to improve workforce development
177 services provided to students and their families at the school, in order to provide students and
178 families with meaningful employment skills and opportunities; (4) steps to address achievement
179 gaps for limited English-proficient, special education and low-income students; and (5) a budget
180 for the school, including any additional funds to be provided by the district, commonwealth,
181 federal government or other sources.

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

190 In order to assess the school across multiple measures of school performance and student
191 success, the innovation plan shall include measurable annual goals including, but not limited to,
192 the following: (1) student attendance and dismissal rates; (2) student safety and discipline; (3)
193 student promotion and graduation; (4) student achievement on the Massachusetts Comprehensive
194 Assessment System; (5) progress in areas of academic underperformance; (6) progress among
195 subgroups of students, including low-income students as defined by chapter 70, limited English-

196 proficient students and students receiving special education; (7) reduction of achievement gaps
197 among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9)
198 development of college readiness, including at the elementary and middle school levels; (10)
199 parent and family engagement; (11) building a culture of academic success among students; (12)
200 building a culture of student support and success among school faculty and staff and (13)
201 developmentally appropriate child assessments from pre-kindergarten through third grade, if
202 applicable.

203 (d) Notwithstanding any general or special law to the contrary, in creating the innovation
204 plan required in subsection (b), the superintendent may, after considering the recommendations
205 of the group of stakeholders: (1) expand, alter or replace the curriculum of the school, including
206 the implementation of research-based early literacy programs, early interventions for struggling
207 readers and the teaching of advanced placement courses or other rigorous nationally or
208 internationally recognized courses, if the school does not already have such programs or courses;
209 (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the
210 school from the budget of the district, if the school does not already receive funding from the
211 district at least equal to the average per pupil funding received for students of the same
212 classification and grade level in the district; (4) provide funds, subject to appropriation and
213 following consultation with applicable local unions, to increase the salary of any administrator or
214 teacher in the school, in order to attract and retain highly-qualified administrators or teachers or
215 to reward administrators or teachers who work in underperforming schools that achieve the
216 annual goals set forth in the innovation plan; (5) expand the school day or school year or both of
217 the school; (6) for an elementary school, add pre-kindergarten and full-day kindergarten classes,
218 if the school does not already have such classes; (7) following consultation with applicable local

219 unions, require the principal and all administrators, teachers and staff to reapply for their
220 positions in the school, with full discretion vested in the superintendent regarding his
221 consideration of and decisions on rehiring based on the reapplications; provided, however, the
222 superintendent may only dismiss or fail to rehire a teacher for good cause; provided further, that
223 the teacher has received 5 school days written notice of the decision to terminate that includes an
224 explanation of the reason why the superintendent is not retaining the teacher in the school;
225 provided further, that the teacher may seek review of a termination decision within 5 school days
226 after receiving notice of the teacher's termination by filing a petition for expedited arbitration
227 with the superintendent; provided further, that an arbitrator shall be selected according to the
228 procedures in section 42 of chapter 71 within 3 business days and shall conduct a hearing within
229 10 business days of receiving the petition; provided further, that in reviewing dismissal
230 decisions, the arbitrator shall consider whether or not the underperformance of the school is due
231 to factors beyond the control of the teacher and shall also consider the components of the
232 innovation plan as proposed by the superintendent; and provided further, that the arbitrator's
233 decision shall be issued within 10 business days from the completion of the hearing; (8) limit,
234 suspend or change 1 or more school district policies, as such policies relate to the school; (9)
235 include a provision of job-embedded professional development for teachers at the school, with an
236 emphasis on strategies that involve teacher input and feedback; (10) provide for increased
237 opportunities for teacher planning time and collaboration focused on improving student
238 instruction; (11) put in place a plan for professional development for administrators at the school,
239 with an emphasis on strategies that develop leadership skills and use the principles of distributive
240 leadership; (12) establish steps to assure a continuum of high-expertise teachers by aligning the
241 following processes with the common core of professional knowledge and skill: hiring,

242 induction, teacher evaluation, professional development, teacher advancement, school culture
243 and organizational structure; (13) develop a strategy to search for and study best practices in
244 areas of demonstrated deficiency in the school; (14) establish strategies to address mobility and
245 transiency among the student population of the school; and (15) include additional components
246 based on the reasons why the school was designated as underperforming and the
247 recommendations of the group of stakeholders in subsection (b).

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

252 (e) Within 30 days of the local stakeholder group making recommendations under
253 subsection (b), the superintendent shall submit an innovation plan to the local stakeholder group,
254 the school committee and the commissioner, all of whom may propose modifications to the plan.
255 The superintendent shall make such plan immediately available to the public upon the
256 submission. The stakeholder group, the school committee and the commissioner shall submit any
257 proposed modifications to the superintendent not more than 30 days after the date of submission
258 of the innovation plan and the proposed modifications shall be made public immediately upon
259 their submission to the superintendent. The superintendent shall consider and may incorporate
260 the modifications into the plan if the superintendent determines that inclusion of the
261 modifications would further promote the rapid academic achievement of students at the school or
262 may alter or reject the proposed modifications submitted under this subsection. Within 30 days
263 of receiving any proposed modifications under this subsection, the superintendent shall issue a
264 final innovation plan for the school and the plan shall be made publicly available.

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

275

276 (g) If, after considering the recommendations of the group of stakeholders, the
277 superintendent considers it necessary to maximize the rapid academic achievement of students at
278 the applicable school by altering the compensation, hours and working conditions of the
279 administrators, teachers, principals and staff at the school or by altering other provisions of a
280 contract or collective bargaining agreement applicable to the administrators, teachers, principals
281 and staff, the superintendent may request that the school committee and any union bargain or
282 reopen the bargaining of the relevant collective bargaining agreements to facilitate such
283 achievement. The bargaining shall be conducted in good faith and completed not later than 30
284 days from the point at which the superintendent requested that the parties bargain. The
285 agreement shall be subject to ratification within 10 business days by the bargaining unit members
286 in the school. If the parties are unable to reach an agreement within 30 days or if the agreement is
287 not ratified within 10 business days by the bargaining unit members of the school, the parties

288 shall submit remaining unresolved issues as an appeal to a joint resolution committee for
289 expedited arbitration on the next business day following the end of the 30 day bargaining period
290 or failure to ratify.

291 The joint resolution committee shall be comprised of 3 members, 1 of whom shall be
292 appointed by the employee organization within 3 business days following the submittal of
293 unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the
294 superintendent within 3 business days following the submittal of unresolved issues to the joint
295 resolution committee and 1 who shall be selected through the American Arbitration Association
296 who shall forthwith forward to the parties a list of 3 arbitrators from which the parties may agree
297 upon a single arbitrator; provided, however, that each party shall have the right to strike 1 of the
298 3 arbitrator's names if they are unable to agree upon a single arbitrator from amongst the 3 and
299 within 3 business days the American Arbitration Association shall select an arbitrator from the
300 remaining names. The joint resolution committee shall conduct an expedited arbitration to be
301 concluded within 10 business days of selection. The expedited arbitration shall be conducted in
302 accordance with the rules of the American Arbitration Association and consistent with this
303 section. The fee for the arbitration shall be shared equally between the 2 parties involved in the
304 arbitration.

305 The joint resolution committee shall consider the positions of the parties, the designation
306 of the school as underperforming and the needs of the students in the school. The decision of the
307 joint resolution committee shall be final and binding and shall be submitted to the parties within
308 10 business days of the close of the hearing. Under no circumstance, shall a time extension be
309 granted beyond the 10 business days of the close of the hearing.

310 (h) The superintendent may select an external receiver to operate the school and
311 implement the innovation plan or to assist the superintendent with the implementation. The
312 superintendent may appoint the receiver if the superintendent determines that conditions exist in
313 the district that are likely to negatively affect his ability to implement the plan successfully. A
314 school committee may appeal to the commissioner the decision of the superintendent to appoint
315 an external receiver. The commissioner may reverse such decision only if he determines that
316 the superintendent made the decision on the basis of demonstrably-false information or evidence.
317 A receiver shall be a non-profit entity or an individual with a demonstrated record of success in
318 improving low-performing schools or the academic performance of disadvantaged students. A
319 receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an
320 individual shall also be subject to chapter 268A.

321 (i) An external receiver selected by the superintendent to operate a school shall have full
322 managerial and operational control over the school as provided in the innovation plan. For all
323 other purposes, the school district in which the school is located shall remain the employer of
324 record.

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

330 (k) Each school designated by the commissioner as underperforming under subsection (a)
331 shall be reviewed by the superintendent, in consultation with the principal of the school, at least

332 annually. The purpose of the review shall be to determine whether the school has met the annual
333 goals in its innovation plan and to assess the overall implementation of the innovation plan. The
334 review shall be in writing and shall be submitted to the commissioner and the relevant school
335 committee not later than July 1 for the preceding school year. The review shall be submitted in a
336 format determined by the department of elementary and secondary education.

337 If the commissioner determines that the school has met the annual performance goals
338 stated in the innovation plan, the review shall be considered sufficient and the implementation of
339 the innovation plan shall continue. If the commissioner determines that the school has not met 1
340 or more goals in the innovation plan and that the failure to meet the goals may be corrected
341 through reasonable modification of the plan, the superintendent may amend the innovation plan.
342 If the commissioner determines that the school has substantially failed to meet 1 or more goals in
343 the plan, the commissioner may appoint an examiner to conduct an evaluation of the school's
344 implementation of the innovation plan.

345 If the commissioner determines that the school has substantially failed to meet multiple
346 goals in the plan, the commissioner may require changes to the innovation plan to be
347 implemented by the superintendent in the following year. If the changes to the innovation plan
348 require changes in a collective bargaining agreement applicable to administrators, teachers or
349 staff in the school, the bargaining procedure in subsection (g) shall be used. If an
350 underperforming school is operated by an external receiver, the commissioner may require the
351 superintendent to terminate the receiver and develop a new innovation plan; provided, however,
352 that the superintendent shall not terminate the receiver before the completion of the first full
353 school year of the operation of the underperforming school.

354 (l) Upon the expiration of an innovation plan, the commissioner shall conduct a review of
355 the school to determine whether the school has improved sufficiently, requires further
356 improvement or has failed to improve. On the basis of such review, the commissioner may
357 determine that: (1) the school has improved sufficiently for the designation of the school as
358 underperforming to be removed; (2) the school has improved, but the school remains
359 underperforming, in which case the superintendent may, with the approval of the commissioner,
360 renew the plan or create a new or modified plan for an additional period of not more than 3
361 years; or (3) consistent with the requirements of subsection (a), the school is chronically
362 underperforming. The commissioner may recommend the appointment of an external receiver
363 by the superintendent if the commissioner believes that a new or modified innovation plan
364 implemented by the superintendent will not result in rapid improvement. In carrying out this
365 subsection, the superintendent shall: (1) in the case of a renewal of an innovation plan, determine
366 subsequent annual goals for each component of the plan with the input of the local stakeholder
367 group as defined in subsection (b); or (2) create a new or modified innovation plan as necessary,
368 consistent with the requirements of this section.

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

372 Before creating the innovation plan required in this subsection, the commissioner shall
373 convene a local stakeholder group of not more than 11 individuals for the purpose of soliciting
374 recommendations on the content of such plan in order to maximize the rapid academic
375 achievement of students. The group shall include: (1) the superintendent, or a designee; (2) the
376 chair of the school committee, or a designee; (3) the president of the local teacher's union, or a

377 designee; (4) an administrator from the school, who may be the principal, chosen by the
378 superintendent; (5) a teacher from the school chosen by the faculty of the school; (6) a parent
379 from the school chosen by the local parent organization; (7) representatives of applicable state
380 and local social service, health and child welfare agencies, chosen by the commissioner; and (8)
381 as appropriate, representatives of state and local workforce development agencies, chosen by the
382 commissioner. If the school or district does not have a parent organization or if the organization
383 does not select a parent, the commissioner shall select a volunteer parent of a student from the
384 school. The commissioner shall convene the group within 30 days of the designation of a school
385 as chronically underperforming and the group shall make its recommendations to the
386 commissioner within 45 days of its initial meeting. Meetings of the local stakeholder group shall
387 be open to the public and the recommendations submitted to the commissioner under this
388 subsection shall be publicly available immediately upon their submission.

389 (n) In creating the innovation plan required in subsection (m), the commissioner shall
390 include, after considering the recommendations of the local stakeholder group, provisions
391 intended to maximize the rapid academic achievement of students at the school and shall, to the
392 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data
393 collected under section 1I or a school or district review performed under section 55A of chapter
394 15; (2) student achievement on the Massachusetts Comprehensive Assessment System; (3) other
395 measures of student achievement, as appropriate; (4) student promotion and graduation rates; (5)
396 achievement data for different subgroups of students, including low-income students as defined
397 by chapter 70, limited English-proficient students and students receiving special education; and
398 (6) student attendance and dismissal rates.

399 The commissioner shall include in the creation of the innovation plan, after considering
400 the recommendations of the local stakeholder group, the following: (1) steps to address social
401 service and health needs of students at the school, and their families, in order to help students
402 arrive and remain at school ready to learn; provided, however, that this may include mental
403 health and substance abuse screening; (2) steps to improve or expand child welfare services and,
404 as appropriate, law enforcement services in the school community, in order to promote a safe and
405 secure learning environment; (3) steps to improve workforce development services provided to
406 students at the school, and their families, in order to provide students and families with
407 meaningful employment skills and opportunities; (4) steps to address achievement gaps for
408 limited English-proficient, special education and low-income students; and (5) a budget for the
409 school, including any additional funds to be provided by the district, commonwealth, federal
410 government or other sources.

