

**SENATE . . . . . No. 2247**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act relative to the achievement gap.

*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 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; provided, however, the association of school committees and board of  
21 trustees of charter schools which is formed to deliver the programs and services shall be known  
22 as an education 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, the superintendent of schools or his designee or a member of the charter  
27 board of trustees. Members of the board of directors shall be entitled to a vote according to the  
28 terms of the education collaborative agreement. The department of education shall appoint an  
29 individual to serve in an advisory capacity to the education collaborative board of directors. 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 and charter schools, the procedure for admitting new  
36 members and for amending the collaborative agreement, the powers and duties of the board of  
37 directors of the education collaborative to operate and manage the education collaborative and

38 any other matter not incompatible with law which the member committees and charter schools  
39 consider advisable. The agreement shall be subject to the approval of the member school  
40 committees and the 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 may, subject to the direction of the board of directors of the education collaborative,  
50 receive and disburse all monies of the trust fund without further appropriation. The treasurer  
51 shall give bond annually for the faithful performance of his duties as collaborative treasurer in a  
52 form approved by the department of revenue and in the sum, not less than the amount established  
53 by the department, as shall be fixed by the board of directors of the education collaborative. The  
54 board of directors of the education collaborative in its discretion may pay compensation to the  
55 treasurer for his services. No member of the board of directors of the education collaborative  
56 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 sections  
96 1J and 1K, as so appearing, and inserting in place thereof the following 2 sections:-

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 information from a school or district review performed  
104 under section 55A of chapter 15. Upon the release of the proposed regulations, the board shall

105 file a copy thereof with the clerks of the house of representatives and the senate who shall  
106 forward the regulations to the joint committee on education. Within 30 days of the filing, the  
107 committee may hold a public hearing and issue a report on the regulations and file the report  
108 with the board. The board, pursuant to applicable law, may adopt final regulations making  
109 revisions to the proposed regulations as it deems appropriate after consideration of the report and  
110 shall forthwith file a copy of the regulations with the chairpersons of the joint committee on  
111 education and, not earlier than 30 days of the filing, the board shall file the final regulations with  
112 the state secretary. Schools that score in the lowest 20 per cent statewide among schools serving  
113 common grade levels on a single measure developed by the department that takes into account  
114 student performance data and, beginning on July 1, 2011, improvement in student academic  
115 performance, shall be deemed eligible for designation as underperforming or chronically  
116 underperforming. Not more than 4 per cent of the total number of public schools may be  
117 designated as underperforming or chronically underperforming at any given time.

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

126 Before a school is designated chronically underperforming by the commissioner, a school  
127 must be designated underperforming and fail to improve.

128           An underperforming or chronically underperforming school described in the following  
129 subsections shall operate in accordance with laws regulating other public schools, except as such  
130 provisions may conflict with this section or any turnaround plans created thereunder. A student  
131 who is enrolled in a school at the time it is designated as underperforming or chronically  
132 underperforming shall retain the ability to remain enrolled in the school while remaining a  
133 resident of the district if the student chooses to do so.

134           (b) Upon the designation of a school as an underperforming school in accordance with  
135 regulations developed pursuant to this section, the superintendent of the district, with approval  
136 by the commissioner, shall create a turnaround plan for the school, under subsections (b) to (e),  
137 inclusive. The commissioner may allow for an expedited turnaround plan for schools that have  
138 been previously designated as underperforming and where the district has a turnaround plan that  
139 has had a public comment period and approval of the local school committee.

140           Before the superintendent creates the turnaround plan required in this subsection, the  
141 superintendent shall convene a local stakeholder group of not more than 13 individuals, for the  
142 purpose of soliciting recommendations on the content of such plan to maximize the rapid  
143 academic achievement of students at the school. The superintendent shall provide due  
144 consideration to the recommendations of the stakeholder group. The group shall include: (1) the  
145 commissioner, or a designee; (2) the chair of the school committee, or a designee; (3) the  
146 president of the local teacher’s union, or a designee; (4) an administrator from the school, who  
147 may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the  
148 faculty of the school; (6) a parent from the school chosen by the local parent organization; (7)  
149 representatives of applicable state and local social service, health and child welfare agencies,  
150 chosen by the superintendent; (8) as appropriate, representatives of state and local workforce

151 development agencies, chosen by the superintendent; (9) for elementary schools, a representative  
152 of an early education and care provider chosen by the commissioner of the department of early  
153 education and care and, for middle schools or high schools, a representative of the higher  
154 education community selected by the secretary; and (10) a member of the community appointed  
155 by the chief executive of the city or town. If the school or district does not have a parent  
156 organization or if the organization does not select a parent, the superintendent shall select a  
157 volunteer parent of a student from the school. The superintendent shall convene such group  
158 within 30 days of the commissioner designating a school as underperforming and the group shall  
159 make its recommendations to the superintendent within 45 days of its initial meeting. Meetings  
160 of the local stakeholder group shall be open to the public and the recommendations submitted to  
161 the superintendent under this subsection shall be publicly available immediately upon their  
162 submission.

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



174           The superintendent shall also include in the creation of the turnaround plan, after  
175    considering the recommendations of the local stakeholder group, the following: (1) steps to  
176    address social service and health needs of students at the school and their families, to help  
177    students arrive and remain at school ready to learn; provided, however, that this may include  
178    mental health and substance abuse screening; (2) steps to improve or expand child welfare  
179    services and, as appropriate, law enforcement services in the school community, in order to  
180    promote a safe and secure learning environment; (3) steps to improve workforce development  
181    services provided to students and their families at the school, to provide students and families  
182    with meaningful employment skills and opportunities; (4) steps to address achievement gaps for  
183    limited English-proficient, special education and low-income students; and (5) alternative  
184    English language learning programs for limited English proficient students, notwithstanding  
185    chapter 71A; and (6) a financial plan for the school, including any additional funds to be  
186    provided by the district, commonwealth, federal government or other sources.

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

195           To assess the school across multiple measures of school performance and student  
196    success, the turnaround plan shall include measurable annual goals including, but not limited to:

197 (1) student attendance, dismissal rates and exclusion rates; (2) student safety and discipline; (3)  
198 student promotion and graduation and dropout rates; (4) student achievement on the  
199 Massachusetts Comprehensive Assessment System; (5) progress in areas of academic  
200 underperformance; (6) progress among subgroups of students, including low-income students as  
201 defined by chapter 70, limited English-proficient students and students receiving special  
202 education; (7) reduction of achievement gaps among different groups of students; (8) student  
203 acquisition and mastery of twenty-first century skills; (9) development of college readiness,  
204 including at the elementary and middle school levels; (10) parent and family engagement; (11)  
205 building a culture of academic success among students; (12) building a culture of student support  
206 and success among school faculty and staff and; (13) developmentally appropriate child  
207 assessments from pre-kindergarten through third grade, if applicable.

208 (d) Notwithstanding any general or special law to the contrary, in creating the turnaround  
209 plan required in subsection (b), the superintendent may, after considering the recommendations  
210 of the group of stakeholders: (1) expand, alter or replace the curriculum and program offerings of  
211 the school, including the implementation of research-based early literacy programs, early  
212 interventions for struggling readers and the teaching of advanced placement courses or other  
213 rigorous nationally or internationally recognized courses, if the school does not already have  
214 such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide  
215 additional funds to the school from the budget of the district, if the school does not already  
216 receive funding from the district at least equal to the average per pupil funding received for  
217 students of the same classification and grade level in the district; (4) provide funds, subject to  
218 appropriation and following consultation with applicable local unions, to increase the salary of  
219 any administrator, or teacher in the school, to attract or retain highly-qualified administrators, or

220 teachers or to reward administrators, or teachers who work in underperforming schools that  
221 achieve the annual goals set forth in the turnaround plan; (5) expand the school day or school  
222 year or both of the school; (6) for an elementary school, add pre-kindergarten and full-day  
223 kindergarten classes, if the school does not already have such classes; (7) following consultation  
224 with applicable local unions, require the principal and all administrators, teachers and staff to  
225 reapply for their positions in the school, with full discretion vested in the superintendent  
226 regarding his consideration of and decisions on rehiring based on the reapplications. (8) limit,  
227 suspend or change 1 or more provisions of any contract or collective bargaining agreement, as  
228 the contract or agreement applies to the school; provided, that the superintendent shall not reduce  
229 the compensation of an administrator, teacher or staff member unless the hours of the person are  
230 proportionately reduced; (9) limit, suspend or change 1 or more school district policies or  
231 practices, as such policies or practices relate to the school; (10) include a provision of job-  
232 embedded professional development for teachers at the school, with an emphasis on strategies  
233 that involve teacher input and feedback; (11) provide for increased opportunities for teacher  
234 planning time and collaboration focused on improving student instruction; (12) establish a plan  
235 for professional development for administrators at the school, with an emphasis on strategies that  
236 develop leadership skills and use the principles of distributive leadership; (13) establish steps to  
237 assure a continuum of high-expertise teachers by aligning the following processes with a  
238 common core of professional knowledge and skill: hiring, induction, teacher evaluation,  
239 professional development, teacher advancement, school culture and organizational structure;  
240 (14) develop a strategy to search for and study best practices in areas of demonstrated deficiency  
241 in the school; (15) establish strategies to address mobility and transiency among the student  
242 population of the school; and (16) include additional components based on the reasons why the

243 school was designated as underperforming and the recommendations of the group of  
244 stakeholders in subsection (b).

245         If the superintendent does not approve a reapplication submitted by an employee pursuant  
246 to clause (7) for a position in the school or if an employee does not submit a reapplication for a  
247 position in the school, the employee shall retain such rights as may be provided under law or any  
248 applicable collective bargaining agreement in relation to the employee's ability to fill another  
249 position in the district; provided, however, that the employee shall not have the right to displace  
250 any teacher with professional teacher status in any other school during a school year.

251         A teacher with professional teacher status in a school declared underperforming or  
252 chronically underperforming may be dismissed for good cause; provided, however, that the  
253 teacher receives 5 days written notice of the decision to terminate which shall include, without  
254 limitation, an explanation of the reason why the superintendent is not retaining the teacher in the  
255 school; provided, further, that the teacher may seek review of a termination decision within 5  
256 days after receiving notice of the teacher's termination by filing a petition for expedited  
257 arbitration with the commissioner; provided, further, that except as otherwise provided herein  
258 section 42 of chapter 71 shall apply to a petition filed pursuant to this section; provided, further,  
259 that the commissioner shall cause an arbitrator to be selected pursuant to the procedures in  
260 section 42 of chapter 71 within 3 days of receipt of petition and shall conduct and complete a  
261 hearing within 10 days of receipt of the petition; provided, further, that in reviewing dismissal  
262 decisions, the arbitrator shall consider the components of the turnaround plan and shall also  
263 consider any personnel evaluations conducted that are consistent with the guidelines established  
264 pursuant to section 1B; and provided, further, that the arbitrator's decision shall be issued within  
265 10 days from the completion of the hearing.