411 The secretaries of health and human services, labor and workforce development, public
412 safety and other applicable state and local social service, health and child welfare officials shall
413 coordinate with the secretary of education and the commissioner regarding the implementation of
414 strategies under clauses (1) to (3), inclusive, of the second paragraph that are included in a final
415 innovation plan and shall, subject to appropriation, reasonably support the implementation
416 consistent with the requirements of state and federal law applicable to the relevant programs that
417 each official is responsible for administering.

418 In order to assess the school across multiple measures of school performance and student
419 success, the innovation plan shall include measurable annual goals including, but not limited to,
420 the following: (1) student attendance and dismissal rates; (2) student safety and discipline; (3)
421 student promotion and graduation; (4) student achievement on the Massachusetts Comprehensive

422 Assessment System; (5) progress in areas of academic underperformance; (6) progress among
423 subgroups of students, including low-income students as defined by chapter 70, limited English-
424 proficient students and students receiving special education; (7) reduction of achievement gaps
425 among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9)
426 development of college readiness, including at the elementary and middle school levels; (10)
427 parent and family engagement; (11) building a culture of academic success among students; (12)
428 building a culture of student support and success among school faculty and staff; and (13)
429 developmentally appropriate child assessments from pre-kindergarten through third grade, if
430 applicable.

431 (o) In creating the innovation plan required in subsection (m), the commissioner may,
432 after considering the recommendations of the group of stakeholders: (1) expand, alter or replace
433 the curriculum of the school, including the implementation of research-based early literacy
434 programs, early interventions for struggling readers and the teaching of advanced placement
435 courses or other rigorous nationally or internationally recognized courses, if the school does not
436 already have such programs or courses; (2) reallocate the uses of the existing budget of the
437 school; (3) provide additional funds to the school from the budget of the district, if the school
438 does not already receive funding from the district at least equal to the average per pupil funding
439 received for students of the same classification and grade level in the district; (4) provide funds,
440 subject to appropriation, to increase the salary of an administrator or teacher in the school, in
441 order to attract and retain highly-qualified administrators or teachers or to reward administrators
442 or teachers who work in chronically underperforming schools that achieve the annual goals set
443 forth in the innovation plan; (5) expand the school day or school year or both of the school; (6)
444 for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school

445 does not already have such classes; (7) limit, suspend, or change 1 or more provisions of any
446 contract or collective bargaining agreement, as the contract or agreement applies to the school;
447 provided, however that the change may include the adoption of model provisions identified by
448 the commissioner from among existing contracts or collective bargaining agreements , provided,
449 further, that the commissioner shall not reduce the compensation of an administrator, teacher or
450 staff member unless the hours of the person are proportionately reduced; (8) require the principal
451 and all administrators, teachers and staff to reapply for their positions in the school, with full
452 discretion vested in the commissioner regarding his consideration of and decisions on rehiring
453 based on the reapplications; provided, however, the commissioner may only dismiss or fail to
454 rehire a teacher for cause; provided further, that the teacher has received 5 school days written
455 notice of the decision to terminate that includes an explanation of the reason why the
456 commissioner is not retaining the teacher in the school; provided further, that the teacher may
457 seek review of a termination decision within 5 school days after receiving notice of the teacher's
458 termination by filing a petition for expedited arbitration with the commissioner; provided further,
459 that an arbitrator shall be selected according to the procedures in section 42 of chapter 71 within
460 3 business days and shall conduct a hearing within 10 business days of receiving the petition;
461 provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or
462 not the chronic underperformance of the school is due to factors beyond the control of the
463 teacher and shall also consider the components of the innovation plan as proposed by the
464 commissioner; and provided further, that the arbitrator's decision shall be issued within 10
465 business days from the completion of the hearing; (9) limit, suspend or change 1 or more school
466 district policies, as such policies or practices relate to the school; (10) include a provision of job-
467 embedded professional development for teachers at the school, with an emphasis on strategies

468 that involve teacher input and feedback; (11) provide for increased opportunities for teacher
469 planning time and collaboration focused on improving student instruction; (12) establish a plan
470 for professional development for administrators at the school, with an emphasis on strategies that
471 develop leadership skills and use the principles of distributive leadership; (13) establish steps to
472 assure a continuum of high expertise teachers by aligning the following processes with the
473 common core of professional knowledge and skill: hiring, induction, teacher evaluation,
474 professional development, teacher advancement, school culture and organizational structure;
475 (14) develop a strategy to search for and study best practices in areas of demonstrated deficiency
476 in the school; (15) establish strategies to address mobility and transiency among the student
477 population of the school; and (16) include additional components, at the discretion of the
478 commissioner, based on the reasons the school was designated as chronically underperforming
479 and the recommendations of the local stakeholder group in subsection (m).

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

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

487 (p) Within 30 days of the local stakeholder group making recommendations under
488 subsection (m), the commissioner shall submit an innovation plan to the local stakeholder group,
489 the superintendent and the school committee, all of whom may propose modifications to the

490 plan. The commissioner shall make the plan immediately available to the public upon
491 submission. The stakeholder group, the superintendent and the school committee shall submit
492 any proposed modifications to the commissioner within 30 days after the date of submission of
493 the innovation plan and the proposed modifications shall be made public immediately upon their
494 submission to the commissioner. The commissioner shall consider and incorporate the
495 modifications into the plan if the commissioner determines that inclusion of the modifications
496 would further promote the rapid academic achievement of students at the applicable school. The
497 commissioner may alter or reject modifications submitted pursuant to this subsection. Within 30
498 days of receiving any proposed modifications, the commissioner shall issue a final innovation
499 plan for the school and the plan shall be made publicly available.

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

510 (r) In the case of a chronically underperforming school, the commissioner may, under the
511 circumstances described in this subsection, send a targeted assistance team to the school to assist
512 the superintendent with the implementation of the innovation plan, require the superintendent to

513 implement the innovation plan, or select an external receiver to operate the school and
514 implement the innovation plan. The commissioner may appoint such receiver if the
515 commissioner determines that: (1) the superintendent is unlikely to implement the plan
516 successfully; or (2) conditions exist in the district that are likely to negatively affect the ability of
517 the superintendent to implement such plan successfully. A receiver shall be a non-profit entity or
518 an individual with a demonstrated record of success in improving low performing schools or the
519 academic performance of disadvantaged students. A receiver shall be subject to section 11A½ of
520 chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter
521 268A.

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

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

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

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

538 (v) The commissioner shall evaluate each chronically underperforming school at least
539 annually. The purpose of the evaluation shall be to determine whether the school has met the
540 annual goals in its innovation plan and assess the implementation of the plan at the school. The
541 review shall be in writing and shall be submitted to the superintendent and the school committee
542 not later than July 1 for the preceding school year.

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

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

553 (w) Upon the expiration of an innovation plan for a chronically underperforming school,
554 the commissioner shall conduct a review of the school to determine whether the school has
555 improved sufficiently, requires further improvement or has failed to improve. On the basis of

556 such review, the commissioner may: (1) on the basis of a superintendent's or external receiver's
557 success in meeting the terms of the plan, renew the plan with the superintendent or external
558 receiver for an additional period of not more than 3 years; (2) if a school that is operated by a
559 superintendent and remains chronically underperforming, appoint an external receiver, as defined
560 in subsection (r), to operate the school; (3) if a chronically underperforming school that is
561 operated by an external receiver and remains chronically underperforming, transfer the operation
562 of the school from the receiver to the applicable superintendent or to another external receiver; or
563 (4) determine that the school has improved sufficiently for the designation of chronically
564 underperforming to be removed. The commissioner shall: (1) in the case of a renewal of an
565 innovation plan, jointly determine subsequent annual goals for each component of the plan with
566 the superintendent or external receiver, as applicable; or (2) create a new or modified innovation
567 plan as necessary, consistent with the requirements of this section.

568 (x) The board of elementary and secondary education shall adopt regulations
569 regarding: (1) the conditions under which an underperforming or chronically underperforming
570 school shall no longer be designated as an underperforming or chronically underperforming
571 school; and (2) the transfer of the operation of an underperforming or a chronically
572 underperforming school from a superintendent or an external receiver, as applicable, to the
573 school committee. The regulations shall include provisions to allow a school to retain measures
574 adopted in an innovation plan if, in the judgment of the commissioner, the measures would
575 contribute to the continued improvement of the school.

576 (y) The commissioner shall report annually to the joint committee on education, the
577 house and senate committees on ways and means, the speaker of the house of representatives and
578 the senate president on the implementation and fiscal impact of this section and section 1K. The

579 report shall include, but not be limited to, a list of all schools currently designated as
580 underperforming or chronically underperforming, a list of all districts currently designated as
581 chronically underperforming, the plans and timetable for returning the schools and districts to the
582 local school committee and strategies used in each of the schools and districts to maximize the
583 rapid academic achievement of students.

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

586 Section 1K. (a) Upon a determination by the board of elementary and secondary
587 education, pursuant to regulations adopted by the board, that a school district has scored in the
588 lowest 5 per cent statewide based on (i) the combined composite performance index for English
589 language arts and math and (ii) beginning on July 1, 2011, the growth model used to evaluate
590 improvement in student performance, the commissioner shall appoint an independent factfinding
591 team to assess the reasons for the underperformance and the prospects for improvement. The
592 fact-finding team shall include at least one person with expertise in the academic achievement of
593 limited English-proficient students. Upon review of the findings of the fact-finding team, the
594 board may declare the district chronically underperforming on the basis of student performance
595 data collected pursuant to section 1I, district review performed under section 55A of chapter 15,
596 or upon regulations adopted by the board. Following such a declaration, the board shall
597 designate a receiver for the district with all the powers of the superintendent and school
598 committee. The receiver shall be a non-profit entity or an individual with a demonstrated record
599 of success in improving low-performing schools or districts or the academic performance of
600 disadvantaged students who shall report directly to the commissioner. An external receiver
601 designated by the board to operate a district under this subsection shall have full managerial and

602 operational control over such district; provided, however, that the school district shall remain the
603 employer of record for all other purposes. A receiver shall be subject to section 11A ½ of
604 chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter
605 268A.

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

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

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

619 Before creating the innovation plan required in this subsection, the commissioner and
620 receiver shall convene a local stakeholder group of not more than 11 individuals for the purpose
621 of soliciting recommendations on the content of such plan in order to maximize the rapid
622 academic achievement of students. The group shall include: (1) the superintendent, or a
623 designee; (2) the chair of the school committee, or a designee; (3) the president of the local

624 teacher's union, or a designee; (4) a selection of administrators from the district, chosen by the
625 commissioner from among volunteers from the district; (5) a selection of teachers from the
626 district, chosen by the local teacher's union; (6) a selection of parents from the district chosen by
627 the local parent organization; (7) representatives of applicable state and local social service,
628 health, and child welfare agencies chosen by the commissioner; and (8) as appropriate,
629 representatives of state and local workforce development agencies chosen by the commissioner.
630 If the district does not have a parent organization or if the organization does not select a parent,
631 the commissioner shall select a volunteer parent of a student from the district. The commissioner
632 and receiver shall convene the group within 30 days of the board designating a district as
633 chronically underperforming and the group shall make its recommendations to the commissioner
634 and receiver within 45 days of its initial meetings. Meetings of the local stakeholder group shall
635 be open to the public and the recommendations submitted to the commissioner and receiver shall
636 be publicly available immediately upon their submission.

637 (c) In creating the innovation plan, the commissioner and receiver shall include measures
638 intended to maximize the rapid academic achievement of students in the district and shall, to the
639 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data
640 collected pursuant to section 1I, or a school or district review performed under section 55A of
641 chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System;
642 (3) other measures of student achievement, as appropriate; (4) student promotion and graduation
643 rates; (5) achievement data for different subgroups of students, including low-income students as
644 defined in chapter 70, limited English-proficient students and students receiving special
645 education; and (6) student attendance and dismissal rates. In creating the innovation plan
646 required in subsection (b), the commissioner and receiver shall include, after considering the

647 recommendations of the local stakeholder group, the following: (1) steps to address social
648 service and health needs of students and their families in the district in order to help students
649 arrive and remain at school ready to learn; provided, however, that this may include mental
650 health and substance abuse screening; (2) steps to improve or expand child welfare services and,
651 as appropriate, law enforcement services in the school district community, in order to promote a
652 safe and secure learning environment; (3) as applicable, steps to improve workforce development
653 services provided to students and their families in the district in order to provide students and
654 families with meaningful employment skills and opportunities; (4) steps to address achievement
655 gaps for limited English-proficient, special education and low-income students, as applicable;
656 and (5) a budget for the district including any additional funds to be provided by the
657 commonwealth, federal government or other sources.

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

665 In order to assess the district across multiple measures of district performance and student
666 success, the innovation plan shall include measurable annual goals including, but not limited to,
667 the following: (1) student attendance and dismissal rates; (2) student safety and discipline; (3)
668 student promotion and graduation; (4) student achievement on the Massachusetts Comprehensive
669 Assessment System; (5) progress in areas of academic underperformance; (6) progress among

670 subgroups of students, including low-income students as defined by chapter 70, limited English-
671 proficient students and students receiving special education; (7) reduction of achievement gaps
672 among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9)
673 development of college readiness, including at the elementary and middle school levels; (10)
674 parent and family engagement; (11) building a culture of academic success among students; (12)
675 building a culture of student support and success among faculty and staff; and (13)
676 developmentally appropriate child assessments from pre-kindergarten through third grade, if
677 applicable.

678 (d) Notwithstanding any general or special law to the contrary, in creating the innovation
679 plan under subsection (b), the commissioner and the receiver may, after considering the
680 recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum of the
681 district or of a school in the district, including the implementation of research-based early
682 literacy programs, early interventions for struggling readers and the teaching of advanced
683 placement courses or other rigorous nationally or internationally recognized courses, if the
684 district or schools in the district do not already have such programs or courses; (2) reallocate the
685 uses of the existing budget of the district; (3) provide funds, subject to appropriation, to increase
686 the salary of an administrator or teacher in the district, in order to attract and retain highly-
687 qualified administrators or teachers or to reward administrators or teachers who work in
688 chronically underperforming districts that achieve the annual goals set forth in the innovation
689 plan; (4) expand the school day or school year or both of schools in the district; (5) limit,
690 suspend or change 1 or more provisions of any contract or collective bargaining agreement in the
691 district, including the adoption of model provisions identified by the commissioner from among
692 existing contracts or collective bargaining agreements in the commonwealth; provided, however,

693 that the commissioner shall not reduce the compensation of an administrator, teacher or staff
694 member unless the hours of the person are proportionately reduced; (6) add pre-kindergarten and
695 full-day kindergarten classes, if the district does not already have the classes; (7) following
696 consultation with applicable local unions, require the principal and all administrators, teachers
697 and staff to reapply for their positions in the school, with full discretion vested in the
698 commissioner regarding his consideration of and decisions on rehiring based on the
699 reapplications; provided, however, the commissioner may only dismiss or fail to rehire a teacher
700 for cause; provided further, that the teacher has received 5 school days written notice of the
701 decision to terminate that includes an explanation of the reason why the commissioner is not
702 retaining the teacher in the school; provided further, that the teacher may seek review of a
703 termination decision within 5 school days after receiving notice of the teacher's termination by
704 filing a petition for expedited arbitration with the commissioner; provided further, that an
705 arbitrator shall be selected according to the procedures in section 42 of chapter 71 within 3
706 business days and shall conduct a hearing within 10 business days of receiving the petition;
707 provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or
708 not the underperformance of the school is due to factors beyond the control of the teacher and
709 shall also consider the components of the innovation plan as proposed by the commissioner; and
710 provided further, that the arbitrator's decision shall be issued within 10 business days from the
711 completion of the hearing; (8) limit, suspend or change 1 or more school district policies, as such
712 policies or practices relate to the school; (9) include a provision of job-embedded professional
713 development for teachers in the district, with an emphasis on strategies that involve teacher input
714 and feedback; (10) provide for increased opportunities for teacher planning time and
715 collaboration focused on improving student instruction; (11) establish a plan for professional

716 development for administrators in the district, with an emphasis on strategies that develop
717 leadership skills and use the principles of distributive leadership; (12) establish steps to assure a
718 continuum of high expertise teachers by aligning the following processes with the common core
719 of professional knowledge and skill: hiring, induction, teacher evaluation, professional
720 development, teacher advancement, school culture and organizational structure; (13) develop a
721 strategy to search for and study best practices in areas of demonstrated deficiency in the district;
722 (14) establish strategies to address mobility and transiency among the student population of the
723 district; and (15) include additional components, at the discretion of the commissioner and the
724 receiver, based on the reasons the district was designated as chronically underperforming and
725 based on the recommendations of the local stakeholder group in subsection (b).

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

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

734 (f) The commissioner and receiver shall provide a written report to the school committee
735 on a quarterly basis to provide specific information about the progress being made on the
736 implementation of the district's innovation plan. One of the quarterly reports shall be the annual
737 evaluation required in subsection (g).

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

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

746 If the commissioner determines that the receiver has not met 1 or more goals in the plan
747 and the failure to meet the goals may be corrected through reasonable modification of the plan,
748 the commissioner may amend the innovation plan, as necessary. After assessing the
749 implementation of the innovation plan in the district, the commissioner may amend the plan if
750 the commissioner determines that the amendment is necessary in view of subsequent changes in
751 the district that affect 1 or more components of the plan, including, but not limited to, changes to
752 contracts, collective bargaining agreements, or school district policies. If the commissioner
753 determines that the receiver has substantially failed to meet multiple goals in the innovation plan,
754 the commissioner may terminate such receiver; provided, however, that the termination shall not
755 occur before the completion of the first full school year of the receivership of the district.

756 (h) After the period of receivership, there shall be a reevaluation of a district's status
757 under this section. The board of elementary and secondary education shall adopt regulations
758 providing for: (1) the removal of a designation of a district as chronically underperforming; and
759 (2) the transfer of the operation of a chronically underperforming district from an external

760 receiver to the superintendent and school committee, based on the improvement of the district.
761 The regulations shall include provisions to allow a district to retain measures adopted in an
762 innovation plan if, in the judgment of the commissioner, the measures would contribute to the
763 continued improvement of the district. At any time after a chronically underperforming district
764 has been placed in receivership, the school committee of the district may petition the
765 commissioner for a determination as to whether the innovation plan adopted under subsection (b)
766 should be modified or eliminated and whether the school district shall no longer be designated as
767 chronically underperforming. The decision of the commissioner shall be based on regulations
768 adopted by the board. A school committee may seek review by the board of elementary and
769 secondary education of an adverse determination. The determination of the board shall be
770 subject to judicial review under section 14 of chapter 30A.

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

777

778

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

781 Before the sale or lease of an assisted structure or facility or a portion of that structure or
782 facility, the school district in control of the structure or facility shall submit to the authority a
783 district-wide school facility use plan that shall include, but not be limited to, a listing of all
784 school facilities under the control of the school district, a detailed description of both the current
785 use and proposed use of each school facility, the most recent enrollment data, by school facility,
786 then available to the school district, a detailed floor plan of each school facility that shows and
787 labels each space in the facility and whether it is used as a classroom or has some other use and
788 any other information that may be required by the authority to understand the district's school
789 facility use plan. If the plan includes the closure, sale or lease of a school facility or any part of a
790 school facility, the authority may conduct, with the full cooperation of the district, an analysis of
791 district-wide enrollment capacity and future enrollment trends for the district. If the capacity
792 analysis and enrollment projection indicate an extended period of significant excess capacity
793 within the district's educational facilities, the district may, prior to consideration of any other
794 disposition of the identified excess capacity, make a good faith offer to sell or lease at fair market
795 value the identified excess capacity to a commonwealth charter school established pursuant to
796 section 89 of chapter 71 or an applicant for a commonwealth charter school pursuant to said
797 section 89 of said chapter 71 that serves or is seeking to serve students who live in the school
798 district. The authority shall not recapture commonwealth and authority assistance for any such
799 excess capacity that is sold or leased to a commonwealth charter school or applicant for a
800 commonwealth charter school.

801 SECTION 5A. Said chapter 70B is hereby amended by inserting after section 15 the
802 following section:-

803 Section 15A. If an eligible applicant can no longer utilize an assisted facility built prior to
804 2004 as a schoolhouse due to a decrease in enrollment, then the city, town or regional school
805 district shall submit a decommissioning plan to the authority and to the department of education.

806 The authority shall waive the deductions required under subsection (b) of section 15 if the
807 city, town or regional school district successfully demonstrates the following: (1) there is at least
808 a 15 per cent decrease in enrollment across the entire city, town or regional school district since
809 the opening of the assisted facility; (2) the enrollment decrease for the assisted facility is greater
810 than 25 per cent of projected enrollment during the design and building process and this
811 enrollment decrease is not due to redistricting; and (3) the district will not have the required
812 capacity if it removes a non-assisted facility; provided, however that the authority finds that: (i)
813 the schools within a 5 mile radius of the assisted structure are not experiencing overcrowding,
814 and (ii) the district's 10 year projected enrollment does not exceed the capacity of the remaining
815 operating schoolhouses; and provided further that the commissioner of education has certified
816 that the district's decommissioning plan is educationally sound.

817 Upon the decommissioning of the assisted facility, the city, town or regional school
818 district shall sell or lease the assisted facility, or portion a of that facility, for at least fair market
819 value as determined by an independent appraisal, unless the eligible applicant receives prior
820 written approval from the authority to do otherwise and the proceeds from the sale or lease shall
821 be divided between the authority and the general funds of the applicable eligible applicant in
822 proportion to the commonwealth's and authority's prior investments in the assisted facility under
823 this chapter or chapter 645 of the acts of 1948, as applicable.

824 SECTION 5B. Section 2 of chapter 71 of the General Laws, as so appearing, is hereby
825 amended in Section 2 by adding after the word “government”, in line 4, the following words:-
826 “and a program relating to the flag of the United States of America, including but not limited to,
827 proper etiquette, the correct use and display of the flag and the importance of participation in the
828 electoral process.

829 SECTION 5C. Section 16C of said chapter 71 of the General Laws, as so appearing, is
830 hereby amended by inserting after the word “route”, in line 11, the following words:- ; provided,
831 however that the regional school district committee may establish and assess a reasonable
832 transportation fee to be charged for school children in grades 7 through 12 to offset district
833 transportation costs; provided further, that a fee may be charged for school children in grades
834 kindergarten through 12 in a district that provides transportation to a pupil who resides less than
835 1 and one-half miles from the school of attendance, measured by a commonly traveled route; and
836 provided further, that funding provided under this section shall not be impacted by the collection
837 of the fees.

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

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

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

848 (b) A commonwealth charter school shall be a public school, operated under a charter
849 granted by the board of elementary and secondary education, which operates independently of a
850 school committee and is managed by a board of trustees. The board of trustees of a
851 commonwealth charter school, upon receiving a charter from the board of elementary and
852 secondary education, shall be considered to be public agents authorized to supervise and control
853 the charter school. The board of elementary and secondary education may grant a charter or
854 amend an existing charter designating a commonwealth charter school as a regional charter
855 school if the school enrolls students from more than 1 district.

856 A Horace Mann charter school shall be a public school or part of a public school operated
857 under a charter approved by the school committee in the district in which the school is located;
858 provided, however, that the school committee shall consult with the local teacher's union before
859 the approval; and provided further, that all charters shall be granted by the board of elementary
860 and secondary education. A Horace Mann charter school shall have a memorandum of
861 understanding with the school committee of the district in which the charter school is located
862 which, at a minimum, defines the services and facilities to be provided by the district to the
863 charter school and states the funding of the charter school by the district. A Horace Mann charter
864 school established as a conversion of an existing public school shall include in its memorandum
865 of understanding an agreement regarding any waivers to applicable collective bargaining
866 agreements, which such agreement shall be approved by a majority of the school faculty. A vote
867 by the school faculty shall be held and finalized within 30 days of submission of the charter
868 school application to the board of elementary and secondary education. A Horace Mann charter

869 school shall be operated and managed by a board of trustees independent of the school
870 committee which approved the school. The board of trustees may include a member of the school
871 committee.

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

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

884 (e) The board of elementary and secondary education shall establish the information
885 needed in an application for the approval of a charter school; provided, however, that the
886 application shall include, but not be limited to, a description of: (1) the mission, purpose,
887 innovation and specialized focus of the proposed charter school; (2) the innovative methods to be
888 used in the charter school and how they differ from the district or districts from which the charter
889 school will enroll students; (3) whether the proposed educational program or model is being
890 successfully implemented in the school district or districts from which the charter will enroll

891 students; (4) the organization of the school in terms of ages of students or grades to be taught
892 along with an estimate of the total enrollment of the school and the district from which the
893 school may enroll students; (5) the method for admission to the charter school; (6) a student
894 recruitment and retention plan; (7) the educational program, instructional methodology and
895 services to be offered to students, including research on how the proposed program may improve
896 the academic performance of the subgroups listed in the recruitment and retention plan; (8) the
897 school's capacity to address the particular needs of limited English-proficient students, if
898 applicable, to learn English and learn content matter, including the employment of staff that
899 meets the criteria established by the department; (9) how the school shall involve parents as
900 partners in the education of their children; (10) the school governance and bylaws; (11) a
901 proposed or signed arrangement or contract with an organization that would manage or operate
902 the school, including any proposed or agreed upon payments to the organization; (12) the
903 financial plan for the operation of the school; (13) the provision of school facilities and pupil
904 transportation; (14) the number and qualifications of teachers and administrators to be employed;
905 (15) procedures for evaluation and professional development for teachers and administrators; and
906 (16) a statement of equal educational opportunity which shall state that the charter school shall
907 be open to all students, on a space available basis, and shall not discriminate on the basis of race,
908 color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age,
909 ancestry, athletic performance, special need, proficiency in the English language or academic
910 achievement. In the case of a Horace Mann charter school, the application shall include a draft
911 memorandum of understanding, as described in subsection (b).

912 (f) The student recruitment and retention plan of clause (6) of subsection (e) shall
913 include, but not be limited to, a detailed description of deliberate, specific strategies the charter

914 school shall use to attract, enroll and retain a student population that, when compared to students
915 in similar grades in schools from which the charter school shall enroll students, contains a
916 comparable or greater percentage of students from 3 or more of the following categories:
917 students eligible for free lunch as defined in section 2 of chapter 70; students eligible for reduced
918 price lunch as defined in said section 2 of said chapter 70; special education students; limited
919 English-proficient students of similar language proficiency level as measured by the
920 Massachusetts English Proficiency Assessment examination; sub-proficient students, which shall
921 mean students who have scored in the needs improvement, warning or failing categories on the
922 mathematics or English language arts exams of the Massachusetts Comprehensive Assessment
923 System for 2 of the past 3 years or as defined by the department using a similar measurement;
924 students who are determined to be at risk of dropping out of school based on predictors
925 determined by the department; students who have dropped out of school; or other at-risk students
926 who should be targeted in order to eliminate achievement gaps among different groups of
927 students as enumerated above. If the charter school is in a district with 10 per cent or more of
928 limited English-proficient students, the recruitment strategies shall include a variety of outreach
929 efforts in the most prevalent languages of the district. The student recruitment and retention plan
930 shall include, but not be limited to, a detailed description of deliberate, specific strategies the
931 school shall use to maximize the number of students who successfully complete all school
932 requirements, prevent students from dropping out and minimize the number of students in the
933 categories enumerated in this subsection from returning to district schools. The student
934 recruitment and retention plan shall include annual goals for: (1) recruitment activities; (2) the
935 number of students in the categories of students identified in the plan who seek to enroll in the
936 school; (3), student retention activities; and (4) student retention. The recruitment and retention

937 plan shall be updated annually to account for changes in both district and charter school
938 enrollment.