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

270 (e) Within 30 days of the local stakeholder group making recommendations under  
271 subsection (b), the superintendent shall submit a turnaround plan to the local stakeholder group,  
272 the school committee and the commissioner, all of whom may propose modifications to the plan.  
273 The superintendent shall make such plan immediately available to the public upon the  
274 submission. The stakeholder group, the school committee and the commissioner shall submit any  
275 proposed modifications to the superintendent not more than 30 days after the date of submission  
276 of the turnaround plan and the proposed modifications shall be made public immediately upon  
277 their submission to the superintendent. The superintendent shall consider and may incorporate  
278 the modifications into the plan if the superintendent determines that inclusion of the  
279 modifications would further promote the rapid academic achievement of students at the school or  
280 may alter or reject the proposed modifications submitted under this subsection. Within 30 days  
281 of receiving any proposed modifications under this subsection, the superintendent shall issue a  
282 final turnaround plan for the school and the plan shall be made publicly available.

283 (f) Within 30 days of the issuance of a final turnaround plan under subsection (e) a school  
284 committee or local union may appeal to the commissioner regarding 1 or more components of  
285 the plan, including the absence of 1 or more modifications proposed under subsection (e). The  
286 commissioner may, in consultation with the superintendent, modify the plan if the commissioner  
287 determines that: (1) such modifications would further promote the rapid academic achievement  
288 of students in the applicable school; (2) a component of the plan was included, or a modification

289 was excluded, on the basis of demonstrably-false information or evidence; or (3) the  
290 superintendent failed to meet the requirements of subsections (b) to (e), inclusive. The decision  
291 of the commissioner regarding an appeal under this subsection shall be made within 30 days and  
292 shall be final. (g) If, after considering the recommendations of the group of stakeholders, the  
293 superintendent considers it necessary to maximize the rapid academic achievement of students at  
294 the applicable school by altering the compensation, hours and working conditions of the  
295 administrators, teachers, principal and staff at the school or by altering other provisions of a  
296 contract or collective bargaining agreement applicable to the administrators, teachers, principal  
297 and staff, the superintendent may request that the school committee and any union bargain or  
298 reopen the bargaining of the relevant collective bargaining agreement to facilitate such  
299 achievement. The bargaining shall be conducted in good faith and completed not later than 30  
300 days from the point at which the superintendent requested that the parties bargain. The  
301 agreement shall be subject to ratification within 10 business days by the bargaining unit members  
302 in the school. If the parties are unable to reach an agreement within 30 days or if the agreement  
303 is not ratified within 10 business days by the bargaining unit members of the school, the parties  
304 shall submit remaining unresolved issues a joint resolution committee for dispute resolution  
305 process on the next business day following the end of the 30-day bargaining period or failure to  
306 ratify.

307         The joint resolution committee shall be comprised of 3 members, 1 of whom shall be  
308 appointed by the employee organization within 3 business days following the submission of  
309 unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the school  
310 committee within 3 business days following the submission of unresolved issues to the joint  
311 resolution committee and 1 who shall be selected through the American Arbitration Association

312 who shall forthwith forward to the parties a list of 3 conciliators, each of whom shall have  
313 professional experience in elementary and secondary education, from which the parties may  
314 agree upon a single conciliator provided, however, that if the parties cannot select a conciliator  
315 from among the 3 within 3 business days, the American Arbitration Association shall select a  
316 conciliator from the remaining names. The joint resolution committee shall conduct a dispute  
317 resolution process to be concluded within 10 business days of selection. This process shall be  
318 conducted in accordance with the rules of the American Arbitration Association and consistent  
319 with this section. The fee for the process shall be shared equally between the 2 parties involved.

320         The joint resolution committee shall consider the positions of the parties, the designation  
321 of the school as underperforming and the needs of the students in the school. Notwithstanding  
322 any other provision of this chapter, the decision of the joint resolution committee shall be  
323 dispositive of all the issues in dispute and shall be submitted to the parties within 10 business  
324 days of the completion of the process. Under no circumstance, shall a time extension be granted  
325 beyond 10 business days of the completion of the process. If a decision is not submitted to the  
326 parties within 10 business days, the commissioner will resolve all outstanding issues.

327         (h) The superintendent may select an external receiver to operate the school and  
328 implement the turnaround plan or to assist the superintendent with the implementation. The  
329 superintendent may appoint the receiver if the superintendant determines that conditions exist in  
330 the district that are likely to negatively affect his ability to implement the plan successfully. A  
331 school committee may appeal to the commissioner the decision of the superintendent to appoint  
332 an external receiver. The commissioner may reverse such decision only if he determines that  
333 the superintendent made the decision on the basis of demonstrably-false information or evidence.  
334 A receiver shall be a non-profit entity or an individual with a demonstrated record of success in

335 improving low-performing schools or the academic performance of disadvantaged students. A  
336 receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an  
337 individual shall also be subject to chapter 268A.

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

342 (j) Each turnaround plan shall be authorized for a period of not more than 3 years,  
343 subject to subsection (k). The superintendent or external receiver, as applicable, may develop  
344 additional components of the turnaround plan pursuant to subsections (b) to (g) inclusive and  
345 shall develop annual goals for each component of the plan, in a manner consistent with  
346 subsections (b) to (g), inclusive. The superintendent or external receiver, as applicable, shall be  
347 responsible for meeting the goals of the plan.

348 (k) Each school designated by the commissioner as underperforming under subsection (a)  
349 shall be reviewed by the superintendent, in consultation with the principal of the school, at least  
350 annually. The purpose of the review shall be to determine whether the school has met the annual  
351 goals in its turnaround plan and to assess the overall implementation of the turnaround plan. The  
352 review shall be in writing and shall be submitted to the commissioner and the relevant school  
353 committee not later than July 1 for the preceding school year. The review shall be submitted in a  
354 format determined by the department of elementary and secondary education.

355 If the commissioner determines that the school has met the annual performance goals  
356 stated in the turnaround plan, the review shall be considered sufficient and the implementation of



357 the turnaround plan shall continue. If the commissioner determines that the school has not met 1  
358 or more goals in the turnaround plan and that the failure to meet the goals may be corrected  
359 through reasonable modification of the plan, the superintendent may amend the turnaround plan  
360 in a manner consistent with the provisions of subsection (b) to (g) inclusive. If the commissioner  
361 determines that the school has substantially failed to meet 1 or more goals in the plan, the  
362 commissioner may appoint an examiner to conduct an evaluation of the school's implementation  
363 of the turnaround plan.

364 If the commissioner determines that the school has substantially failed to meet multiple  
365 goals in the plan, the commissioner may require changes to the turnaround plan to be  
366 implemented by the superintendent in the following year or the appointment of an external  
367 partner to advise and assist the superintendent in implementing the plan the following year. If  
368 the changes to the turnaround plan require changes in a collective bargaining agreement  
369 applicable to administrators, teachers or staff in the school, the bargaining procedure in  
370 subsection (g) shall be used. If an underperforming school is operated by an external receiver,  
371 the commissioner may require the superintendent to terminate the receiver and develop a new  
372 turnaround plan; provided, however, that the superintendent shall not terminate the receiver  
373 before the completion of the first full school year of the operation of the underperforming school.

374 (l) Upon the expiration of a turnaround plan, the commissioner shall conduct a review of  
375 the school to determine whether the school has improved sufficiently, requires further  
376 improvement or has failed to improve. On the basis of such review, the commissioner may  
377 determine that: (1) the school has improved sufficiently for the designation of the school as  
378 underperforming to be removed; (2) the school has improved, but the school remains  
379 underperforming, in which case the superintendent may, with the approval of the commissioner,

380 renew the plan or create a new or modified plan for an additional period of not more than 3  
381 years, consistent with the requirements of subsections (a) to (g); or (3) consistent with the  
382 requirements of subsection (a),the school is chronically underperforming. The commissioner  
383 may recommend the appointment of an external receiver by the superintendent if the  
384 commissioner believes that a new or modified turnaround plan implemented by the  
385 superintendent will not result in rapid improvement. In carrying out this subsection, the  
386 superintendent shall: (1) in the case of a renewal of a turnaround plan, determine subsequent  
387 annual goals for each component of the plan with the input of the local stakeholder group as  
388 defined in subsection (b); or (2) create a new or modified turnaround plan as necessary,  
389 consistent with the requirements of this section.

390 (m) Upon the designation of a school as a chronically underperforming school in  
391 accordance with the regulations developed under this section, the commissioner shall create a  
392 turnaround plan for the school under this subsection and subsections (n) to (p), inclusive.

393 Before creating the turnaround plan required in this subsection, the commissioner shall  
394 convene a local stakeholder group of not more than 13 individuals for the purpose of soliciting  
395 recommendations on the content of such plan in order to maximize the rapid academic  
396 achievement of students. The commissioner shall provide due consideration to the  
397 recommendations of the stakeholder group. The group shall include: (1) the superintendent, or a  
398 designee; (2) the chair of the school committee, or a designee; (3) the president of the local  
399 teacher's union, or a designee; (4) an administrator from the school, who may be the principal,  
400 chosen by the superintendent; (5) a teacher from the school chosen by the faculty of the school;  
401 (6) a parent from the school chosen by the local parent organization; (7) representatives of  
402 applicable state and local social service, health and child welfare agencies, chosen by the

403 commissioner; (8) as appropriate, representatives of state and local workforce development  
404 agencies, chosen by the commissioner; (9) for elementary schools, a representative of an early  
405 education and care provider chosen by the commissioner of the department of early education  
406 and care and, for middle schools or high schools, a representative of the higher education  
407 community selected by the secretary of education; and (10) a member of the community  
408 appointed by the chief executive of the city or town. If the school or district does not have a  
409 parent organization or if the organization does not select a parent, the commissioner shall select a  
410 volunteer parent of a student from the school. The commissioner shall convene the group within  
411 30 days of the designation of a school as chronically underperforming and the group shall make  
412 its recommendations to the commissioner within 45 days of its initial meeting. Meetings of the  
413 local stakeholder group shall be open to the public and the recommendations submitted to the  
414 commissioner under this subsection shall be publicly available immediately upon their  
415 submission.

416 (n) In creating the turnaround plan required in subsection (m), the commissioner shall  
417 include, after considering the recommendations of the local stakeholder group, provisions  
418 intended to maximize the rapid academic achievement of students at the school and shall, to the  
419 extent practicable, base the plan on student outcome data, including, but not limited to: (1) data  
420 collected under section 1I or information from a school or district review performed under  
421 section 55A of chapter 15; (2) student achievement on the Massachusetts Comprehensive  
422 Assessment System; (3) other measures of student achievement, approved by the commissioner,  
423 as appropriate; (4) student promotion and graduation rates; (5) achievement data for different  
424 subgroups of students, including low-income students as defined by chapter 70, limited English-

425 proficient students and students receiving special education; and (6) student attendance  
426 ,dismissal rates and exclusion rates.

427         The commissioner shall include in the creation of the turnaround plan, after considering  
428 the recommendations of the local stakeholder group, the following: (1) steps to address social  
429 service and health needs of students at the school, and their families, in order to help students  
430 arrive and remain at school ready to learn; provided, however, that this may include mental  
431 health and substance abuse screening; (2) steps to improve or expand child welfare services and,  
432 as appropriate, law enforcement services in the school community, in order to promote a safe and  
433 secure learning environment; (3) steps to improve workforce development services provided to  
434 students at the school, and their families, in order to provide students and families with  
435 meaningful employment skills and opportunities; (4) steps to address achievement gaps for  
436 limited English-proficient, special education and low-income students; (5) alternative English  
437 language learning programs for limited-English proficient students, notwithstanding chapter  
438 71A; and (6) a financial plan for the school, including any additional funds to be provided by the  
439 district, commonwealth, federal government or other sources.

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

447 In order to assess the school across multiple measures of school performance and student  
448 success, the turnaround plan shall include measurable annual goals including, but not limited to,  
449 the following: (1) student attendance ,dismissal rates and exclusion rates; (2) student safety and  
450 discipline; (3) student promotion and graduation and dropout rates; (4) student achievement on  
451 the Massachusetts Comprehensive Assessment System; (5) progress in areas of academic  
452 underperformance; (6) progress among subgroups of students, including low-income students as  
453 defined by chapter 70, limited English-proficient students and students receiving special  
454 education; (7) reduction of achievement gaps among different groups of students; (8) student  
455 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at  
456 the elementary and middle school levels; (10) parent and family engagement; (11) building a  
457 culture of academic success among students; (12) building a culture of student support and  
458 success among school faculty and staff; and (13) developmentally appropriate child assessments  
459 from pre-kindergarten through third grade, if applicable.

460 (o) Notwithstanding any general or special law to the contrary, in creating the turnaround  
461 plan required in subsection (m), the commissioner may, after considering the recommendations  
462 of the group of stakeholders: (1) expand, alter or replace the curriculum and program offerings of  
463 the school, including the implementation of research-based early literacy programs, early  
464 interventions for struggling readers and the teaching of advanced placement courses or other  
465 rigorous nationally or internationally recognized courses, if the school does not already have  
466 such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide  
467 additional funds to the school from the budget of the district, if the school does not already  
468 receive funding from the district at least equal to the average per pupil funding received for  
469 students of the same classification and grade level in the district; (4) provide funds, subject to

470 appropriation, to increase the salary of an administrator ,or teacher in the school, in order to  
471 attract or retain highly-qualified administrators or teachers or to reward administrators,. or  
472 teachers who work in chronically underperforming schools that achieve the annual goals set forth  
473 in the turnaround plan; (5) expand the school day or school year or both of the school; (6) for an  
474 elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not  
475 already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or  
476 collective bargaining agreement, as the contract or agreement applies to the school; provided,  
477 however, that the commissioner shall not reduce the compensation of an administrator, teacher or  
478 staff member unless the hours of the person are proportionately reduced; and provided further,  
479 that the commissioner may require the school committee and any applicable unions to bargain in  
480 good faith for 30 days before exercising authority pursuant to this clause; (8) following  
481 consultation with applicable local unions, require the principal and all administrators, teachers  
482 and staff to reapply for their positions in the school, with full discretion vested in the  
483 superintendent regarding his consideration of and decisions on rehiring based on the  
484 reapplications; (9) limit, suspend or change 1 or more school district policies or practices, as  
485 such policies or practices relate to the school; (10) include a provision of job-embedded  
486 professional development for teachers at the school, with an emphasis on strategies that involve  
487 teacher input and feedback; (11) provide for increased opportunities for teacher planning time  
488 and collaboration focused on improving student instruction; (12) establish a plan for professional  
489 development for administrators at the school, with an emphasis on strategies that develop  
490 leadership skills and use the principles of distributive leadership; (13) establish steps to assure a  
491 continuum of high expertise teachers by aligning the following processes with the common core  
492 of professional knowledge and skill: hiring, induction, teacher evaluation, professional

493 development, teacher advancement, school culture and organizational structure; (14) develop a  
494 strategy to search for and study best practices in areas of demonstrated deficiency in the school;  
495 (15) establish strategies to address mobility and transiency among the student population of the  
496 school; and (16) include additional components, at the discretion of the commissioner, based on  
497 the reasons the school was designated as chronically underperforming and the recommendations  
498 of the local stakeholder group in subsection (m).

499         If the commissioner does not approve a reapplication submitted by an employee pursuant  
500 to clause (7) for a position in the school or if an employee does not submit a reapplication for a  
501 position in the school, the employee shall retain such rights as may be provided under law or any  
502 applicable collective bargaining agreement, in relation to the employee's ability to fill another  
503 position in the district; provided, however, that the employee shall not have the right to displace  
504 any teacher with professional teacher status in any other school during a school year.

505         A teacher with professional teacher status in a school declared underperforming or  
506 chronically underperforming may be dismissed for good cause; provided, however, that the  
507 teacher receives 5 days written notice of the decision to terminate which shall include without  
508 limitation an explanation of the reason why the commissioner or superintendent is not retaining  
509 the teacher in the school; provided, further, that the teacher may seek review of a termination  
510 decision within 5 days after receiving notice of the teacher's termination by filing a petition for  
511 expedited arbitration with the commissioner; provided further, that except as otherwise provided  
512 herein section 42 of chapter 71 shall apply to a petition filed pursuant to this section; provided  
513 further, that the commissioner shall cause an arbitrator to be selected pursuant to the procedures  
514 in section 42 of chapter 71 within 3 days of receipt of petition and shall conduct and complete a  
515 hearing within 10 days of receipt of the petition; provided, further, that in reviewing dismissal

516 decisions, the arbitrator shall consider the components of the turnaround plan and shall also  
517 consider any personnel evaluations conducted that are consistent with the guidelines established  
518 pursuant to section 1B; and provided, further, that the arbitrator's decision shall be issued within  
519 10 days from the completion of the hearing.

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

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

527 (p) Within 30 days of the local stakeholder group making recommendations under  
528 subsection (m), the commissioner shall submit a turnaround plan to the local stakeholder group,  
529 the superintendent and the school committee, all of whom may propose modifications to the  
530 plan. The commissioner shall make the plan immediately available to the public upon  
531 submission. The stakeholder group, the superintendent and the school committee shall submit  
532 any proposed modifications to the commissioner within 30 days after the date of submission of  
533 the turnaround plan and the proposed modifications shall be made public immediately upon their  
534 submission to the commissioner. The commissioner shall consider and incorporate the  
535 modifications into the plan if the commissioner determines that inclusion of the modifications  
536 would further promote the rapid academic achievement of students at the applicable school. The  
537 commissioner may alter or reject modifications submitted pursuant to this subsection. Within 30



538 days of receiving any proposed modifications, the commissioner shall issue a final turnaround  
539 plan for the school and the plan shall be made publicly available.

540 (q) Within 30 days of the issuance of a final turnaround plan under subsection (p), a  
541 superintendent, school committee or local union may appeal to the board of elementary and  
542 secondary education regarding 1 or more components of the plan, including the absence of 1 or  
543 more modifications proposed under subsection (p). A majority of the board, may vote to modify  
544 the plan if the board determines that: (1) such modifications would further promote the rapid  
545 academic achievement of students in the applicable school; (2) a component of the plan was  
546 included, or a modification was excluded, on the basis of demonstrably-false information or  
547 evidence; or (3) the commissioner failed to meet the requirements of subsections (m) to (p),  
548 inclusive. The decision of the board regarding an appeal under this subsection shall be made  
549 within 30 days and shall be final.

550 (r) In the case of a chronically underperforming school, the commissioner may, under the  
551 circumstances described in this subsection, send a targeted assistance team to the school to assist  
552 the superintendent with the implementation of the turnaround plan, require the superintendent to  
553 implement the turnaround plan, or select an external receiver to operate the school and  
554 implement the turnaround plan. The commissioner may appoint such receiver if the  
555 commissioner determines that: (1) the superintendent is unlikely to implement the plan  
556 successfully; or (2) conditions exist in the district that are likely to negatively affect the ability of  
557 the superintendent to implement such plan successfully. A receiver shall be a non-profit entity or  
558 an individual with a demonstrated record of success in improving low performing schools or the  
559 academic performance of disadvantaged students. A receiver shall be subject to section 11A½ of

560 chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter  
561 268A.

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

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

569 (t) Each turnaround plan shall be authorized for a period of not more than 3 years, subject  
570 to subsection (v). The superintendent or external receiver, as applicable, may develop additional  
571 components of the plan and shall develop annual goals for each component of the plan in a  
572 manner consistent with subsection (n), all of which must be approved by the commissioner. The  
573 superintendent or external receiver, as applicable, shall be responsible for meeting the goals of  
574 the turnaround plan.

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

579 (v) The commissioner shall evaluate each chronically underperforming school at least  
580 annually. The purpose of the evaluation shall be to determine whether the school has met the  
581 annual goals in its turnaround plan and assess the implementation of the plan at the school. The

582 review shall be in writing and shall be submitted to the superintendent and the school committee  
583 not later than July 1 for the preceding school year. The review shall be submitted in a format  
584 determined by the department of elementary and secondary education.

585         If the commissioner determines that the school has met the annual performance goals  
586 stated in the turnaround plan, the review shall be considered sufficient and the implementation of  
587 the turnaround plan shall continue. If the commissioner determines that the school has not met 1  
588 or more goals in the plan, the commissioner may modify the plan in a manner consistent with  
589 subsection (n).

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

596         (w) Upon the expiration of a turnaround plan for a chronically underperforming school,  
597 the commissioner shall conduct a review of the school to determine whether the school has  
598 improved sufficiently, requires further improvement or has failed to improve. On the basis of  
599 such review, the commissioner may: (1) on the basis of a superintendent's or external receiver's  
600 success in meeting the terms of the plan, renew the plan with the superintendent or external  
601 receiver for an additional period of not more than 3 years; (2) if a school that is operated by a  
602 superintendent and remains chronically underperforming, appoint an external receiver, as defined  
603 in subsection (r), to operate the school; (3) if a chronically underperforming school that is

604 operated by an external receiver and remains chronically underperforming, transfer the operation  
605 of the school from the receiver to the applicable superintendent or to another external receiver; or  
606 (4) determine that the school has improved sufficiently for the designation of chronically  
607 underperforming to be removed. The commissioner shall: (1) in the case of a renewal of an  
608 turnaround plan, jointly determine subsequent annual goals for each component of the plan with  
609 the superintendent or external receiver, as applicable; or (2) create a new or modified turnaround  
610 plan as necessary, consistent with the requirements of this section.

611 (x) Notwithstanding any general or special law to the contrary, any underperforming or  
612 chronically underperforming school operating a limited-English proficient program or programs  
613 for limited English proficient students in any 1 language group shall establish a limited English  
614 proficient parent advisory council. The parent advisory council shall be comprised of parents or  
615 legal guardians of students who are enrolled in limited English proficient programs within the  
616 school. Each parent advisory council shall have at least 1 representative from every language  
617 group in which a program is conducted in a given school. Membership shall be restricted to  
618 parents or legal guardians of students enrolled in limited English proficient programs within the  
619 school. The duties of the parent advisory council shall include, but not be limited to, advising the  
620 school on matters that pertain to the education of students in limited English proficient programs,  
621 meeting regularly with school officials to participate in the planning and development of a plan  
622 to improve educational opportunities for limited English proficient students, and to participate in  
623 the review of school improvement plans established under section 59C of chapter 71 as they  
624 pertain to limited English proficient students. Any parent advisory council may, at its request,  
625 meet at least once annually with the school council. The parent advisory council shall establish  
626 by-laws regarding officers and operational procedures. In the course of its duties under this

627 section, the parent advisory council shall receive assistance from the director of limited English  
628 proficient programs for the district or other appropriate school personnel as designated by the  
629 superintendent.