939 (g) In order to ensure that commonwealth charter schools authorized under this section
940 are able to recruit and serve the categories of students enumerated in subsection (f), the school
941 district or districts from which the commonwealth charter school may enroll students shall
942 annually provide to a third party mail house authorized by the department the addresses for all
943 students in the district eligible to enroll in the school; provided, however, that the information
944 shall not be provided if a student's parent or guardian requests that the district withhold this
945 information. Each commonwealth charter school authorized under this section shall annually
946 supply a mailing in the most prevalent languages of the district the charter school is authorized to
947 serve to the third party mail house and pay for it to be copied and mailed to eligible students.

948 At the request of a school district from which a commonwealth charter school enrolls
949 students, the charter school shall provide to a third party mail house the addresses for all students
950 currently enrolled in the commonwealth charter school from the district; provided, however, that
951 the information shall not be provided if a student's parent or guardian requests that the school
952 withhold the information. Each district shall be permitted to supply a mailing to the third party
953 mail house and pay for it to be copied and mailed to families of students from said district
954 enrolled in the commonwealth charter school.

955 (h) An application submitted for the establishment of a commonwealth charter school
956 shall be: (1) submitted to the board of elementary and secondary education for approval pursuant
957 to this section; and (2) filed with the local school committee for each school district from which
958 the charter school may enroll students. Before final approval to establish a commonwealth

959 charter school, the board of elementary and secondary education shall hold a public hearing on
960 the application in the school district in which the proposed charter school is to be located. If the
961 school is a regional commonwealth charter school, the public hearing shall be held in a location
962 within the region. At least 1 member of the board shall attend each public hearing soliciting
963 comment on a pending application and shall report to the board on the hearing. Before final
964 approval to establish a commonwealth charter school, the board of elementary and secondary
965 education shall solicit and review comments on the application from the local school committee
966 for each school district from which the charter school may enroll students. A department report
967 regarding the application shall be made available to the commonwealth charter school applicant
968 and affected districts within 10 days of the completion of the report.

969 (i) In a fiscal year, a public school district's total charter school tuition payment to
970 commonwealth charter schools shall not exceed 9 per cent of the district's net school spending;
971 provided, however, that a public school district's total charter tuition payment to commonwealth
972 charter schools shall not exceed 18 per cent of the district's net school spending if the department
973 determines (i) the combined Composite Performance Index scores on the English language arts
974 and mathematics Massachusetts Comprehensive Assessment System exams for a school district
975 and (ii) beginning on July 1, 2011, the growth model used to evaluate improvement in student
976 performance place the district in the lowest 10 per cent of all statewide Massachusetts
977 Comprehensive Assessment System test and growth model performance scores released in the 2
978 consecutive school years before the date the charter school application is submitted.

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

982 The commonwealth shall incur charter school tuition payments for siblings attending
983 commonwealth charter schools to the extent that their attendance would otherwise cause the
984 school district's charter school tuition payments to exceed 9 per cent of the school district's net
985 school spending or 18 per cent in the case of the lowest performing 10 per cent of school
986 districts. If a district is no longer in the lowest 10 per cent, the net school spending cap shall be 9
987 per cent, unless the district net school spending was above 9 per cent in the year before moving
988 out of the lowest 10 per cent in which case the net school spending cap shall remain at the higher
989 level plus enrollment already approved by the board. If a district is again ranked in the lowest 10
990 per cent based on 2 consecutive years of performance, the net school spending cap shall increase
991 pursuant to this section.

992 As early as possible in the application process and not later than October 15, the board
993 shall determine and make available to the public a list of the school districts in the lowest 10 per
994 cent and shall provide information about net school spending in each such district. Applications
995 to establish a charter school shall be submitted to the board annually by November 15. The board
996 shall review the applications and grant new charters in February of the following year. At least 2
997 of the new commonwealth charters approved by the board in any year shall be granted for
998 commonwealth charter schools located in districts where overall student performance on the
999 statewide assessment system approved by the board of elementary and secondary education
1000 pursuant to section 11 of chapter 69 and, beginning on July 1, 2011, the growth model used to
1001 evaluate improvement in student performance is in the lowest 10 per cent statewide in the 2 years
1002 preceding the charter application. In any year, the board shall approve only 1 regional charter
1003 school application of a commonwealth charter school located in a school district where overall
1004 student performance on the statewide assessment system and, beginning on July 1, 2011, the

1005 growth model used to evaluate improvement in student performance is in the top 10 per cent in
1006 the year preceding charter application.

1007 For districts scoring in the lowest 10 per cent for the previous 2 years as measured by the
1008 combined Composite Performance Index scores on the English language arts and mathematics
1009 Massachusetts Comprehensive Assessment System exams and, beginning on July 1, 2011, the
1010 growth model used to evaluate improvement in student performance, the board may only
1011 approve an application for the establishment of a commonwealth charter school under this
1012 subsection for eligible applicants. In order to be eligible to apply to operate a commonwealth
1013 charter school serving students in districts scoring in the lowest 10 per cent, an applicant or a
1014 provider with which an applicant proposes to contract, must have a record of operating at least 1
1015 school or similar program that demonstrates academic success and organizational viability and
1016 serves student populations similar to those the proposed school seeks to serve, from among the
1017 categories defined in subsection (f).

1018 For districts not scoring in the lowest 10 per cent for the previous 2 years as measured by
1019 the combined Composite Performance Index scores on the English language arts and
1020 mathematics Massachusetts Comprehensive Assessment System exams and, beginning on July 1,
1021 2011, the growth model used to evaluate improvement in student performance, preference shall
1022 be given to applicants who have a record of operating at least 1 school or similar program that
1023 demonstrates academic success and organizational viability and serves student populations
1024 similar to those the proposed school seeks to serve, from among the categories defined in
1025 subsection (f).

1026 (j) The board of elementary and secondary education shall make the final determination
1027 on granting charter school status and may condition charters on the applicant's taking certain
1028 actions or maintaining certain conditions.

1029 In reviewing applications, the board shall consider whether the school committee where
1030 the charter school is to be located has been asked to implement the educational program being
1031 proposed by the applicant and has declined to do so.

1032 No board member shall vote on a charter application if that member serves on a charter
1033 school board or is an employee of a charter school. A Horace Mann charter school shall have a
1034 final memorandum of understanding, as described in subsection (b), before the final board vote
1035 on its application.

1036 A comprehensive written summary of all materials prepared by the department of
1037 elementary and secondary education or its administrative subdivisions evaluating or
1038 recommending approval or disapproval of a charter application must be delivered to the
1039 members of the board not later than 3 days before a board vote on the charter application.

1040 Within 30 days of the approval of a new commonwealth charter school in a community,
1041 the board shall issue a written confirmation that the school meets all requirements in subsections
1042 (a), (e), and (f) and in the implementing regulations and a summary of the reasons therefore.

1043 (k) The board of elementary and secondary education may authorize a single board of
1044 trustees to manage more than 1 charter school authorized under this section; provided, however,
1045 that each school holds its own charter. In addition to those listed in subsection (d), the board of
1046 elementary and secondary education shall accept applications from existing charter school
1047 boards of trustees.

1048 Each applicant shall submit an application for each charter school it proposes; provided,
1049 however that applicants proposing to create more than 1 charter school in more than 1
1050 geographically proximate district may submit 1 application for such schools.

1051 The board of elementary and secondary education shall give preference to applications
1052 from providers building networks of schools in more than 1 municipality.

1053 The board shall not approve a new commonwealth charter school in a community with a
1054 population of less than 30,000, as determined by the most recent United States census estimate,
1055 unless it is a regional charter school.

1056 If a final application is fundamentally flawed, the department may provide feedback to
1057 the applicant and invite it to submit a stronger application in the future. Once a final application
1058 has been filed, only minor, non-substantive amendments shall be allowed. The department shall
1059 maintain a written summary of interviews it conducts with final charter applicants and include
1060 that summary with the final application materials that are provided to the board, local school
1061 officials and the public.

1062 If a charter school has not obtained intent to register forms of at least 75 per cent of its
1063 projected first year enrollment from parents or guardians of students living in the sending district
1064 by May 1 of the school year before the school's opening, the opening of the charter school shall
1065 be delayed for 1 year. If the school has not achieved the 75 per cent by the following May 1, the
1066 board shall revoke the school's charter.

1067 (1) A charter school established under a charter granted by the board shall be a body
1068 politic and corporate with all powers necessary or desirable for carrying out its charter program,
1069 including, but not limited to, the following:(1) to adopt a name and corporate seal; provided,

1070 however, that the name selected must include the words charter school; (2) to sue and be sued,
1071 but only to same extent and upon the same conditions that a municipality can be sued; (3) to
1072 acquire real property, from public or private sources, by lease, lease with an option to purchase
1073 or by gift, for use as a school facility; provided, however, in the case of a Horace Mann charter
1074 school, the approval of the local school committee shall be obtained before acquisition of such
1075 real property owned or controlled by the body; (4) to receive and disburse funds for school
1076 purposes; (5) to make contracts and leases for the procurement of services, equipment and
1077 supplies; provided, however, that if the charter school intends to procure substantially all
1078 educational services under contract with another person, the terms of the contract must be
1079 approved by the board either as part of the original charter or by way of an amendment thereto;
1080 and provided further, that the board shall not approve contract terms whose purpose or effect are
1081 to avoid the prohibitions of this section against the charter school status for private and parochial
1082 schools or a for-profit entity operating a charter school;(6) to incur temporary debt in anticipation
1083 of receipt of funds; provided, however, that a Horace Mann charter school shall obtain the
1084 approval of the local school committee and appropriate local appropriating authorities and
1085 officials relative to a proposed lien or encumbrance upon public school property or relative to a
1086 financial obligation for which the local school district shall become legally obligated; and
1087 provided further, that notwithstanding any law to the contrary, the terms of repayment of a
1088 charter school's debt shall not exceed the duration of the school's charter without the approval of
1089 the board; (7) to solicit and accept any grants or gifts for school purposes; and (8) to have such
1090 other powers available to a business corporation formed under chapter 156B that are not
1091 inconsistent with this chapter.

1092 (m) Charter schools shall not charge a public school for the use or replication of any part
1093 of their curriculum subject to the prescriptions of a contract between the charter schools and a
1094 third party provider.

1095 (n) Charter schools shall be open to all students, on a space available basis, and shall not
1096 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation,
1097 mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in
1098 the English language or a foreign language and academic achievement. Charter schools may
1099 limit enrollment to specific grade levels and may structure curriculum around particular areas of
1100 focus such as mathematics, science or the arts. There shall be no application fee for admission to
1101 a charter school. A charter school shall not charge tuition or a fee related to required educational
1102 programs.

1103 A commonwealth charter school shall only enroll students from the district identified in
1104 its charter. If a commonwealth charter school wants to enroll students from other districts or
1105 move the school to a district not identified in its charter, it must seek an amendment to its charter
1106 from the board. Priority for enrollment in a Horace Mann charter school shall be given first to
1107 students actually enrolled in the school on the date that the application is filed with the board of
1108 elementary and secondary and to their siblings if the school is a conversion of an existing school,
1109 second to other students actually enrolled in the public schools of the district where the Horace
1110 Mann charter school is to be located and third, to other resident students.

1111 (o) A charter school shall not administer tests to potential applicants or predicate
1112 enrollment on results from a test of ability or achievement, unless the school is a performing,
1113 visual or graphics arts school, which may hold auditions for applicants. Criteria for enrollment in

1114 a charter school, including, but not limited to, attendance at informational meetings and
1115 interviews, a parent's commitment to volunteer at the school or a parent's agreement to sign a
1116 contract or other form of written agreement with the school, shall not be designed, intended or
1117 used to discriminate against a student or to deny a student enrollment in a charter school and
1118 shall not be used as a requirement for participation in the lottery or for admission.. If the total
1119 number of students who are eligible to attend and apply to a charter school and who reside in a
1120 district from which the charter school is permitted to enroll students, or are siblings of students
1121 already attending said charter school, is greater than the number of spaces available, an
1122 admissions lottery, including all eligible students applying, shall be held to fill all of the spaces
1123 in that school from among the students. The names of students who entered the lottery but did
1124 not gain admission shall be maintained on a waitlist, which shall be forwarded to the department
1125 not later than June 1 in the year in which the lottery is held. In addition to the names of students,
1126 the school shall supply to the department each student's home address, telephone number, grade
1127 level, and other information the department deems necessary. The department shall maintain a
1128 consolidated waitlist for each municipality in order to determine the number of individual
1129 students in each municipality seeking admission to charter school.

1130 (p) Each charter school shall annually, not later than April 1, notify each public school
1131 district in writing of the number and grade levels of students who shall be attending the charter
1132 school from that district the following September as well as the number of new students who will
1133 be transferring from that district to the charter school in the following September.

1134 (q) A student may withdraw from a charter school at any time and enroll in another
1135 public school where the student resides. When a student stops attending a charter school for any
1136 reason, the charter school shall fill the vacancy with the next available student on the waitlist for

1137 the grade in which the vacancy occurs and shall continue through the waitlist until a student fills
1138 the vacant seat. If there is no waitlist, a charter school shall publicize an open seat to the
1139 students of the sending district and make attempts to fill the vacant seat. Charter schools shall
1140 attempt to fill vacant seats up to February 15, excluding seats that open in the last grade in each
1141 school type, grade 11 and grade 12. Charter schools may fill vacant seats after February 15. If a
1142 vacancy occurs after February 15, the vacancy shall remain with the grade cohort and shall be
1143 filled in the following September if it has not previously been filled. A vacancy occurring after
1144 February 15 shall not be filled by adding a student to a lower grade level. Within 30 days of a
1145 vacancy being filled, the charter school shall send the name of the student filling the vacancy to
1146 the department for the purpose of the department updating its waitlist. This subsection is subject
1147 to rules and regulations promulgated by the department.