630 (y)The board of elementary and secondary education shall adopt regulations regarding:

631 (1) the conditions under which an underperforming or chronically underperforming school shall

632 no longer be designated as an underperforming or chronically underperforming school; and (2)

633 the transfer of the operation of an underperforming or a chronically underperforming school

634 from a superintendent or an external receiver, as applicable, to the school committee. The

635 regulations shall include provisions to allow a school to retain measures adopted in an

636 turnaround plan for a transitional period if, in the judgment of the commissioner, the measures

637 would contribute to the continued improvement of the school. Such regulations shall also include

638 provisions that clearly identify the conditions under which such a transitional period shall end

639 and the powers granted to the commissioner and board under this section shall cease to apply to a

640 district previously designated as chronically underperforming.

641 (z) The commissioner shall report annually to the joint committee on education, the house

642 and senate committees on ways and means, the speaker of the house of representatives and the

643 senate president on the implementation and fiscal impact of this section and section 1K. The

644 report shall include, but not be limited to, a list of all schools currently designated as

645 underperforming or chronically underperforming, a list of all districts currently designated as

646 chronically underperforming, the plans and timetable for returning the schools and districts to the

647 local school committee and strategies used in each of the schools and districts to maximize the

648 rapid academic achievement of students.

649 Section 1K. (a) A district shall be deemed eligible for designation as chronically  
650 underperforming upon a determination by the board of elementary and secondary education,  
651 pursuant to regulations adopted by the board, that a school district, other than a single school  
652 district, has scored in the lowest 10 per cent statewide when compared to other districts of the  
653 same grade levels based on a single measure developed by the department that takes into account  
654 student achievement data collected pursuant to 1I, and, beginning on July 1, 2011, improvement  
655 over time in student academic achievement. Following such determination, the commissioner  
656 shall appoint a district review team pursuant to section 55A of chapter 15 to assess and report on  
657 the reasons for the underperformance and the prospects for improvement, unless such an  
658 assessment has been completed by a district review team within the previous year that the  
659 commissioner considers adequate. The district review team shall include at least 1 person with  
660 expertise in the academic achievement of limited English-proficient students. Upon review of  
661 the findings of the district review team, the board may declare the district chronically  
662 underperforming.

663 Following such a declaration, the board shall designate a receiver for the district with all  
664 the powers of the superintendent and school committee. The receiver shall be a non-profit entity  
665 or an individual with a demonstrated record of success in improving low-performing schools or  
666 districts or the academic performance of disadvantaged students who shall report directly to the  
667 commissioner. An external receiver designated by the board to operate a district under this  
668 subsection shall have full managerial and operational control over such district; provided,  
669 however, that the school district shall remain the employer of record for all other purposes. A  
670 receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an  
671 individual shall also be subject to chapter 268A.

672 Not more than 2.5 per cent of the total number of school districts may be designated as  
673 chronically underperforming at any given time.

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

681 (b) The commissioner and the receiver shall jointly create an turnaround plan to promote  
682 the rapid improvement of the chronically underperforming district. The plan shall specifically  
683 focus on the school or schools in the district that have been designated as chronically  
684 underperforming under section 1J and the district policies or practices that have contributed to  
685 chronic underperformance.

686 Before creating the turnaround plan required in this subsection, the commissioner and  
687 receiver shall convene a local stakeholder group of not more than 13 individuals for the purpose  
688 of soliciting recommendations on the content of such plan in order to maximize the rapid  
689 improvement of the academic achievement of students. The commissioner shall provide due  
690 consideration to the recommendations of the local stakeholder group. The group shall include:  
691 (1) the superintendent, or a designee; (2) the chair of the school committee, or a designee; (3) the  
692 president of the local teacher's union, or a designee; (4) a selection of administrators from the  
693 district, chosen by the commissioner from among volunteers from the district; (5) a selection of

694 teachers from the district, chosen by the local teacher’s union; (6) a selection of parents from the  
695 district chosen by the local parent organization; (7) representatives of applicable state and local  
696 social service, health, and child welfare agencies chosen by the commissioner; (8) as appropriate,  
697 representatives of state and local workforce development agencies chosen by the commissioner;  
698 (9) a representative of an early education and care provider chosen by the commissioner of the  
699 department of early education and care, or for middle or high schools, a representative of the  
700 higher education community selected by the secretary of education; and (10) a member of the  
701 community appointed by the chief executive of the city or town. If the district does not have a  
702 parent organization or if the organization does not select a parent, the commissioner shall select a  
703 volunteer parent of a student from the district. The commissioner and receiver shall convene the  
704 group within 30 days of the board designating a district as chronically underperforming and the  
705 group shall make its recommendations to the commissioner and receiver within 45 days of its  
706 initial meetings. Meetings of the local stakeholder group shall be open to the public and the  
707 recommendations submitted to the commissioner and receiver shall be publicly available  
708 immediately upon their submission.

709 (c) In creating the turnaround plan, the commissioner and receiver shall include measures  
710 intended to maximize the rapid improvement of the academic achievement of students in the  
711 district and shall, to the extent practicable, base the plan on student outcome data, including, but  
712 not limited to: (1) data collected pursuant to section 1I, or information from a school or district  
713 review performed under section 55A of chapter 15; (2) student achievement on the  
714 Massachusetts Comprehensive Assessment System; (3) other measures of student achievement,  
715 approved by the commissioner; (4) student promotion and graduation rates; (5) achievement  
716 data for different subgroups of students, including low-income students as defined in chapter 70,



717 limited English-proficient students and students receiving special education; and (6) student  
718 attendance, dismissal rates and exclusion rates. In creating the turnaround plan required in  
719 subsection (b), the commissioner and receiver shall include, after considering the  
720 recommendations of the local stakeholder group, the following: (1) steps to address social  
721 service and health needs of students in the district and their families in order to help students  
722 arrive and remain at school ready to learn; provided, however, that this may include mental  
723 health and substance abuse screening; (2) steps to improve or expand child welfare services and,  
724 as appropriate, law enforcement services in the school district community, in order to promote a  
725 safe and secure learning environment; (3) as applicable, steps to improve workforce development  
726 services provided to students in the district and their families in order to provide students and  
727 families with meaningful employment skills and opportunities; (4) steps to address achievement  
728 gaps for limited English-proficient, special education and low-income students, as applicable; (5)  
729 alternative English language learning programs for limited-English proficient students,  
730 notwithstanding chapter 71A; and (6) a budget for the district including any additional funds to  
731 be provided by the commonwealth, federal government or other sources.

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

739 In order to assess the district across multiple measures of district performance and student  
740 success, the turnaround plan shall include measurable annual goals including, but not limited to,  
741 the following: (1) student attendance , dismissal rates and exclusion rates; (2) student safety and  
742 discipline; (3) student promotion and graduation and dropout rates; (4) student achievement on  
743 the Massachusetts Comprehensive Assessment System; (5) progress in areas of academic  
744 underperformance; (6) progress among subgroups of students, including low-income students as  
745 defined by chapter 70, limited English-proficient students and students receiving special  
746 education; (7) reduction of achievement gaps among different groups of students; (8) student  
747 acquisition and mastery of 21st-century skills; (9) development of college readiness, including at  
748 the elementary and middle school levels; (10) parent and family engagement; (11) building a  
749 culture of academic success among students; (12) building a culture of student support and  
750 success among faculty and staff; and (13) developmentally appropriate child assessments from  
751 pre-kindergarten through third grade, if applicable.

752 (d) Notwithstanding any general or special law to the contrary, in creating the turnaround  
753 plan under subsection (b), the commissioner and the receiver may, after considering the  
754 recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum and  
755 program offerings of the district or of a school in the district, including the implementation of  
756 research-based early literacy programs, early interventions for struggling readers and the  
757 teaching of advanced placement courses or other rigorous nationally or internationally  
758 recognized courses, if the district or schools in the district do not already have such programs or  
759 courses; (2) reallocate the uses of the existing budget of the district; (3) provide funds, subject to  
760 appropriation, to increase the salary of an administrator, or teacher in the district working in an  
761 underperforming or chronically underperforming school, in order to attract or retain highly-

762 qualified administrators, or teachers or to reward administrators or teachers who work in  
763 chronically underperforming districts that achieve the annual goals set forth in the turnaround  
764 plan; (4) expand the school day or school year or both of schools in the district; (5) limit,  
765 suspend or change 1 or more provisions of any contract or collective bargaining agreement in the  
766 district, including the adoption of model provisions identified by the commissioner from among  
767 existing contracts or collective bargaining agreements in the commonwealth; provided, however,  
768 that the commissioner shall not reduce the compensation of an administrator, teacher or staff  
769 member unless the hours of the person are proportionately reduced; (6) add pre-kindergarten and  
770 full-day kindergarten classes, if the district does not already have the classes; (7) following  
771 consultation with applicable local unions, require the principal and all administrators, teachers  
772 and staff to reapply for their positions in the district, with full discretion vested in the receiver  
773 regarding any such reapplications. turnaround plan; (8) limit, suspend or change 1 or more  
774 school district policies or practices, as such policies or practices relate to the underperforming  
775 schools in the district; (9) include a provision of job-embedded professional development for  
776 teachers in the district, with an emphasis on strategies that involve teacher input and feedback;  
777 (10) provide for increased opportunities for teacher planning time and collaboration focused on  
778 improving student instruction; (11) establish a plan for professional development for  
779 administrators in the district, with an emphasis on strategies that develop leadership skills and  
780 use the principles of distributive leadership; (12) establish steps to assure a continuum of high  
781 expertise teachers by aligning the following processes with the common core of professional  
782 knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher  
783 advancement, school culture and organizational structure; (13) develop a strategy to search for  
784 and study best practices in areas of demonstrated deficiency in the district; (14) establish

785 strategies to address mobility and transiency among the student population of the district; and  
786 (15) include additional components, at the discretion of the commissioner and the receiver,  
787 based on the reasons the district was designated as chronically underperforming and based on  
788 the recommendations of the local stakeholder group in subsection (b).

789         If the commissioner does not approve a reapplication submitted by an employee pursuant  
790 to clause (7) for a position in a school or if an employee does not submit a reapplication for a  
791 position in a school, the employee shall retain such rights as may be provided under law or any  
792 applicable collective bargaining agreement in relation to the employee's ability to fill another  
793 position in the district; provided, however, that the employee shall not have the right to displace  
794 any teacher with professional teacher status in any other school during a school year.

795         A teacher with professional teacher status in a school declared underperforming or  
796 chronically underperforming may be dismissed for good cause; provided, however, that the  
797 teacher receives 5 days written notice of the decision to terminate which shall include without  
798 limitation an explanation of the reason why the commissioner/superintendent is not retaining the  
799 teacher in the school; provided, further, that the teacher may seek review of a termination  
800 decision within 5 days after receiving notice of the teacher's termination by filing a petition for  
801 expedited arbitration with the commissioner; provided, further, that except as otherwise provided  
802 herein section 42 of chapter 71 shall apply to a petition filed pursuant to this section; provided  
803 further, that the commissioner shall cause an arbitrator to be selected pursuant to the procedures  
804 in section 42 of chapter 71 within 3 days of receipt of petition and shall conduct and complete a  
805 hearing within 10 days of receipt of the petition; provided further, that in reviewing dismissal  
806 decisions, the arbitrator shall consider the components of the turnaround plan and shall also  
807 consider any personnel evaluations conducted that are consistent with the guidelines established

808 pursuant to section 1B; and provided, further, that the arbitrator's decision shall be issued within  
809 10 days from the completion of the hearing.

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

814 (e) if, after considering the recommendations of the group of stakeholders, pursuant to  
815 subsection (d) the commissioner considers it necessary to maximize the rapid academic  
816 achievement of students at an underperforming or chronically underperforming school by  
817 altering the compensation, hours and working conditions of the administrators, teachers,  
818 principals and staff at the school or by altering other provisions of a contract or collective  
819 bargaining agreement applicable to the administrators, teachers, principals and staff, the  
820 commissioner may request that the school committee and any union bargain or reopen the  
821 bargaining of the relevant collective bargaining agreements to facilitate such achievement. The  
822 bargaining shall be conducted in good faith and completed not later than 30 days from the point  
823 at which the commissioner requested that the parties bargain. The agreement shall be subject to  
824 ratification within 10 business days by the bargaining unit members in the school. If the parties  
825 are unable to reach an agreement within 30 days or if the agreement is not ratified within 10  
826 business days by the bargaining unit members of the school, the parties shall submit remaining  
827 unresolved issues to a joint resolution committee for dispute resolution process on the next  
828 business day following the end of the 30 day bargaining period or failure to ratify.

829           The joint resolution committee shall be comprised of 3 members, 1 of whom shall be  
830 appointed by the employee organization within 3 business days following the submission of  
831 unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the school  
832 committee within 3 business days following the submission of unresolved issues to the joint  
833 resolution committee and 1 who shall be selected through the American Arbitration Association  
834 who shall forthwith forward to the parties a list of three conciliators, each of whom shall have  
835 professional experience in elementary and secondary education, from which the parties may  
836 agree upon a single conciliator; provided, however, that if the parties cannot select a conciliator  
837 from among the 3 within 3 business days, the American Arbitration Association shall select a  
838 conciliator from the remaining names. The joint resolution committee shall conduct a dispute  
839 resolution process to be concluded within 10 business days of selection. This process shall be  
840 conducted in accordance with the rules of the American Arbitration Association and consistent  
841 with this section; provided however, that all members of the joint resolution committee must  
842 agree to any resolution. The fee for the process shall be shared equally between the 2 parties  
843 involved.

844           The joint resolution committee shall consider the positions of the parties, the designation  
845 of the school as underperforming or chronically underperforming, the designation of the district  
846 as chronically underperforming, and the needs of the students in the school. Notwithstanding  
847 any other provision of this chapter, the unanimous decision of the joint resolution committee  
848 shall be dispositive of all the issues in dispute and shall be submitted to the parties within 10  
849 business days of the close of the hearing. Under no circumstance, shall a time extension be  
850 granted beyond 10 business days of the close of the hearing. In the event that a unanimous

851 decision is not submitted to the parties within 10 business days, the commissioner will resolve all  
852 outstanding issues.

853 (f) The turnaround plan shall be authorized for a period of not more than 3 years, subject  
854 to subsection (g). The commissioner and receiver may jointly develop additional components of  
855 the plan and shall jointly develop annual goals for each component of the plan in a manner  
856 consistent with the provisions of subsection (d). The receiver shall be responsible for meeting  
857 the goals of the turnaround plan.

858 (g) The commissioner and receiver shall provide a written report to the school committee  
859 on a quarterly basis to provide specific information about the progress being made on the  
860 implementation of the district's turnaround plan. One of the quarterly reports shall be the annual  
861 evaluation required in subsection (g).

862 (h) The commissioner shall evaluate the performance of the receiver on not less than an  
863 annual basis. The purpose of such evaluation shall be to assess the implementation of the  
864 turnaround plan and determine whether the district has met the annual goals contained in the  
865 turnaround plan. The evaluation shall be in writing and submitted to the board and the local  
866 school committee no later than July 1 for the preceding school year.

867 If the commissioner determines that the district has met the annual performance goals  
868 stated in the turnaround plan, the evaluation shall be considered sufficient and the  
869 implementation of the turnaround plan shall continue.

870 If the commissioner determines that the receiver has not met 1 or more goals in the plan  
871 and the failure to meet the goals may be corrected through reasonable modification of the plan,  
872 the commissioner may amend the turnaround plan, as necessary. After assessing the

873 implementation of the turnaround plan in the district, the commissioner may amend the plan if  
874 the commissioner determines that the amendment is necessary in view of subsequent changes in  
875 the district that affect 1 or more components of the plan, including, but not limited to, changes to  
876 contracts, collective bargaining agreements, or school district policies, in manner consistent with  
877 the provisions of subsection (d). If the commissioner determines that the receiver has  
878 substantially failed to meet multiple goals in the turnaround plan, the commissioner may  
879 terminate such receiver; provided, however, that the termination shall not occur before the  
880 completion of the first full school year of the receivership of the district.

881 (i) After the period of receivership, there shall be a reevaluation of a district's status  
882 under this section. The board of elementary and secondary education shall adopt regulations  
883 providing for: (1) the removal of a designation of a district as chronically underperforming; and  
884 (2) the transfer of the operation of a chronically underperforming district from an external  
885 receiver to the superintendent and school committee, based on the improvement of the district.  
886 The regulations shall include provisions to allow a district to retain measures adopted in a  
887 turnaround plan for a transitional period if, in the judgment of the commissioner, the measures  
888 would contribute to the continued improvement of the district. Such regulations shall also  
889 include provisions that clearly identify the conditions under which such a transitional period  
890 shall end and the powers granted to the commissioner and board under this section shall cease to  
891 apply to a district previously designated as chronically underperforming. At any time after a  
892 chronically underperforming district has been placed in receivership, the school committee of the  
893 district may petition the commissioner for a determination as to whether the turnaround plan  
894 adopted under subsection (b) should be modified or eliminated and whether the school district  
895 shall no longer be designated as chronically underperforming. The decision of the commissioner



896 shall be based on regulations adopted by the board. A school committee may seek review by the  
897 board of elementary and secondary education of an adverse determination.

898 (j) If, on the basis of the regulations adopted by the board pursuant to subsection (h), a  
899 district has not improved sufficiently to remove the designation of the district as chronically  
900 underperforming, the commissioner may: (1) jointly determine subsequent annual goals for each  
901 component of the turnaround plan with the receiver and renew the turnaround plan for an  
902 additional period of not more than 3 years; or (2) create a new turnaround plan, consistent with  
903 the requirements of this section.

904 (k) If a municipality has failed to fulfill its fiscal responsibilities pursuant to chapter 70,  
905 the commissioner may declare the school district as chronically underperforming, subject to the  
906 approval of the board. The municipality's mayor or chairman of the board of selectmen shall  
907 have the opportunity to present evidence to the board. A vote by the board that a school district  
908 is chronically underperforming for fiscal reasons shall authorize the commissioner to petition the  
909 commissioner of revenue to require an increase in funds for the school district, alleging that the  
910 amount necessary in the municipality for the support of public schools has not been included in  
911 the annual budget appropriations. The commissioner of revenue shall determine the amount of  
912 any deficiency pursuant to the sums required pursuant to chapter 70, if any, and issue an order  
913 compelling the municipality to provide a sum of money equal to such deficiency. If the  
914 municipality does not provide a sum of money equal to such deficiency, the commissioner of  
915 revenue, pursuant to section 23 of chapter 59, shall not approve the tax rate of the municipality  
916 for the fiscal year until the deficiency is alleviated. Nothing in this subsection shall be construed  
917 as creating a cause of action for educational malpractice by students or their parents, guardians or  
918 persons acting as parents.

919 If the district is designated as chronically underperforming pursuant to this subsection,  
920 the provisions of this subsection shall supersede those in subsections (a) to (j), inclusive.

921 SECTION 4. Subsection (b) of section 15 of chapter 70B of the General Laws, as so  
922 appearing, is hereby amended by adding the following paragraph:-

923 Before the sale or lease of an assisted structure or facility or a portion of that structure or  
924 facility, the school district in control of the structure or facility shall submit to the authority a  
925 district-wide school facility use plan that shall include, but not be limited to, a listing of all  
926 school facilities under the control of the school district, a detailed description of both the current  
927 use and proposed use of each school facility, the most recent enrollment data, by school facility,  
928 then available to the school district, a detailed floor plan of each school facility that shows and  
929 labels each space in the facility and whether it is used as a classroom or has some other use and  
930 any other information that may be required by the authority to understand the district's school  
931 facility use plan. If the plan includes the closure, sale or lease of a school facility or any part of a  
932 school facility, the authority may conduct, with the full cooperation of the district, an analysis of  
933 district-wide enrollment capacity and future enrollment trends for the district. If the capacity  
934 analysis and enrollment projection indicate an extended period of significant excess capacity  
935 within the district's educational facilities, the district may, prior to consideration of any other  
936 disposition of the identified excess capacity, make a good faith offer to sell or lease at fair market  
937 value the identified excess capacity to a commonwealth charter school established pursuant to  
938 section 89 of chapter 71 or an applicant for a commonwealth charter school pursuant to said  
939 section 89 of said chapter 71 that serves or is seeking to serve students who live in the school  
940 district. The authority shall not recapture commonwealth and authority assistance for any such

941 excess capacity that is sold or leased to a commonwealth charter school or applicant for a  
942 commonwealth charter school.

943 SECTION 5. Section 2 of chapter 71 of the General Laws, as so appearing, is hereby  
944 amended by inserting after the word “government”, in line 4, the following words:- and a  
945 program relating to the flag of the United States of America, including, but not limited to, proper  
946 etiquette, the correct use and display of the flag ,the importance of participation in the electoral  
947 process and the provisions of 36 U.S.C. 170 to 177, inclusive.

948 SECTION 6. Section 61 of said chapter 71, as so appearing, is hereby amended by adding  
949 the following paragraph:-

950 A town may terminate its participation in a union by a majority vote of the school  
951 committee of the town; provided, however, that said termination shall only be for the purpose of  
952 forming an innovation school pursuant to section 92 or establishing different school governance  
953 structures. Termination shall be independent of any pending votes regarding dissolution of the  
954 union or pending votes by another town regarding its participation.

955 SECTION 7. Said chapter 71 is hereby further amended by striking out section 89, as so  
956 appearing, and inserting in place thereof the following section:-

957 Section 89. (a) As used in this section the following words shall, unless the context  
958 clearly requires otherwise, have the following meanings:-

959 “Board”, the board of elementary and secondary education.

960 “Charter school”, commonwealth charter schools and Horace Mann charter schools  
961 unless specifically stated otherwise.

962 “Commissioner”, the commissioner of elementary and secondary education.

963 “Department”, the department of elementary and secondary education.

964 “District”, or “school district”, the school department of a city, town, regional school  
965 district, or county agricultural school.

966 “Superintendent”, the superintendent of the district.