1148 A student may be expelled from a charter school based on criteria determined by the
1149 board of trustees and approved by the board of elementary and secondary education, with the
1150 advice of the principal and teachers; provided, however, that charter school policies shall be
1151 consistent with sections 37H and 37H½.

1152 (r) A charter school may be located in part of an existing public school building, in space
1153 provided on a private work site, in a public building or any other suitable location. A charter
1154 school may own, lease or rent its space. Notwithstanding this section, no school building
1155 assistance funds shall be awarded to a commonwealth charter school for the purpose of
1156 constructing, reconstructing or improving the school.

1157 After an applicant has filed a charter school application, the applicant may request a
1158 facilities assessment from the Massachusetts School Building Authority. A charter school may

1159 request an assessment at any time. The authority, at the request of a charter school or applicant
1160 for a charter school, may conduct an assessment of a facility intended for use or used as a school
1161 building. The facilities assessment shall be conducted by the authority in a format and manner
1162 prescribed by the authority and the charter school shall pay for the cost of conducting the
1163 facilities assessment. The charter school shall provide complete access to its school facilities for
1164 the purpose of the authority conducting a facilities assessment. The facilities assessment shall
1165 include an assessment of the charter school's maintenance process and a review of the
1166 maintenance practices and procedures in place at the school. The maintenance review shall be
1167 conducted in a format and manner prescribed by the authority.

1168 The authority shall bear no responsibility for a decision not to undertake a facilities
1169 assessment or the results of a facilities assessment undertaken. If the authority decides to
1170 conduct a facilities assessment, the conducting of the assessment shall in no way be construed,
1171 interpreted or deemed to imply responsibility on the part of the authority for the results of the
1172 assessment, nor shall the authority assume any duty or responsibility with respect to the
1173 maintenance, renovation, repair or construction of a school facility that may be assessed.

1174 Upon receiving an application for a charter school, the department shall notify the
1175 authority that an application has been filed and shall identify the district from which the school
1176 intends to enroll students. At such time, the charter school applicant may contact the authority to
1177 ask if the authority is aware of surplus facilities or excess school building capacity in the relevant
1178 district. The authority, if contacted by the applicant, shall share any information it has regarding
1179 the availability of surplus facilities or excess capacity in that school district.

1180 (s) The school committee of each district where a Horace Mann charter school is located
1181 shall develop a plan to disseminate innovative practices of the charter school to other public
1182 schools within the district subject to the provisions of any contract between the Horace Mann
1183 charter school and a third party provider.

1184 The commissioner of elementary and secondary education shall annually record and
1185 submit to the joint committee on education a record of successful innovative programs of charter
1186 schools and may provide technical assistance for school districts to replicate the programs.
1187 Additionally, the commissioner of elementary and secondary education shall issue a report on
1188 past innovative programs used in successful practices for charter schools implemented in public
1189 schools in the commonwealth. Each charter school and sending districts shall be required to
1190 demonstrate a good faith effort to collaborate on the sharing of innovative practices. Successful
1191 innovative programs shall be made publically available, both in print and electronically.

1192 (t) The department of elementary and secondary education may annually send evaluation
1193 teams to visit each charter school to corroborate and augment the information provided in the
1194 annual report in accordance with guidelines issued by the department. Site visit teams may also
1195 gather other evidence relevant to the school's performance, student academic achievement and
1196 adherence to recruitment and retention plans. The written reports from these site visits shall
1197 become part of the charter school's record. A charter school may add to the record a written
1198 response to the report.

1199 (u) A charter school shall operate in accordance with its charter and the law regulating
1200 other public schools; provided, however, that the sections 41 and 42 shall not apply to employees
1201 of commonwealth charter schools. Charter schools shall comply with chapters 71A and 71B;

1202 provided, however, that the fiscal responsibility of a special needs student currently enrolled in
1203 or determined to require a private day or residential school shall remain with the school district
1204 where the student resides. If a charter school expects that a special needs student currently
1205 enrolled in the charter school may be in need of the services of a private day or residential
1206 school, it shall convene an individual education plan team meeting for the student. Notice of the
1207 team meeting shall be provided to the special education department of the school district in
1208 which the child resides at least 5 days in advance. Personnel from the school district in which the
1209 child resides shall participate in the team meeting concerning future placement of the child.

1210 (v) A Horace Mann charter school shall be exempt from local collective bargaining
1211 agreements to the extent provided by the terms of its charter; provided, however, that employees
1212 of the Horace Mann charter school shall continue to be members of the local collective
1213 bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and
1214 benefits established in the contract of the local collective bargaining unit where the Horace Mann
1215 charter school is located. Employees of Horace Mann charter schools shall be exempt from all
1216 union and school committee work rules to the extent provided by the school's charter.
1217 Employees in Horace Mann charter schools shall be required to work the full work day and work
1218 year to the extent provided by the terms of the school's charter.

1219 (w) Notwithstanding this section or any other general or special law to the contrary, for
1220 the purposes of chapter 268A: (1) a charter school shall be deemed to be a state agency; and (2)
1221 the appointing official of a member of the board of trustees of a charter school shall be deemed
1222 to be the commissioner of education. Members of boards of trustees of charter schools operating
1223 under this section shall file a disclosure annually with the state ethics commission, the
1224 department of secondary and elementary education and the city or town clerk where the charter

1225 school is located. The disclosure is in addition to the requirements of said chapter 268A and a
1226 member of a board of trustees shall also comply with the disclosure and other requirements of
1227 said chapter 268A. The form of the disclosure shall be prescribed by the ethics commission and
1228 shall be signed under penalty of perjury. The form shall be limited to a statement in which
1229 members of the board of trustees shall disclose any financial interest that they or a member of
1230 their immediate families, as defined in section 1 of said chapter 268A, have in a charter school
1231 located in the commonwealth or in any other state or with a person doing business with a charter
1232 school.

1233 Each member of a board of trustees of a charter school shall file the disclosure for the
1234 preceding calendar year with the commission within 30 days after becoming a member of the
1235 board of trustees, by September 1 of each year thereafter that the person is a member of the
1236 board and by September 1 of the year after the person ceases to be a member of the board;
1237 provided, however, that no member of a board of trustees shall be required to file such disclosure
1238 for the year in which the member ceases to be a member of the board if the member served less
1239 than 30 days in that year.

1240 (x) Students in charter schools shall be required to meet the same performance standards,
1241 testing and portfolio requirements set by the board of elementary and secondary education for
1242 students in other public schools.

1243 (y) The board of trustees, in consultation with the teachers, shall determine the school's
1244 curriculum and develop the school's annual budget. The board of trustees of a Horace Mann
1245 charter school shall annually submit to the superintendent and school committee of the district in
1246 which the school is located a budget request for the following fiscal year. The school committee

1247 shall act on the budget request in conjunction with its actions on the district's overall budget.
1248 Each Horace Mann charter school shall receive in response to the budget request not less than it
1249 would have under the district's budgetary allocation rules. The board of trustees may appeal a
1250 disproportionate budgetary allocation to the commissioner, who shall determine an equitable
1251 funding level for the school and shall require the school committee to provide the funding.

1252 Following the appropriation of the district's operating budget for the fiscal year, the
1253 amount approved by the local appropriating authority for the operation of a Horace Mann charter
1254 school shall be available for expenditure by the board of trustees of the school for any lawful
1255 purpose without further approval by the superintendent or the school committee. A Horace Mann
1256 charter school shall not expend or incur obligations in excess of its budget request; provided,
1257 however, that a Horace Mann charter school may spend federal and state grants and other funds
1258 received independent of the school district not accounted for in the charter school's budget
1259 request without prior approval from the superintendent or the school committee.

1260 (z) Upon approval of a Horace Mann charter school by the board of elementary and
1261 secondary education, the superintendent of the school district where the Horace Mann charter
1262 school is to be located shall reassign, to the extent provided by the terms of its charter, any
1263 faculty member who wishes to be reassigned to another school located within the district.

1264 (aa) Employees of charter schools shall be considered public employees for purposes of
1265 tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The
1266 board of trustees shall be considered the public employer for purposes of tort liability under said
1267 chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however,
1268 that in the case of a Horace Mann charter school, the school committee of the school district in

1269 which the Horace Mann charter school is located shall remain the employer for collective
1270 bargaining purposes under said chapter 150E. Teachers employed by a charter school shall be
1271 subject to the state teacher retirement system under chapter 32 and service in a charter school
1272 shall be creditable service within the meaning thereof.

1273 A charter school shall recognize an employee organization designated by the
1274 authorization cards of 50 per cent of its employees in the appropriate bargaining unit as the
1275 exclusive representative of all the employees in the unit for the purpose of collective bargaining.

1276 (bb) Each local school district shall be required to grant a leave of absence to a teacher in
1277 the public schools system requesting leave in order to teach in a commonwealth charter school.
1278 A teacher may request a leave of absence for up to 2 years.

1279 At the end of the second year the teacher may either return to their former teaching
1280 position or, if they choose to continue teaching at the commonwealth charter school, resign from
1281 their school district position.

1282 (cc) Notwithstanding section 59C, the internal form of governance of a charter school
1283 shall be determined by the school's charter.

1284 (dd) A charter school shall comply with all applicable state and federal health and safety
1285 laws and regulations.

1286 (ee) The students who reside in the school district in which the charter school is located
1287 shall be provided transportation to the charter school by the resident district's school committee
1288 on similar terms and conditions as transportation is provided to students attending local district
1289 schools, if such transportation is requested by the charter school. In providing the transportation,

1290 the school committee shall accommodate the particular school day and school year of the charter
1291 school; provided, however, that in the event that a school committee limits transportation for
1292 district school students, the school district shall not be required to provide transportation to a
1293 commonwealth charter school beyond those limitations. A charter school and the sending district
1294 shall meet to plan bus routes and charter school starting and ending times in order to assist the
1295 district with cost effective means of transportation. Schools operating pursuant to a charter
1296 granted after January 1, 1997, and all charter schools during fiscal year 1999 and thereafter, shall
1297 not receive funds for transportation above the amount actually required by the charter school for
1298 the transportation services to eligible students. If the sending district provides an alternative
1299 method of transportation for students enrolled in the sending district's public schools, it shall not
1300 be assessed for transportation costs which exceed the per pupil cost of the alternative. Costs for
1301 transportation shall be included only if transportation is provided for students in the same
1302 program and grade level as those in the charter school. Students who do not reside in the district
1303 in which the charter school is located shall be eligible for transportation in accordance with
1304 section 12B of chapter 76. A regional charter school as designated by the board of elementary
1305 and secondary education whose charter provides for transportation of all students from charter
1306 municipalities shall also be reimbursed under section 16C of chapter 71 for transportation
1307 provided to pupils residing outside the municipality where the charter school is located;
1308 provided, however, that no reimbursement for transportation between the charter school and a
1309 student's home shall be made if a pupil resides less than 1 1/2 miles from the charter school,
1310 measured by a commonly traveled route. If a charter school provides its own transportation, the
1311 school shall coordinate and collaborate with the sending district to provide cost effective means

1312 of transportation. All transportation shall be determined in advance of the approval of the
1313 district's final budget for a fiscal year.

1314 If a charter school student previously attended a private or parochial school or was home
1315 schooled, the commonwealth shall assume the first year cost for that student and shall not reduce
1316 the sending district's chapter 70 aid for that student's tuition in that fiscal year.

1317 (ff) If a charter school plans to make a major change in its operations, the school's board
1318 of trustees shall submit in writing to the board of elementary and secondary education a request
1319 to amend its charter. Major changes are defined as those that fundamentally affect a school's
1320 mission, organizational structure or educational program, as further defined by regulation.

1321 If a charter school plans to make a minor change in its operations, the school's board of
1322 trustees shall submit in writing to the commissioner of elementary and secondary education a
1323 request to amend its charter. Minor changes are defined as changes that do not fundamentally
1324 alter a school's organizational structure or educational program, as further defined by regulation.

1325 The board of elementary and secondary education or the commissioner, as applicable,
1326 shall approve or deny amendment requests. A request for a change to a Horace Mann charter
1327 school's charter also requires the approval of the local school committee.

1328 If a commonwealth charter school seeks an amendment to change its maximum
1329 enrollment, including grades served, the municipality of its location or the districts specified in
1330 its charter, the department shall provide a copy of the request to the superintendents of the
1331 affected districts and provide them notice of their right to submit written comment to the
1332 commissioner within 30 days.

1333 If the commissioner denies an amendment request, the charter school’s board of trustees
1334 may seek review of the commissioner’s decision by the board.

1335 (gg) The initial charter granted by the board of elementary and secondary education shall
1336 be for 5 years. The board may renew a charter for up to 5 years. At the time of the second
1337 renewal or subsequent renewals, a charter school may apply for and receive an extension of the
1338 charter for up to 10 years.

1339 The board of elementary and secondary education shall develop procedures and
1340 guidelines for revocation and renewal of a school’s charter; provided, however, that a charter for
1341 a Horace Mann charter school shall not be renewed by the board without a vote of support from
1342 the school committee in the district where the charter school is located; provided, however, that a
1343 commonwealth charter shall not be renewed unless the board of trustees of the charter school has
1344 documented in a manner approved by the board of elementary and secondary education that the
1345 commonwealth charter school has provided models for replication and best practices to the
1346 commissioner and to other public schools in the district where the charter school is located.

1347 When deciding on charter renewal, the board shall consider progress made in student
1348 academic achievement and the extent to which the school has followed its recruitment and
1349 retention plan by using deliberate, specific strategies towards recruiting and retaining the
1350 categories of students enumerated in subsection (f) and the extent to which the school has
1351 followed and enhanced its plan as necessary. The board may impose conditions or financial
1352 sanctions on the charter school upon renewal if sufficient progress towards recruitment and
1353 retention goals has not been made. When deciding on charter renewal, the board shall take into
1354 account the annual attrition of students, teachers and administrators. The board shall also

1355 consider innovations that have been successfully implemented by the charter school and the
1356 evidence that supports the effectiveness of those practices. Upon renewal of its charter, a
1357 school shall update and enhance its recruitment and retention plan as necessary to account for
1358 changes in enrollment.