967 (b) The purposes of establishing charter schools are: (i) to stimulate the development of  
968 innovative programs within public education; (ii) to provide opportunities for innovative learning  
969 and assessments; (iii) to provide parents and students with greater options in selecting schools  
970 within and outside their school districts; (iv) to provide teachers with a vehicle for establishing  
971 schools with alternative, innovative methods of educational instruction and school structure and  
972 management; (v) to encourage performance-based educational programs; (vi) to hold teachers  
973 and school administrators accountable for students' educational outcomes; and (vii) to provide  
974 models for replication in other public schools.

975 (c) A commonwealth charter school shall be a public school, operated under a charter  
976 granted by the board, which operates independently of a school committee and is managed by a  
977 board of trustees. The board of trustees of a commonwealth charter school, upon receiving a  
978 charter from the board, shall be deemed to be public agents authorized by the commonwealth to  
979 supervise and control the charter school.

980 A Horace Mann charter school shall be a public school or part of a public school operated  
981 under a charter approved by the school committee and the local collective bargaining unit in the  
982 district in which the school is located; provided that all charters shall be granted by the board of

983 elementary and secondary education. A Horace Mann charter school shall have a memorandum  
984 of understanding with the school committee of the district in which the charter school is located  
985 which, at a minimum, defines the services and facilities to be provided by the district to the  
986 charter school and states the funding of the charter school by the district. A Horace Mann charter  
987 school established as a conversion of an existing public school shall not require approval of the  
988 local collective bargaining unit, but shall require a memorandum of understanding agreement  
989 regarding any waivers to applicable collective bargaining agreements; provided further, that the  
990 memorandum of understanding shall be approved by a majority of the school faculty; provided  
991 further, that Horace Mann charter schools that are conversion of existing public schools shall not  
992 be subject to clause (1) of subsection (i). A vote by the school faculty shall be held and finalized  
993 within 30 days of submission of the charter school application to the board of elementary and  
994 secondary education. A Horace Mann charter school shall be operated and managed by a board  
995 of trustees independent of the school committee which approved the school. The board of  
996 trustees may include a member of the school committee.

997 (d) Persons or entities eligible to submit an application to establish a charter school shall  
998 include, but not be limited to: (i) a non-profit business or corporate entity; (ii) 2 or more  
999 certified teachers; or (iii) 10 or more parents; provided, however, that for profit business or  
1000 corporate entities shall be prohibited from applying for a charter. The application may be filed in  
1001 conjunction with a college, university, museum or other similar non-profit entity. Private and  
1002 parochial schools shall not be eligible for charter school status. The board may authorize a single  
1003 board of trustees to manage more than 1 charter school; provided, however, that each school is  
1004 issued its own charter. The commissioner shall provide technical assistance to public school  
1005 districts to assist in the development of proposals for Horace Mann charter schools.

1006 (e) The board shall establish the information needed in an application for the approval of  
1007 a charter school; provided that the application shall include, but not be limited to, a description  
1008 of: (i) the mission, purpose, innovation and specialized focus of the proposed charter school; (ii)  
1009 the innovative methods to be used in the charter school and how they differ from the district or  
1010 districts from which the charter school is expected to enroll students; (iii) the organization of the  
1011 school by ages of students or grades to be taught, an estimate of the total enrollment of the  
1012 school and the district or districts from which the school will enroll students; (iv) the method for  
1013 admission to the charter school; (v) the educational program, instructional methodology and  
1014 services to be offered to students, including research on how the proposed program may improve  
1015 the academic performance of the subgroups listed in the recruitment and retention plan; (vi) the  
1016 school's capacity to address the particular needs of limited English-proficient students, if  
1017 applicable, to learn English and learn content matter, including the employment of staff that  
1018 meets the criteria established by the department; (vii) how the school shall involve parents as  
1019 partners in the education of their children; (viii) the school governance and bylaws; (ix) a  
1020 proposed arrangement or contract with an organization that shall manage or operate the school,  
1021 including any proposed or agreed upon payments to such organization; (x) the financial plan for  
1022 the operation of the school; (xi) the provision of school facilities and pupil transportation; (xii)  
1023 the number and qualifications of teachers and administrators to be employed; (xiii) procedures  
1024 for evaluation and professional development for teachers and administrators; (xiv) a statement of  
1025 equal educational opportunity which shall state that charter schools shall be open to all students,  
1026 on a space available basis, and shall not discriminate on the basis of race, color, national origin,  
1027 creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic  
1028 performance, special need, proficiency in the English language or academic achievement; (xv) a

1029 student recruitment and retention plan, including deliberate, specific strategies the school will  
1030 use to ensure the provision of equal educational opportunity as stated in clause (xiv) and to  
1031 attract, enroll and retain a student population that, when compared to students in similar grades  
1032 in schools from which the charter school is expected to enroll students, contains a comparable  
1033 academic and demographic profile; and (xvi) plans for disseminating successes and innovations  
1034 of the charter school to other non-charter public schools.

1035 (f) The student recruitment and retention plan required under clause (xv) of subsection  
1036 (e) shall include, but not be limited to, a detailed description of deliberate, specific strategies the  
1037 school will use to maximize the number of students who successfully complete all school  
1038 requirements and prevent students from dropping out. The student recruitment and retention plan  
1039 shall be updated annually and shall include annual goals for: (i) recruitment activities; (ii) student  
1040 retention activities; and (iii) student retention.

1041 (g) To ensure that a commonwealth charter school shall fulfill its obligations under its  
1042 recruitment and retention plan, the school district or districts from which the commonwealth  
1043 charter school is expected to enroll students shall annually provide, at the request of a  
1044 commonwealth charter school, to a third party mail house authorized by the department, the  
1045 addresses for all students in the district eligible to enroll in the school, unless a student's parent  
1046 or guardian requests that the district withhold that student's information; provided, however, that  
1047 the department may require the charter school to send the mailing in the most prevalent  
1048 languages of the district or districts that the charter school is authorized to serve.

1049 At the request of a school district from which a commonwealth charter school enrolls  
1050 students, the charter school shall provide to a third party mail house the addresses for all students

1051 currently enrolled in the commonwealth charter school from the district; provided, however, that  
1052 the information shall not be provided if a student's parent or guardian requests that the school  
1053 withhold that student's information. Each district shall be permitted to supply a mailing to the  
1054 third party mail house and pay for it to be copied and mailed to families of students from said  
1055 district enrolled in the commonwealth charter school.

1056 (h) An application submitted for the establishment of a commonwealth charter school  
1057 shall: (i) be submitted to the board for approval under this section; and (ii) be filed with the local  
1058 school committee for each school district from which the charter school is expected to enroll  
1059 students. Before final approval to establish a commonwealth charter school, the board shall hold  
1060 a public hearing on the application in the school district in which the proposed charter school is  
1061 to be located and solicit and review comments on the application from the local school  
1062 committee of each school district from which the charter school is expected to enroll students  
1063 and any contiguous districts. At least 1 member of the board shall attend the public hearing. A  
1064 comprehensive written summary of all materials prepared by the department or its administrative  
1065 subdivisions, which evaluates or recommends approval or disapproval of a charter application  
1066 must be delivered to the members of the board, the applicant, in support of, or in opposition to,  
1067 the school submitted not later than 3 days before any board vote on the charter application.

1068 All material in support of, or in opposition to, the school submitted to the department or  
1069 the board shall be made available to the applicant and affected school districts before a vote by  
1070 the board on a commonwealth charter school application.

1071 (i) (1) Not more than 120 charter schools shall be allowed to operate in the  
1072 commonwealth at any time, excluding those approved pursuant to paragraph (3); provided,



1073 however, that of the 120 charter schools, not more than 48 shall be Horace Mann charter schools;  
1074 provided, however, notwithstanding subsection (c) the 14 new Horace Mann charter schools  
1075 shall not be subject to the requirement of an agreement with the local collective bargaining unit  
1076 prior to board approval; provided, further, that after the charter for these 14 new Horace Mann  
1077 charter schools have been granted by the board, the schools shall develop a memorandum of  
1078 understanding with the school committee and the local union regarding any waivers to applicable  
1079 collective bargaining agreements; provided, further, that if an agreement is not reached on the  
1080 memorandum of understanding at least 30 days before the scheduled opening of the school, the  
1081 charter school shall operate under the terms of its charter until an agreement is reached;  
1082 provided, further, that not less 4 of the new Horace Mann charter schools shall be located in a  
1083 municipality with more than 500,000 residents; and not more than 72 shall be commonwealth  
1084 charter schools. The board shall not approve a new commonwealth charter school in any  
1085 community with a population of less than 30,000 as determined by the most recent United States  
1086 Census estimate, unless it is a regional charter school.

1087 Applications to establish a charter school shall be submitted to the board annually by  
1088 November 15. The board shall review the applications and grant new charters in February of the  
1089 following year.

1090 (2) In any fiscal year, no public school district's total charter school tuition payment to  
1091 commonwealth charter schools shall exceed 9 per cent of the district's net school spending;  
1092 provided, however, that a public school district's total charter tuition payment to commonwealth  
1093 charter schools shall not exceed 18 per cent of the district's net school spending if the school  
1094 district qualifies under paragraph (3). The commonwealth shall incur charter school tuition  
1095 payments for siblings attending commonwealth charter schools to the extent that their attendance

1096 would otherwise cause the school district's charter school tuition payments to exceed 9 per cent  
1097 of the school district's net school spending or 18 per cent for those districts that qualify under  
1098 said paragraph (3).

1099 Not less than 2 of the new commonwealth charters approved by the board in any year  
1100 shall be granted for charter schools located in districts where overall student performance on the  
1101 statewide assessment system approved by the board under section 1I of chapter 69 is in the  
1102 lowest 10 per cent statewide in the 2 years preceding the charter application.

1103 In any fiscal year, the board shall approve only 1 regional charter school application of  
1104 any commonwealth charter school located in a school district where overall student performance  
1105 on the statewide assessment system is in the top 10 per cent in the year preceding charter  
1106 application. The board may give priority to applicants that have demonstrated broad community  
1107 support, an innovative educational plan, a demonstrated commitment to assisting the district in  
1108 which it is located in bringing about educational change and a record of operating at least 1  
1109 school or similar program that demonstrates academic success and organizational viability and  
1110 serves student populations similar to those the proposed school seeks to serve.

1111 (3) In any fiscal year, if the board determines based on student performance data  
1112 collected pursuant to section 1I, said district is in the lowest 10 per cent of all statewide student  
1113 performance scores released in the 2 consecutive school years before the date the charter school  
1114 application is submitted, the school district's total charter school tuition payment to  
1115 commonwealth charter schools may exceed 9 per cent of the district's net school spending but  
1116 shall not exceed 18 per cent. For a district qualifying under this paragraph whose charter school  
1117 tuition payments exceed 9 per cent of the school district's net school spending, the board shall

1118 only approve an application for the establishment of a commonwealth charter school if an  
1119 applicant, or a provider with which an applicant proposes to contract, has a record of operating at  
1120 least 1 school or similar program that demonstrates academic success and organizational viability  
1121 and serves student populations similar to those the proposed school seeks to serve, from the  
1122 following categories of students, those: (i) eligible for free lunch; (ii) eligible for reduced price  
1123 lunch; (iii) that require special education; (iv) limited English-proficient of similar language  
1124 proficiency level as measured by the Massachusetts English Proficiency Assessment  
1125 examination; (v) sub-proficient, which shall mean students who have scored in the “needs  
1126 improvement”, “warning” or “failing” categories on the mathematics or English language arts  
1127 exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as  
1128 defined by the department using a similar measurement; (vi) who are designated as at risk of  
1129 dropping out of school based on predictors determined by the department; (vii) who have  
1130 dropped out of school; or (viii) other at-risk students who should be targeted to eliminate  
1131 achievement gaps among different groups of students. For a district approaching its net school  
1132 spending cap, the board shall give preference to applications from providers building networks of  
1133 schools in more than 1 municipality.

1134         The recruitment and retention plan of charter schools approved under this paragraph  
1135 shall, in addition to the requirements under subsections (e) and (f), include, but not limited to: (i)  
1136 a detailed description of deliberate, specific strategies the charter school shall use to attract,  
1137 enroll and retain a student population that, when compared to students in similar grades in  
1138 schools from which the charter school shall enroll students, contains a comparable or greater  
1139 percentage of special education students or students who are limited English-proficient of similar  
1140 language proficiency as measured by the Massachusetts English Proficiency Assessment

1141 examination and 2 or more of the following categories: students eligible for free lunch; (ii)  
1142 students eligible for reduced price lunch; students who are sub-proficient, those students who  
1143 have scored in the "needs improvement", "warning" or "failing" categories on the mathematics  
1144 or English language arts exams of the Massachusetts Comprehensive Assessment System for 2  
1145 of the past 3 years or as defined by the department using a similar measurement; (iii) students  
1146 who are determined to be at risk of dropping out of school based on predictors determined by the  
1147 department; (iv) students who have dropped out of school; or (v) other at-risk students who  
1148 should be targeted in order to eliminate achievement gaps among different groups of students.

1149 A charter school approved under this section shall supply a mailing in the most prevalent  
1150 languages of the district the charter is authorized to serve to a third party mail house and pay for  
1151 it to be copied and mailed to eligible students. If a school is or shall be located in a district with  
1152 10 per cent or more of limited English-proficient students, the recruitment strategies shall include  
1153 a variety of outreach efforts in the most prevalent languages of the district. The recruitment and  
1154 retention plan shall be updated each year to account for changes in both district and charter  
1155 school enrollment.

1156 If a district is no longer in the lowest 10 per cent, the net school spending cap shall be 9  
1157 per cent, unless the district net school spending was above 9 per cent in the year prior to moving  
1158 out of the lowest 10 per cent in which case the net school spending cap shall remain at the higher  
1159 level plus enrollment previous approved by the board. The department shall determine and make  
1160 available to the public a list of the school districts in said lowest 10 per cent.

1161 (j) The board shall make the final determination on granting charter school status and  
1162 may condition charters on the applicant's taking certain actions or maintaining certain conditions.

1163 The board shall establish criteria for the approval of a charter application and recommendations  
1164 to the board shall be based upon and reference those criteria.

1165 If a final application is deemed inadequate by the department, the department may  
1166 provide feedback to the applicant and invite it to submit a stronger application subsequently.  
1167 Once a final application has been filed, only minor, non-substantive amendments shall be  
1168 allowed. The department shall maintain a written detailed summary of interviews it conducts  
1169 with final charter applicants and include that summary with the final application materials that  
1170 are provided to the board, local school officials and the public.

1171 (k) A charter school established under a charter granted by the board shall be a body  
1172 politic and corporate with all powers necessary or desirable for carrying out its charter program,  
1173 including, but not limited to, the power to:

1174 (1) adopt a name and corporate seal; provided that any name selected must include the  
1175 words “charter school”;

1176 (2) sue and be sued, but only to the same extent and upon the same conditions that a  
1177 municipality can be sued;

1178 (3) acquire real property, from public or private sources, by lease, lease with an option to  
1179 purchase or by gift, for use as a school facility; provided, however, in the case of a Horace Mann  
1180 charter school, the approval of the local school committee shall be obtained before acquisition of  
1181 any such real property owned or controlled by the body;

1182 (4) receive and disburse funds for school purposes;

1183 (5) make contracts and leases for the procurement of services, equipment and supplies;  
1184 provided, however, that if the charter school intends to procure substantially all educational  
1185 services under contract with another person, the terms of such a contract must be approved by  
1186 the board either as part of the original charter or by way of an amendment thereto; provided,  
1187 further that the board shall not approve any such contract terms, the purpose or effect of which is  
1188 to avoid the prohibition of this section against charter school status for private and parochial  
1189 schools;

1190 (6) incur temporary debt in anticipation of receipt of funds; provided that a Horace Mann  
1191 school shall obtain the approval of the local school committee and appropriate local  
1192 appropriating authorities and officials relative to any proposed lien or encumbrance upon public  
1193 school property or relative to any financial obligation for which the local school district shall  
1194 become legally obligated; and provided further, that notwithstanding any general or special law  
1195 to the contrary, the terms of repayment of any charter school's debt shall not exceed the duration  
1196 of the school's charter without the approval of the board;

1197 (7) solicit and accept grants or gifts for school purposes; and

1198 (8) have such other powers available to a business corporation formed under chapter  
1199 156B that are not inconsistent with this chapter.

1200 (l) Charter schools shall not charge a public school for the use or replication of a part of  
1201 their curriculum subject to the prescriptions of a contract between the charter schools and any  
1202 third party providers.

1203 (m) Charter schools shall be open to all students, on a space available basis, and shall not  
1204 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation,

1205 mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in  
1206 the English language or a foreign language or academic achievement. Charter schools may limit  
1207 enrollment to specific grade levels and may structure curriculum around particular areas of focus  
1208 such as mathematics, science or the arts. There shall be no application fee for admission to a  
1209 charter school. There shall be no tuition charge for students attending charter schools.

1210 (n) Preference for enrollment in a commonwealth charter school shall be given to  
1211 students who reside in the city or town in which the charter school is located. Priority for  
1212 enrollment in a Horace Mann charter school shall be given first to students actually enrolled in  
1213 the school on the date that the application is filed with the board and to their siblings; second to  
1214 other students actually enrolled in the public schools of the district where the Horace Mann  
1215 charter school is to be located; and third to other resident students.

1216 If the total number of students who are eligible to attend and apply to a charter school and  
1217 who reside in the city or town in which the charter school is located or are siblings of students  
1218 already attending said charter school, is greater than the number of spaces available, an  
1219 admissions lottery, including all eligible students applying, shall be held to fill all of the spaces  
1220 in that school from among the students. If there are more spaces available than eligible  
1221 applicants from the city or town in which the charter school is located and who are siblings of  
1222 current students and more eligible applicants than spaces left available, a lottery shall be held to  
1223 determine which of the applicants shall be admitted; provided, however, that a lottery conducted  
1224 for Horace Mann charter schools shall reflect the enrollment priorities of this section.  
1225 Notwithstanding this subsection, upon application by the board of trustees of a charter school or  
1226 by the persons or entities seeking to establish a charter school, the board may amend or grant a  
1227 charter designating such school a regional charter school; provided, however, that such regional

1228 charter school shall be exempt from the local preference provision of this paragraph; provided  
1229 further, that such regional charter school shall continue to grant a preference of siblings of  
1230 currently enrolled students; and provided further, that if the number of applicants remaining is  
1231 greater than the number of spaces available, such regional charter school shall conduct a single  
1232 lottery to determine which applicants shall be admitted.

1233 In any instance where a charter school approved after January 1, 2011 enrolls more than  
1234 20 per cent of its total enrollment from school districts not included in its original charter  
1235 pursuant to subsection (h) for 2 consecutive years, the charter school shall submit an application  
1236 to the board for an amendment to its charter that reflects its actual enrollment patterns; provided  
1237 further that upon renewal of a charter school approved prior to January 1, 2011, the board shall  
1238 establish a timeline of not less than 5 years for the charter to comply with this requirement.

1239 Nothing in this section shall be construed to require a charter school to unenroll any  
1240 student currently in attendance at the time this act takes effect.

1241 When a student stops attending a charter school for any reason, the charter school shall  
1242 fill the vacancy with the next available student on the waitlist for the grade in which the vacancy  
1243 occurs and shall continue through the waitlist until a student fills the vacant seat. If there is no  
1244 waitlist, a charter school shall publicize an open seat to the students of the sending district or  
1245 districts and make attempts to fill said vacant seat. Charter schools shall attempt to fill vacant  
1246 seats up to February 15, provided, however, that charter schools may but are not required to fill  
1247 vacant after February 15. If a vacancy occurs after February 15, such vacancy shall remain with  
1248 the grade cohort and shall be filled in the following September if it has not previously been  
1249 filled. A vacancy occurring after February 15 shall not be filled by adding a student to a lower



1250 grade level. Charter schools shall attempt to fill vacant seats up to February 15, excluding seats  
1251 in the last half of the grades offered by the charter school, and grades 10, 11 and 12. Within 30  
1252 days of a vacancy being filled, the charter school shall send the name of the student filling such  
1253 vacancy to the department for the purposes of the department updating its waitlist.

1254           The names of students who entered the lottery but did not gain admission shall be  
1255 maintained on a waitlist, which shall be forwarded to the department not later than June 1 in the  
1256 year in which the lottery is held. In addition to the names of students, the school shall supply to  
1257 the department each student's home address, telephone number, grade level and other  
1258 information the department deems necessary. The department shall maintain a consolidated  
1259 waitlist for each municipality in order to determine the number of individual students in each  
1260 municipality seeking admission to charter schools.

1261           (o) Each charter school shall annually, not later than April 1, notify each public school  
1262 district in writing of the number and grade levels of students who will be attending the charter  
1263 school from that district the following September as well as the number of new students who will  
1264 be transferring from that district to the charter school in the following September. Tuition for  
1265 charter school students shall only be paid for the number of students for whom notification has  
1266 been reported by April 1. Tuition for charter school students shall be paid only for students  
1267 actually enrolled in the school.

1268           (p) A student may withdraw from a charter school at any time and enroll in another  
1269 public school where the student resides.

1270 A student may be expelled from a charter school based on criteria determined by the  
1271 board of trustees, and approved by the board, with the advice of the principal and teachers;  
1272 provided, however, that charter school policies shall be consistent with sections 37H and 37H½.

1273 (q) A charter school may be located in part of an existing public school building, in space  
1274 provided on a private work site, in a public building or any other suitable location; provided,  
1275 however, that no school building assistance funds authorized under chapter 70B shall be awarded  
1276 to a commonwealth charter school for the purpose of constructing, reconstructing or improving a  
1277 commonwealth charter school.

1278 (r) The school committee of each district where a Horace Mann charter school is located  
1279 shall develop a plan to disseminate innovative practices of the charter school to other public  
1280 schools within the district subject to the provisions of any contract between the Horace Mann  
1281 charter school and any third party provider.

1282 The commissioner shall facilitate the dissemination of successful innovation programs of  
1283 charter schools and provide technical assistance for other school districts to replicate such  
1284 programs. Each charter school shall collaborate with its sending district on the sharing of  
1285 innovative practices.