1359 The board may revoke a school's charter if the school has not fulfilled a conditions
1360 imposed by the board in connection with the grant of the charter or the school has violated a
1361 provision of its charter.

1362 The board may place a charter school on a probationary status to allow the
1363 implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be
1364 summarily revoked.

1365 If the board revokes a charter or if a charter school ceases to exist for any reason, the
1366 charter school shall, within 6 months of the revocation of the charter or closure of the school,
1367 submit to the board a detailed financial accounting of all the school's assets, including all real
1368 property, vehicles, equipment and supplies. Upon the revocation, non-renewal or voluntary
1369 return of a commonwealth charter, title to all of the property of the charter school shall
1370 immediately vest in the commonwealth, subject to the rights of a secured party holding a
1371 perfected security interest in the property of the charter school. Funds remaining after the
1372 satisfaction of the charter school's obligations shall be returned to sending districts in proportion
1373 to each district's average enrollment during the previous 5 years.

1374

1375 (hh) Commonwealth charter schools shall be funded under this subsection. The
1376 commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the

1377 tuition amounts calculated separately for each district sending students to the charter school.
1378 Tuition amounts for each sending district shall be calculated by the department using the formula
1379 set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that
1380 would be expended in the district if the students attended the district schools. The tuition amount
1381 shall be calculated separately for each district sending students to a charter school and for each
1382 charter school to which a district sends students. Each district's per pupil tuition amount for each
1383 charter school to which it sends students shall include a per pupil foundation budget component,
1384 adjusted to reflect the actual net school spending in the sending district.

1385 In calculating the per pupil foundation budget component, the department shall calculate
1386 a foundation budget for the students from each sending district attending the charter school in the
1387 previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, however,
1388 that the department shall not include in the calculation the assumed tuitioned-out special
1389 education enrollment, nor any amounts generated by the assumed enrollment, as defined by said
1390 section 2 of said chapter 70. The per pupil foundation budget component for the charter school
1391 shall be the district's foundation budget, as so calculated, divided by the number of students
1392 attending the charter school from the sending district in the previous fiscal year. The per pupil
1393 foundation budget component shall be calculated separately for each charter school to which a
1394 district sends students. The foundation budget for a charter school shall be the sum of the
1395 foundation budgets for the charter school for each district sending students to the charter school.

1396 In adjusting the per pupil foundation budget component, the department shall calculate
1397 for each sending district an above foundation spending percentage, which shall be the percentage
1398 by which the district's actual net school spending exceeds the foundation budget for the district,
1399 as calculated under chapter 70. The department shall further calculate the percentage of actual

1400 net school spending reported by the sending district associated with tuition costs for tuitioned-out
1401 special education students, including education that occurs in educational collaboratives, and
1402 with spending on health care costs for retired employees, for any district for which such costs are
1403 included in net school spending and shall reduce the district's above foundation spending
1404 percentage proportionately. The per pupil foundation budget component for each charter school
1405 to which the sending district sends students shall be increased by the adjusted above foundation
1406 spending percentage. In a fiscal year in which a school district's chapter 70 aid is reduced during
1407 the course of the fiscal year, under authorization by the General Court under sections 9B and 9C
1408 of chapter 29 and the reduction lowers the above foundation percentage, the department shall
1409 adjust the total tuition amount proportionately, in a manner consistent with this section and shall
1410 notify the affected sending district and charter school of any reductions.

1411 The total tuition amount owed to a charter school shall be the per pupil tuition amount as
1412 defined in this section, multiplied by the total number of students attending the charter school
1413 from that district in the current fiscal year. The amount shall be composed of district sponsored
1414 tuition and state sponsored tuition. The district sponsored tuition shall be the total tuition amount
1415 owed to the charter school on behalf of district students for the previous fiscal year. The state
1416 sponsored tuition shall be the positive difference, if any, between the total tuition amount for the
1417 current fiscal year and the district sponsored tuition amount. The sending district's total charter
1418 school tuition amount for purposes of the following paragraphs shall be the sum of the district-
1419 sponsored tuition amounts for each charter school to which the district sends students, calculated
1420 using this section, The receiving charter school's total charter school tuition amount shall be the
1421 sum of the tuition amounts calculated for the charter school for each district sending students to
1422 the charter school. The total state-sponsored charter school tuition amount for a receiving charter

1423 school shall be provided directly to the charter school by the commonwealth as part of section 3
1424 of chapter 70 and the distribution of the general appropriation act for a fiscal year or any
1425 successor method of determining local aid distributions. The amounts appearing in section 3 of
1426 the general appropriation act shall be the state sponsored tuition amounts; provided, however,
1427 upon calculation of final state-sponsored tuition amounts for the current fiscal year, the
1428 department shall adjust state sponsored tuition amounts based on the calculations for affected
1429 charter schools.

1430 The state treasurer shall deduct a sending district's total charter school tuition amount, as
1431 calculated herein, from the total state school aid, as defined in section 2 of said chapter 70, of the
1432 district in which the student resides before the distribution of the aid. In the case of a child
1433 residing in a municipality which belongs to a regional school district, the sending district's total
1434 charter school tuition amount shall be deducted from said chapter 70 education aid of the school
1435 district appropriate to the grade level of the child. If, in a single district, the total of all such
1436 deductions exceeds the total of the education aid, this excess amount shall be deducted from
1437 other aid appropriated to the city or town. If, in a single district, the total of all the deductions
1438 exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount;
1439 provided, however, that if the district has exempted itself from chapter 70 by accepting section
1440 14 of said chapter 70, the commonwealth shall assess the district for the excess amount.

1441 The state treasurer shall disburse to the charter school an amount equal to the charter
1442 school's total charter school tuition amount as defined in this section.

1443 If more than 1 charter school is managed by a single network or board of trustees,
1444 funding shall not be transferred among individual schools within the network unless such schools
1445 are located in the same school district.

1446 The department shall, subject to appropriation, provide funding to charter schools for a
1447 portion of the per pupil capital needs component included in the charter tuition amount for the
1448 purpose of construction, renovation, purchase, acquisition or improvement of school buildings
1449 and land. In fiscal year 2011 and thereafter, the funding shall be the per pupil amount provided in
1450 fiscal year 2010, increased or decreased by the foundation inflation index, as defined in section
1451 2 of said chapter 70.

1452 (ii) In any year during which a sending district's total district-sponsored charter school
1453 tuition amount is greater than the sending district's total district-sponsored charter school tuition
1454 amount for the previous year, the sending district shall be reimbursed by the commonwealth in
1455 accordance with this paragraph and subject to appropriation; provided, however, that no funds
1456 for the reimbursements shall be deducted from funds distributed under chapter 70. The
1457 reimbursement amount shall be equal to 25 per cent of the increase in the year in which the
1458 increase occurs and 25 per cent in the second, third, fourth and fifth years following.

1459 Subject to appropriation, these reimbursements, in addition to the facilities fee, shall be
1460 paid from a single line item and any reductions to the item shall be made proportionately across
1461 all 6 categories of spending; provided, however, that the reimbursements required by this
1462 subsection shall be paid to the sending district and the state-sponsored tuition amount and the
1463 facilities fee shall be paid directly to the charter school by the commonwealth.

1464 (jj) If the unencumbered amount of cumulative surplus revenue from tuition held by a
1465 charter school at the end of a fiscal year, less: (1) the amount of the fourth quarter tuition
1466 payment, (2) the amount held in reserve for the purchase or renovation under a capital plan for
1467 academic facilities, and (3) any reserve funds held as security for bank loans, exceeds 20 per cent
1468 of its operating budget and its budgeted capital costs for the succeeding fiscal year, the amount in
1469 excess of the 20 per cent shall be returned by the charter school to the sending district and the
1470 state in proportion to their share of tuition paid during the fiscal year. At the end of each fiscal
1471 year, the commissioner shall certify the amounts described above and the amount, if any, by
1472 which it exceeds 20 per cent of the school's operating budget and its budgeted capital costs for
1473 the succeeding fiscal year and shall report annually the amount to the school committee of the
1474 sending district and the applicable board of selectmen or city council by December 1. A charter
1475 school shall make a payment required by this subsection not later than December 31 annually.

1476 (kk) No teacher shall be hired by a commonwealth charter school who is not certified
1477 under section 38G unless the teacher has successfully passed the state teacher test as required in
1478 said section 38G.

1479 (ll) Each charter school shall submit an annual report to the board of elementary and
1480 secondary education, to the local school committee of each district from which the charter school
1481 enrolls students, to each parent or guardian of its enrolled students and to each parent or guardian
1482 contemplating enrollment in that charter school. The annual report shall be issued not later than
1483 August 1 for the preceding school year. The annual report shall be in the form as may be
1484 prescribed by the board of elementary and secondary education and shall include at least the
1485 following components: (1) discussion of progress made toward the achievement of the goals set
1486 forth in the charter; (2) discussion of progress made toward the goals and retention efforts

1487 described in the school’s recruitment and retention plan; provided, however, that if a charter
1488 school has not enrolled and retained a student population matching such goals, the report must
1489 explain why this is the case; (3) an accounting of how many students were designated as
1490 requiring special education services or English language services by language proficiency level
1491 as measured by the Massachusetts English Proficiency Assessment examination upon enrollment
1492 and how many of these students were subsequently no longer designated as such, along with a
1493 description of methods used by the school to achieve these outcomes and the rationale behind the
1494 methodologies used; (4) the number of students, teachers and administrators who have left each
1495 charter school and their reasons for leaving; (5) the number of students enrolled in the charter
1496 school eligible for free lunch as defined in section 2 of chapter 70; (6) the number of students
1497 enrolled in the charter school eligible for reduced price lunch as defined in section 2 of said
1498 chapter 70; (7) the number of homeless students enrolled in the charter school; and (8) the
1499 number of students in the care of the department of youth services enrolled in each charter
1500 school.

1501 The department shall adopt regulations creating a reporting requirement for a charter
1502 school’s net asset balance at the end of the fiscal year. The report shall include, but not be
1503 limited to, the following types of information: (1) the revenue and expenditures for the year just
1504 ended with a specific accounting of the uses of public and private dollars; (2) how the capital
1505 needs component of the charter school’s tuition was spent; (3) compensation and benefits for
1506 teachers, staff, administrators, executives and the board of trustees; (4) the amount of funds
1507 transferred to a management company; (5) the sources of surplus funds, specifically whether they
1508 are private or public; (6) how surplus funds were used in the previous fiscal year; and (7) the
1509 planned use of any surplus funds in the upcoming fiscal year or in future fiscal years. The

1510 regulations shall authorize the commissioner to recommend withholding the release of all or
1511 some part of the quarterly tuition payments for a school that has not timely filed the required
1512 report. The report shall be filed annually by January 1 with the department and the state auditor
1513 and shall be in a form prescribed by the state auditor. The state auditor may investigate the
1514 budget and finances of charter schools and their financial dealings, transactions and relationships
1515 and shall have the power to examine the records of charter schools and to prescribe methods of
1516 accounting and the rendering of periodic reports.

1517 (mm) The commissioner shall collect data on the racial, ethnic, and socio-economic
1518 make-up of the student enrollment of each charter school. The commissioner shall also collect
1519 data on the number of students enrolled in each charter school who have individual education
1520 plans under chapter 71B and those requiring English language learners programs under chapter
1521 71A. The commissioner shall file the data annually with the clerks of the house and senate and
1522 with the joint committee on education not later than January 1. The commissioner shall also
1523 make these reports available on the department's website.

1524 (nn) Individuals or groups may complain to a charter school's board of trustees
1525 concerning any claimed violations of this section by the school. If, after presenting their
1526 complaint to the trustees, the individuals or groups believe their complaint has not been
1527 adequately addressed, they may submit their complaint to the board of elementary and secondary
1528 education which shall investigate the complaint and make a formal response.

1529 (oo) The board of elementary and secondary education shall adopt regulations for
1530 implementing the provisions of this section, including, but not limited to, regulations for
1531 determining the actual per pupil net school spending amounts in districts and for calculating

1532 charter school tuition amounts and regulations governing the financial conditions and
1533 obligations of management contracts. In adopting the regulations, the department shall consult
1534 with the executive office for administration and finance.

1535 (pp) The board of elementary and secondary education shall develop procedures and
1536 guidelines for the waiver of regulations implementing this section; provided, however, that no
1537 waivers shall be issued except at the written request of the charter applicant or at the written
1538 request of the board itself, both of which shall only be for exceptional circumstances. The
1539 waivers must be accompanied by a written explanation of the reasons for the waiver and may
1540 only be issued by a two-thirds vote of the board.

1541 SECTION 6A. Subsection (b) of section 91 of chapter 71 of the General Laws, as
1542 appearing in section 65 of chapter 27 of chapter 65 of the Acts of 2009, is hereby amended by
1543 striking out the words “A school district shall transfer the state average chapter 70 per pupil
1544 allotment to a Recovery High School for a student meeting the following criteria” and inserting
1545 in place thereof the following words:- “A school district shall transfer the state average
1546 foundation budget per pupil to a Recovery High School for a student meeting the following
1547 criteria.

1548 SECTION 7. Chapter 71 of the General Laws, is hereby amended by inserting after
1549 section 91 the following section:-

1550 Section 92. (a) An Innovation School shall be a public school, operating within a public
1551 school district, that is established for the purpose of improving school performance and student
1552 achievement through increased autonomy and flexibility. An Innovation School may be
1553 established as a new public school or as a conversion of an existing public school. A student

1554 who is enrolled in a school at the time it is established as an Innovation School shall retain the
1555 ability to remain enrolled in the school if the student chooses to do so.

1556 (b) An Innovation School may establish an advisory board of trustees. An Innovation
1557 School shall have increased autonomy and flexibility in 1 or more of the following areas: (1)
1558 curriculum; (2) budget; (3) school schedule and calendar; (4) staffing policies and procedures,
1559 including waivers from or modifications to, contracts or collective bargaining agreements; (5)
1560 school district policies and procedures; and (6) professional development. An Innovation School
1561 shall receive each school year from the school committee the same per pupil allocation as any
1562 other district school receives. An Innovation School may retain any unused funds and use the
1563 funds in subsequent school years. An Innovation School may establish a non-profit organization
1564 that may, among other things, assist the school with fundraising. A district shall not reduce its
1565 funding to an Innovation School as a result of the school's fundraising activities.

1566 (c) An Innovation School established under this section shall be authorized by the local
1567 school committee and shall operate according to an innovation plan, which shall articulate the
1568 areas of autonomy and flexibility under subsection (b). To the extent practicable, the innovation
1569 plan shall be based on student outcome data, including, but not limited to: (1) student
1570 achievement on the Massachusetts Comprehensive Assessment System; (2) other measures of
1571 student achievement, as appropriate; (3) student promotion and graduation rates; (4) achievement
1572 data for different subgroups of students, including low-income students as defined by chapter 70,
1573 limited English-proficient students and students receiving special education; and (5) student
1574 attendance and dismissal rates.

1575 An Innovation School shall operate in accordance with the law regulating other public
1576 schools, except as the law conflicts with this section or any innovation plans created thereunder.

1577 (d) An Innovation School is a school in which: (i) faculty and leadership are primarily
1578 responsible for developing the innovation plan under which the school operates and leadership is
1579 responsible for meeting the terms of the innovation plan; or (ii) an external partner or partners is
1580 primarily responsible for developing the innovation plan under which the school operates and the
1581 external partner or partners are responsible for meeting the terms of the innovation plan.

1582 (e) Nothing in this section shall be construed to prohibit: (1) the establishment of an
1583 Innovation School as an academy within an existing public school; (2) the establishment of an
1584 Innovation School serving students from 2 or more school districts; provided, however, that all
1585 of the provisions of this section are met by each school district; (3) the simultaneous
1586 establishment of 2 or more Innovation Schools as an Innovation Schools Zone within a school
1587 district; or (4) the establishment of an Innovation School as a virtual public school that provides
1588 instruction to students through distance learning, including online learning programs and
1589 courses, subject to regulations adopted by the board of elementary and secondary education.

1590 (f) The following shall be eligible applicants for the purposes of establishing an
1591 Innovation School: (1) parents; (2) teachers; (3) parent-teacher organizations; (4) principals; (5)
1592 superintendents; (6) school committees; (7) teacher unions; (8) colleges and universities; (9) non-
1593 profit community-based organizations; (10) non-profit business or corporate entities; (11) non-
1594 profit charter school operators; (12) non-profit education management organizations; (13)
1595 educational collaboratives; (14) consortia of these groups; and (15) non-profit entities authorized

1596 by the commissioner. Private and parochial schools shall not be eligible to operate an Innovation
1597 School.

1598 (g) The local school committee, local teacher's union and superintendent of the district
1599 shall follow a process, consistent with this subsection and subsections (h) to (o), inclusive, for
1600 which an existing district school may be converted to an Innovation School or by which a new
1601 Innovation School may be established within the district. This process shall require that an
1602 eligible applicant proposing to establish an Innovation School prepare a prospectus regarding the
1603 proposed school. The prospectus shall include, but not be limited to, a description of: (1)
1604 whether the school will be a new school or a conversion of an existing school; (2) if the school is
1605 a new school, the proposed location of the school; (3) if the school is a conversion of an existing
1606 school, the school that is being proposed for conversion; (4) the external partners, if any, that
1607 will be involved in the school; (5) the number of students the school is anticipated to serve and
1608 the number of staff expected to be employed at the school; (6) the overall vision for the school,
1609 including improving school performance and student achievement; (7) specific needs or
1610 challenges the school shall be designed to address; (8) a preliminary assessment of the autonomy
1611 and flexibility under subsection (b) that the school will seek; (9) why such flexibility is desirable
1612 to carry out the objectives of the school; (10) anticipated components of the school's innovation
1613 plan; (11) a preliminary description of the process that shall be used to involve appropriate
1614 stakeholders in the development of the innovation plan; and (12) a proposed timetable for
1615 development and establishment of the proposed school.

1616 (h) Upon completion of the prospectus under subsection (g), an eligible applicant shall
1617 submit the prospectus to the superintendent, who shall within 30 days convene a screening
1618 committee consisting of the superintendent or a designee, a school committee member or a

1619 designee selected by the school committee and a representative from the leadership of the local
1620 teacher's union.

1621 The screening committee shall review the prospectus for the purpose of determining
1622 whether the prospectus: (1) presents a sound and coherent plan for improving school
1623 performance and student achievement; (2) supports or enhances existing educational efforts in
1624 the district; and (3) reasonably can be expanded into a comprehensive innovation plan. In the
1625 case of a new school, the committee will prepare an impact statement describing how the new
1626 school will affect the children and faculty in the district. Within 30 days of receiving a
1627 prospectus, the screening committee shall decide, on the basis of a two-thirds vote, to accept or
1628 reject the prospectus, or return the prospectus to the eligible applicant for revisions. If a
1629 prospectus is rejected or returned, the screening committee shall submit a detailed explanation
1630 for the decision to the applicant. A prospectus that is rejected or returned may be revised and
1631 resubmitted for subsequent consideration.

1632 (i) Upon the acceptance of a prospectus by the screening committee under subsection
1633 (h), the applicant shall form an innovation plan committee of not more than 11 individuals within
1634 30 days. The purpose of the innovation plan committee shall be to: (1) develop the innovation
1635 plan described in subsection (c); (2) assure that appropriate stakeholders are represented in the
1636 development of the proposed Innovation School; and (3) provide meaningful opportunities for
1637 the stakeholders to contribute to the development of such school. The size and composition of
1638 the innovation plan committee shall be determined by the applicant; provided, however, that the
1639 committee shall include: (1) the applicant; (2) the superintendent or a designee; (3) a school
1640 committee member or a designee; (4) a parent who has 1 or more children enrolled in the school,
1641 or in the case of a new school, from the district; (5) a principal employed by the district; and (6)

1642 2 teachers employed by the district. The applicant shall select the parent from among nominees
1643 submitted by parent-teacher organizations in the district. If the district does not contain a parent-
1644 teacher organization or if the organization does not submit nominees, the applicant shall select
1645 the parent from among volunteers in the area or community the proposed school is expected to
1646 serve. The applicant shall select the principal and 1 teacher from among volunteers in the district
1647 and 1 teacher from among nominees submitted by the local teacher's union.

1648 (j) Upon the formation of the innovation plan committee in subsection (i), the committee
1649 shall develop the innovation plan for the proposed Innovation School. The purpose of the
1650 innovation plan shall be to comprehensively articulate the areas of autonomy and flexibility
1651 under subsection (b) that the proposed school will use. The innovation plan shall include, but not
1652 be limited to: (1) a curriculum plan, which shall include a detailed description of the curriculum
1653 and related programs for the proposed school and how the curriculum is expected to improve
1654 school performance and student achievement; (2) a budget plan, which shall include a detailed
1655 description of how funds shall be used differently in the proposed school to support school
1656 performance and student achievement; (3) a school schedule plan, which shall include a detailed
1657 description of the ways, if any, the program or calendar of the proposed school will be enhanced
1658 or expanded; (4) a staffing plan, which shall include a detailed description of how the school
1659 principal, administrators, faculty and staff will be recruited, employed, evaluated and
1660 compensated in the proposed school and any proposed waivers or modifications of collective
1661 bargaining agreements; (5) a policy and procedures plan, which shall include a detailed
1662 description of the unique operational policies and procedures to be used by the proposed school
1663 and how the procedures shall support school performance and student achievement; and (6) a

1664 professional development plan, which shall include a detailed description of how the school may
1665 provide high-quality professional development to its administrators, teachers and staff.

1666 In order to assess the proposed school across multiple measures of school performance
1667 and student success, the innovation plan shall include measurable annual goals including, but not
1668 limited to, the following: (1) student attendance and dismissal rates; (2) student safety and
1669 discipline; (3) student promotion and graduation; (4) student achievement on the Massachusetts
1670 Comprehensive Assessment System; (5) progress in areas of academic underperformance; (6)
1671 progress among subgroups of students, including low-income students as defined by chapter 70,
1672 limited English-proficient students and students receiving special education; (7) reduction of
1673 achievement gaps among different groups of students; (8) student acquisition and mastery of
1674 21st-century skills; (9) development of college readiness, including at the elementary and middle
1675 school levels; (10) parent and family engagement; (11) building a culture of academic success
1676 among students; and (12) building a culture of student support and success among school faculty
1677 and staff.

1678 A majority vote of the innovation plan committee shall be required for approval of the
1679 innovation plan.

1680 (k) The provisions of the collective bargaining agreements applicable to the
1681 administrators, teachers and staff in the school shall be considered to be in operation at an
1682 Innovation School, except to the extent the provisions are waived or modified under the
1683 innovation plan and such waivers or modifications are approved under subsections (l) and (m).

1684 (l) In the case of a school conversion, upon completion of the innovation plan in
1685 subsection (j), , the applicant shall submit the innovation plan to teachers in the school that is

1686 proposed for conversion for approval by secret ballot within 30 days. A two-thirds vote of the
1687 teachers shall be required to approve the plan. Upon approval of an innovation plan by the
1688 teachers, the plan shall be submitted immediately to the school committee. If a two-thirds vote is
1689 not achieved, the innovation plan committee may revise the innovation plan as necessary and
1690 submit the revised plan to the teachers for a subsequent vote.

1691 In the case of a new school, upon the completion of the innovation plan in subsection (j),
1692 the applicant, a local union and the superintendent shall negotiate waivers or modifications to the
1693 applicable collective bargaining agreement necessary for the school to implement the innovation
1694 plan. Upon the conclusion of the negotiations, the innovation plan shall be submitted
1695 immediately to the school committee. If the negotiations have not resulted in an agreement
1696 within 40 days, either party may petition the division of labor relations for the selection of an
1697 arbitrator. The division shall select an arbitrator within 3 days of the petition from a list
1698 submitted by the parties. The arbitrator shall conduct a hearing within 14 days of the arbitrator's
1699 selection. The arbitrator shall consider the parties' positions and the needs of the students in the
1700 district. The arbitrator's decision shall be consistent with the contents of the innovation plan
1701 developed by the applicant. The arbitrator shall submit a decision which shall be final and
1702 binding on the parties, within 14 days of the close of the hearing.

1703 (m) Upon receipt of an innovation plan regarding an Innovation School, a school
1704 committee shall hold at least 1 public hearing on the innovation plan. After the public hearing,
1705 but not later than 60 days after the receipt of the innovation plan, the school committee shall, on
1706 the basis of the quality of the plan and in consideration of comments submitted by the public,
1707 undertake a final vote to authorize the Innovation School for a period of not more than 5 years,
1708 subject to subsection (n). Approval of the majority of the school committee as fully constituted

1709 shall be required to authorize an Innovation School. If the approval is not obtained, an
1710 innovation plan committee may revise the innovation plan and: (i) in the case of a new school,
1711 submit the revised plan to the school committee for a subsequent vote; or (ii) in the case of a
1712 conversion, submit the revised plan to the teachers in the school that is proposed for conversion
1713 for a vote, pursuant to subsection (l); provided, however, that the plan meets the requirements
1714 for approval under subsection (l), submit the revised plan to the school committee for a
1715 subsequent vote. A school committee shall vote on a revised plan submitted pursuant to this
1716 subsection within 60 days of the receipt of such plan and contract.

1717 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the
1718 superintendent at least annually. The superintendent shall transmit the evaluation to the school
1719 committee and the commissioner of elementary and secondary education. The purpose of the
1720 evaluation shall be to determine whether the school has met the annual goals in its innovation
1721 plan and assess the implementation of the innovation plan at the school. If the school committee
1722 determines, on the advice of the superintendent, that the school has not met 1 or more goals in
1723 the innovation plan and that the failure to meet the goals may be corrected through reasonable
1724 modification of the plan, the school committee may amend the innovation plan as necessary.
1725 After the superintendent assesses the implementation of the innovation plan at the school, the
1726 school committee may, on the advice of the superintendent, amend the plan if the school
1727 committee determines that the amendment is necessary in view of subsequent changes in the
1728 district that affect 1 or more components of the plan, including, but not limited to, changes to
1729 contracts, collective bargaining agreements, or school district policies; provided, however, that
1730 an amendment involving a subsequent change to a teacher contract shall first be approved by
1731 teachers at the school, under the procedures in subsection (l).

1732 If the school committee determines, on the advice of the superintendent, that the school
1733 has substantially failed to meet multiple goals in the innovation plan, the school committee may:
1734 (1) limit 1 or more components of the innovation plan; (2) suspend 1 or more components of the
1735 innovation plan; or (3) terminate the authorization of the school; provided, however, that the
1736 limitation or suspension shall not take place before the completion of the second full year of the
1737 operation of the school and the termination shall not take place before the completion of the third
1738 full year of the operation of the school.

1739 (o) At the end of the period of authorization of an Innovation School approved under
1740 subsection (m), the leadership of the school may petition the school committee to extend the
1741 authorization of the school for an additional period of not more than 5 years. Before submitting
1742 the petition, the leadership of the school shall convene a selection of school stakeholders,
1743 including, but not limited to, administrators, teachers, other school staff, parents and external
1744 partners, as applicable, to discuss whether the innovation plan at the school requires revision and
1745 to solicit recommendations as to the potential revisions. After considering the recommendations
1746 of the stakeholder group, the leadership of the school and the applicable superintendent shall
1747 jointly update the innovation plan as necessary; provided, however, that a proposal regarding a
1748 new waiver or exemption from the local teacher’s union contract shall be approved by teachers at
1749 the school, under subsection (l). Approval of the majority of the school committee as fully
1750 constituted shall be required to extend the period of authorization of an Innovation School. If the
1751 approval is not obtained, the leadership of the school and superintendent may jointly revise the
1752 innovation plan and submit the revised plan to the school committee for a subsequent vote. If the
1753 school committee does not extend the authorization of the school, the leadership of the school

1754 may seek the authorization from the board of elementary and secondary education. The board
1755 shall vote on the requested extension within 60 days of its receipt for approval of such extension.

1756 (p) The commissioner of elementary and secondary education shall, to the extent
1757 practicable, be responsible for the following: (1) the provision of planning and implementation
1758 grants to eligible applicants to establish Innovation Schools; (2) provision of technical assistance
1759 and support to eligible applicants; (3) the collection and publication of data and research related
1760 to the Innovation Schools initiative; (4) the collection and publication of data and research
1761 related to successful programs serving limited English-proficient students attending Innovation
1762 Schools; and (5) the collection and dissemination of best practices in Innovation Schools that
1763 may be adopted by other public schools. The board of elementary and secondary education shall
1764 promulgate regulations necessary to carry out this section. Annually, the commissioner shall
1765 report to the joint committee on education, the house and senate committees on ways and means,
1766 the speaker of the house of representatives and the senate president on the implementation and
1767 fiscal impact of this section.

1768 SECTION 8. For the school districts in which net school spending on charter school
1769 tuition does not exceed 18 per cent as set forth in subsection (i) of section 89 of chapter 71, the
1770 following shall apply: (1) in fiscal year 2011, a public school district's total charter school tuition
1771 payment to commonwealth charter schools shall be limited to 12 per cent of the district's net
1772 school spending; (2) in fiscal year 2012, a public school district's total charter school tuition
1773 payment to commonwealth charter schools shall be limited to 13 per cent of the district's net
1774 school spending; (3) in fiscal year 2013, a public school district's total charter school tuition
1775 payment to commonwealth charter schools shall be limited to 14 per cent of the district's net
1776 school spending; (4) in fiscal year 2014, a public school district's total charter school tuition

1777 payment to commonwealth charter schools shall be limited to 15 per cent of the district's net
1778 school spending; (5) in fiscal year 2015, a public school district's total charter school tuition
1779 payment to commonwealth charter schools shall be limited to 16 per cent of the district's net
1780 school spending; (6) in fiscal year 2016, a public school district's total charter tuition payment to
1781 commonwealth charter schools shall be limited to 17 per cent of the district's net school
1782 spending; and (7) in fiscal year 2017, a public school district's total charter tuition payment to
1783 commonwealth charter schools shall be limited to 18 per cent of the district's net school
1784 spending.

1785 SECTION 8A. The department of education shall provide technical assistance to a school
1786 or district that receives competitive grant funding distributed under the American Recovery and
1787 Reinvestment Act of 2009 in order to assist those schools or districts in developing a long-term
1788 plan to sustain an initiatives supported by said American Recovery and Reinvestment Act of
1789 2009 competitive grant funding.

1790 SECTION 8B. Within 6 months of the receipt of any federal funding through Race to the
1791 Top program, so-called, realized through the adoption of this act, the executive office of
1792 education shall report to the house and senate committee's on ways and means and the joint
1793 committee on education a detailed plan providing for the use and potential future uses of the
1794 funding along with an accounting therein.

1795 SECTION 9. Notwithstanding any general or special law to the contrary the department
1796 of elementary and secondary education shall draft a model policy for school districts regarding
1797 the grade placement and eligibility for high school graduation of students leaving a
1798 commonwealth charter school and seeking to enroll in a district school. In drafting the model

1799 policy, the department shall confer with school districts and commonwealth charter schools. The
1800 model policy shall be made available not later than December 31, 2010. Until a school district
1801 adopts a policy regarding the grade placement or eligibility for high school graduation of
1802 students leaving a commonwealth charter school, when determining the appropriate grade
1803 placement or eligibility for high school graduation of a student leaving a commonwealth charter
1804 school and enrolling in a district school, a district shall examine the course of study and level of
1805 academic attainment of the student.

1806 SECTION 10. Notwithstanding any general or special law to the contrary, a charter
1807 school whose charter was granted before January 1, 2010 shall have a recruitment and retention
1808 plan required under subsection (f) of section 89 of chapter 71 of the General Laws in effect for
1809 the 2011-2012 school year or at the time of its next charter renewal, whichever occurs first.

1810 SECTION 11. Notwithstanding subsection (ii) of section 89 of chapter 71 of the General
1811 Laws, any district that incurred an increase in commonwealth charter tuition costs between July
1812 1, 2008 and June 30, 2010 shall be reimbursed in an amount equal to 100 per cent of the increase
1813 in the year in which the increase occurs, 60 per cent of that amount in the first year following and
1814 40 per cent of that amount in the second year following.

1815 SECTION 11A. Notwithstanding any special or general law to the contrary, the
1816 department of elementary and secondary education shall study the possibility of allowing
1817 students living outside of Massachusetts who are eligible to attend public schools operating in
1818 the same geographic area as a charter school or a regional charter school to be eligible to attend
1819 the charter or regional charter school. The department shall examine the rules and regulations
1820 necessary to implement this change which shall include, but not be limited to, collection of out-

1821 of-state tuition from students living outside of Massachusetts and attending a commonwealth
1822 charter school, collection of tuition from foreign exchange students attending a commonwealth
1823 charter school and reimbursement of commonwealth charter schools for services rendered to
1824 foreign exchange students and students living outside of Massachusetts. The department shall
1825 issue its report and any recommendations to the joint committee on education not later than
1826 August 15, 2010.

1827 SECTION 11B. The department of education shall study the feasibility and cost of
1828 requiring every school district to provide alternative education to a student excluded from a
1829 public school or a student who is otherwise identified as at-risk and whose needs are not being
1830 met in the traditional school setting.

1831 SECTION 11C. Notwithstanding any general or special law to the contrary, the
1832 department of education shall conduct a study of the cost of implementing an education program
1833 for all middle and high school students in the commonwealth in which the students receive a
1834 minimum of 5 hours of substance abuse and addiction awareness education during each middle
1835 and high school year.

1836 The report shall be submitted not later than April 1, 2010 to the house committee on ways
1837 and means, the senate committee on ways and means, the executive office of administration and
1838 finance and the joint committee on mental health and substance abuse.

1839 SECTION 11D. Notwithstanding any general or special law to the contrary, the
1840 department of elementary and secondary education shall investigate and study the adequacy of
1841 educational secondary school programs offered to students in their district of residence who
1842 apply, but are not selected, for admission to vocational-technical secondary education program;

1843 provided, however, that the department shall develop recommendations for developing an
1844 educational program designed to meet the career needs of such students and to encourage
1845 completion of requirement for a high school diploma including, but not limited to, a cost analysis
1846 and method of providing sustained funding. The department shall report on its findings not later
1847 than December 31, 2012 to the joint committee on education, the joint committee on labor and
1848 workforce development and the house and senate committees on ways and means.

1849 SECTION 11E. Notwithstanding any general or special law to the contrary, regional
1850 school transportation payments made by the state in any fiscal year through the general
1851 appropriations act shall not be lowered by a greater percentage than any reduction made to state
1852 chapter 70 payments in that fiscal year.

1853 SECTION 11F. In order to determine, as a basis for legislative action, the resources
1854 needed to achieve the commonwealth's educational goals, a committee, to be known as the
1855 Education Resource Study Committee, made up of the chairs of the joint committee on
1856 education, the secretary of administration and finance, or his designee, and the secretary of
1857 executive office of education or his designee, may conduct a study to determine the resources
1858 necessary to achieve the commonwealth's educational goals. The committee shall contract with
1859 an independent consultant to conduct an assessment to ascertain the resources and the costs of
1860 the resources needed to provide all students in Massachusetts with the opportunity for a high
1861 quality education to enable them to reach their potential as set forth in chapter 71 of the acts of
1862 1993 and in this act.

1863 For purposes of its work, the committee and consultant shall have access to all necessary
1864 papers, vouchers, books and records pertaining to the department of elementary and secondary

1865 education and to any school district in the commonwealth. The department of elementary and
1866 secondary education shall cooperate with the committee and consultant for any purpose
1867 connected to its work including, but not limited to, participating in interviews and producing
1868 books, records and documents. School districts and their personnel shall make every effort to
1869 cooperate with reasonable requests of the committee and consultant for any purpose connected to
1870 its work pursuant to this act and to the extent possible shall participate in interviews and
1871 producing books, records and documents. The committee and consultant may request reasonable
1872 assistance from the commissioner of elementary and secondary education and from the
1873 superintendent of a school district. The commissioner shall furnish the committee and consultant
1874 with relevant information in his possession which is requested by the committee and consultant.
1875 School districts shall endeavor to provide relevant information in their possession to committee
1876 and consultant to the extent possible consistent with the need to maintain the confidentiality of
1877 information in their possession.

1878 The committee shall:

1879 (1) Prepare a request for proposals for the conduct of a resource study, advertise
1880 nationally for such proposals, evaluate the proposals and contract with an appropriate
1881 independent entity or independent consultants to conduct a professional evaluation of:(a) the
1882 extent of educational and other resources required by school districts so that they are able to fully
1883 implement each of the 7 curriculum frameworks and fulfill the goals of said chapter 71 of the
1884 acts of 1993 and this act; and (b) the resources required by the department of elementary and
1885 secondary education so that it is able to fulfill its responsibilities under the provisions of this act;
1886 provided, however, that the responsibilities shall include providing technical assistance to school
1887 districts so that they can improve the capacity of school districts to implement the curriculum

1888 frameworks effectively and devising instructional strategies which improve learning for diverse
1889 student populations; and

1890 (2) Include in its request for proposals the requirements that in conducting its study, the
1891 consultant shall: (a) consider and evaluate all the resources which relate to student learning and
1892 educational opportunity, including, but not limited to class size, special education programs,
1893 including programs for English language learners, pre-school programs for all 3 and 4 year-olds
1894 and full-day kindergarten, additional resources needed to assure educational opportunity for low-
1895 income students, salaries needed to attract and retain high quality professionals, technology,
1896 extra-curricular programs, remedial programs for students at risk of failing to satisfy graduation
1897 requirements, additional resources needed to implement the model curriculum on global
1898 education and international studies as developed by the department of elementary and secondary
1899 education, quality books and equipment for science labs programs, programs which insure
1900 adequate preparation for careers in science, technology engineering and mathematics and
1901 historical inequities and methods of preventing such inequities from arising in the future; (b)
1902 provide the committee with a proposed work plan before beginning the study;(c) interview and
1903 consult with representatives of educational professions and other groups involved in issues of
1904 educational policy and finance, including, but not limited to the Massachusetts Association of
1905 School Superintendents, the Massachusetts Association of School Committees, the
1906 Massachusetts Teachers Association, the American Federation of Teachers/Massachusetts, the
1907 Massachusetts Secondary School Administrators Association, the Massachusetts Municipal
1908 Association, the Rennie Center for Education Research and Policy, the Council for Fair School
1909 Finance, the Massachusetts Budget and Policy Center, the Massachusetts Taxpayers Foundation,
1910 Massachusetts Business Alliance for Education, the commissioner of the department of

1911 elementary and secondary education, the Robert H. Goddard Council on Science, Technology,
1912 Engineering and Mathematics Education, the Massachusetts Science, Technology, Engineering
1913 and Mathematics Resource Network, the Massachusetts Parent-Teacher Association, Inc., Stand
1914 for Children, Inc., academics and researchers involved in educational strategies and the public
1915 through public hearings and through other means as the consultant shall direct; (d) review
1916 successful educational programs in schools and school districts with diverse socio-economic
1917 characteristics and racial make-up and assess the possibility of replicating such programs in other
1918 schools and school districts; (e) file monthly progress reports with the committee outlining the
1919 work of the previous month and the work planned for the upcoming month; (f) after the
1920 completion of one-third of the work and again after completion of two-thirds of the work,
1921 participate in a forum with the committee to provide an opportunity for public comment;

1922 (g) issue a preliminary report on its work and the cost study and solicit comments,
1923 criticisms and suggestions from professional educators, education administrators and experts in
1924 education policy and finance concerning the report; and (h) deliver a final report to the president
1925 of the senate, the speaker of the house of representatives, and the joint committee on education
1926 not later than September 1, 2011.

1927 SECTION 11G. Notwithstanding any special or general law to the contrary and subject
1928 to appropriation, there is hereby established a pilot program for the purpose of providing
1929 substance abuse and addiction training to a teacher or a guidance counselor in each middle
1930 school and high school in Suffolk county. The teacher or guidance counselor shall then conduct
1931 an initial screening, intervention and referral of those students who are identified as having
1932 substance abuse and addiction needs for a subsequent comprehensive assessment and appropriate
1933 treatment.

1934 SECTION 11H. Charter schools shall allow a minimum of 1 day of teaching observation
1935 by a public school teacher per academic semester in any of the schools core subject areas. For
1936 the purposes of this section core subject areas shall include English, math, foreign language,
1937 social studies, performing arts and music, chemistry, biology, physics and earth sciences.

1938 SECTION 11I. By January 1, 2011, the commissioner of the department of elementary
1939 and secondary education shall make a report to the chairs of the joint committee on education on
1940 the department's plan to implement the inclusion of the growth model used to evaluate
1941 improvement in student performance, as required under sections 3, 4 and 6.