1286 (s) A charter school shall operate in accordance with its charter and the provisions of law  
1287 regulating other public schools; provided, however, that sections 41 and 42 shall not apply to  
1288 employees of commonwealth charter schools. Charter schools shall comply with the chapters  
1289 71A and 71B; provided, however, that the fiscal responsibility of a special needs student  
1290 currently enrolled in or determined to require a private day or residential school shall remain  
1291 with the school district where the student resides. If a charter school expects that a special needs

1292 student currently enrolled in the charter school may be in need of the services of a private day or  
1293 residential school, it shall convene an individual education plan team meeting for the student.  
1294 Notice of the team meeting shall be provided to the special education department of the school  
1295 district in which the child resides at least 5 days in advance. Personnel from the school district in  
1296 which the child resides shall be allowed to participate in the team meeting concerning future  
1297 placement of the child.

1298 (t) Horace Mann charter schools shall be exempt from local collective bargaining  
1299 agreements to the extent provided by the terms of its charter; provided, however, that employees  
1300 of the Horace Mann charter school shall continue to be members of the local collective  
1301 bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and  
1302 benefits established in the contract of the local collective bargaining unit where the Horace Mann  
1303 charter school is located. Employees of Horace Mann charter schools shall be exempt from all  
1304 union and school committee work rules to the extent provided by the school's charter. Employees  
1305 in Horace Mann charter schools shall be required to work the full work day and work year to the  
1306 extent provided by the terms of the school's charter.

1307 (u) Notwithstanding this section or any other general or special law to the contrary, for  
1308 the purposes of chapter 268A: (i) a charter school shall be deemed to be a state agency; and (ii)  
1309 the appointing official of a member of the board of trustees of a charter school shall be deemed  
1310 to be the commissioner. Members of boards of trustees of charter schools operating under the  
1311 this section shall file a disclosure annually with the state ethics commission, the department and  
1312 the city or town clerk wherein such charter school is located. The disclosure is in addition to the  
1313 requirements of said chapter 268A and a member of a board of trustees must also comply with  
1314 the disclosure and other requirements of said chapter 268A. The form of the disclosure shall be

1315 prescribed by the ethics commission and shall be signed under penalty of perjury. Such form  
1316 shall be limited to a statement in which members of the board of trustees shall disclose any  
1317 financial interest that they or a member of their immediate families, as defined in section 1 of  
1318 said chapter 268A, have in any charter school located in the commonwealth or in another state or  
1319 with a person doing business with a charter school.

1320           Each member of a board of trustees of a charter school shall file such disclosure for the  
1321 preceding calendar year with the commission within 30 days of becoming a member of the board  
1322 of trustees, by September 1 of each year thereafter that the person is a member of the board and  
1323 by September 1 of the year after the person ceases to be a member of the board; provided,  
1324 however, that no member of a board of trustees shall be required to file a disclosure for the year  
1325 in which he ceases to be a member of the board if he served less than 30 days in that year.

1326           (v) Students in charter schools shall be required to meet the same performance standards,  
1327 testing and portfolio requirements set by the board for students in other public schools.

1328           (w) The board of trustees, in consultation with the teachers, shall determine the school's  
1329 curriculum and develop the school's annual budget. The board of trustees of each Horace Mann  
1330 charter school shall annually submit to the superintendent and school committee of the district in  
1331 which the school is located a budget request for the following fiscal year. The school committee  
1332 shall act on the budget request in conjunction with its actions on the district's overall budget.  
1333 Each Horace Mann charter school shall receive in response to the budget request not less than it  
1334 would have under the district's budgetary allocation rules. The board of trustees may appeal any  
1335 disproportionate budgetary allocation to the commissioner, who shall determine an equitable  
1336 funding level for the school and shall require the school committee to provide the funding.

1337           Following the appropriation of the district's operating budget for the fiscal year, the  
1338 amount approved by the local appropriating authority for the operation of each Horace Mann  
1339 charter school shall be available for expenditure by the board of trustees of the school for any  
1340 lawful purpose without further approval by the superintendent or the school committee. A  
1341 Horace Mann charter school shall not expend or incur obligations in excess of its budget request;  
1342 provided, however, that a Horace Mann charter school may spend federal and state grants and  
1343 other funds received independent of the school district not accounted for in the charter school's  
1344 budget request without prior approval from the superintendent or the school committee.

1345           (x) Upon approval of a Horace Mann charter school by the board, the superintendent  
1346 where the Horace Mann charter school is to be located shall reassign, to the extent provided by  
1347 the terms of its charter, any faculty member who wishes to be reassigned to another school  
1348 located within the district.

1349           (y) Employees of charter schools shall be considered public employees for purposes of  
1350 tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The  
1351 board of trustees shall be considered the public employer for purposes of tort liability under said  
1352 chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however,  
1353 that in the case of a Horace Mann charter school, the school committee of the school district in  
1354 which the Horace Mann charter school is located shall remain the employer for collective  
1355 bargaining purposes under said chapter 150E. Teachers employed by a charter school shall be  
1356 subject to the state teacher retirement system under chapter 32 and service in a charter school  
1357 shall be creditable service within the meaning thereof.

1358 A charter school shall recognize an employee organization designated by the  
1359 authorization cards of 50 per cent of its employees in the appropriate bargaining unit as the  
1360 exclusive representative of all the employees in such unit for the purpose of collective  
1361 bargaining.

1362 (z) Each local school district shall be required to grant a leave of absence to any teacher  
1363 in the public schools system requesting such leave to teach in a commonwealth charter school. A  
1364 teacher may request a leave of absence for up to 2 years.

1365 At the end of the second year, the teacher may either return to his former teaching  
1366 position or, if he chooses to continue teaching at the commonwealth charter school, resign from  
1367 his school district position.

1368 (aa) Notwithstanding section 59C, the internal form of governance of a charter school  
1369 shall be determined by the school's charter.

1370 (bb) A charter school shall comply with all applicable state and federal health and safety  
1371 laws and regulations.

1372 (cc) The students who reside in the school district in which the charter school is located  
1373 shall be provided transportation to the charter school by the resident district's school committee  
1374 on similar terms and conditions as transportation is provided to students attending local district  
1375 schools if the transportation is requested by the charter school. In providing the transportation,  
1376 the school committee shall accommodate the particular school day and school year of the charter  
1377 school; provided, however, that in the event that a school committee limits transportation for  
1378 district school students, the school district shall not be required to provide transportation to any  
1379 commonwealth charter school beyond the limitations. A charter school and the sending district

1380 shall meet to plan bus routes and charter school starting and ending times in order to assist the  
1381 district with cost effective means of transportation. Schools operating under a charter granted  
1382 after January 1, 1997, and all charter schools operating during fiscal year 1999 and thereafter,  
1383 shall not receive funds for transportation above the amount actually required by such charter  
1384 school for the provision of transportation services to eligible students. If the sending district  
1385 provides an alternative method of transportation for students enrolled in the sending district's  
1386 public schools, it shall not be assessed for transportation costs which exceed the per pupil cost of  
1387 said alternative. Costs for transportation shall be included only if transportation is provided for  
1388 students in the same program and grade level as those in the charter school. Students who do not  
1389 reside in the district in which the charter school is located shall be eligible for transportation in  
1390 accordance with section 12B of chapter 76. A regional charter school as designated by the board,  
1391 and whose charter provides for transportation of all students from charter municipalities shall  
1392 also be reimbursed by the commonwealth under section 16C of chapter 71 for transportation  
1393 provided to pupils residing outside the municipality where the charter school is located, but no  
1394 reimbursement for transportation between the charter school and home shall be made on account  
1395 of any pupil who resides less than 1.5 miles from the charter school, measured by a commonly  
1396 traveled route. If a charter school provides its own transportation, the school shall coordinate  
1397 and collaborate with the sending district to provide cost effective means of transportation. All  
1398 such transportation shall be determined in advance of the approval of the district's final budget  
1399 for a fiscal year; provided, however, that a commonwealth charter school shall be required to  
1400 determine such transportation in the first year of its operation as soon as practicable.

1401 (dd) A charter granted by the board shall be for 5 years. The board shall develop  
1402 procedures and guidelines for revocation and renewal of a school's charter; provided, however,

1403 that a charter for a Horace Mann charter school shall not be renewed by the board without a  
1404 majority vote of the school committee and local collective bargaining unit in the district where  
1405 said charter school is located; provided, however, that a commonwealth charter shall not be  
1406 renewed unless the board of trustees of the charter school has documented in a manner approved  
1407 by the board that said commonwealth charter school has provided models for replication and best  
1408 practices to the commissioner and to other public schools in the district where the charter school  
1409 is located.

1410           When deciding on charter renewal, the board shall consider progress made in student  
1411 academic achievement, whether the school has met its obligations and commitments under the  
1412 charter, the extent to which the school has followed its recruitment and retention plan by using  
1413 deliberate, specific strategies towards recruiting and retaining the categories of students  
1414 enumerated in paragraph (3) of subsection (i) and the extent to which the school has enhanced its  
1415 plan as necessary. The board may impose conditions on the charter school upon renewal if it  
1416 fails to adhere to and enhance its recruitment and retention plan as required. When deciding on  
1417 charter renewal, the board shall take into account the annual attrition of students. The board shall  
1418 also consider innovations that have been successfully implemented by the charter school and the  
1419 evidence that supports the effectiveness of these practices. Upon renewal of its charter, a school  
1420 shall update and enhance its recruitment and retention plan as necessary to account for changes  
1421 in enrollment.

1422           (ee) The board may revoke a school's charter if the school has not fulfilled any conditions  
1423 imposed by the board in connection with the grant of the charter or the school has violated any  
1424 provision of its charter. The board may place conditions on a charter or may place a charter



1425 school on a probationary status to allow the implementation of a remedial plan after which, if  
1426 said plan is unsuccessful, the charter may be summarily revoked.

1427 (ff) Commonwealth charter schools shall be funded as follows: the commonwealth shall  
1428 pay a tuition amount to the charter school, which shall be the sum of the tuition amounts  
1429 calculated separately for each district sending students to the charter school. Tuition amounts for  
1430 each sending district shall be calculated by the department using the formula set forth herein, to  
1431 reflect, as much as practicable, the actual per pupil spending amount that would be expended in  
1432 the district if the students attended the district schools. The tuition amount shall be calculated  
1433 separately for each district sending students to a charter school, and for each charter school to  
1434 which a district sends students. Each district's per pupil tuition amount for each charter school to  
1435 which it sends students shall include a per pupil foundation budget component, adjusted to  
1436 reflect the actual net school spending in the sending district.

1437 In calculating the per pupil foundation budget component, the department shall calculate  
1438 a foundation budget for the students from each sending district attending the charter school in the  
1439 previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the  
1440 department shall not include in said calculation the assumed tuitioned-out special education  
1441 enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2.  
1442 The per pupil foundation budget component shall be the district's foundation budget for the  
1443 charter school, as so calculated, divided by the number of students attending the charter school  
1444 from the sending district in the previous fiscal year. The per pupil foundation budget component  
1445 shall be calculated separately for each charter school to which a district sends students. The  
1446 foundation budget for a charter school shall be the sum of the foundation budgets for the charter  
1447 school for each district sending students to the charter school.

1448           In adjusting the per pupil foundation budget component, the department shall calculate  
1449 for each sending district an above foundation spending percentage, which shall be the percentage  
1450 by which the district's actual net school spending exceeds the foundation budget for the district,  
1451 as calculated pursuant to the provisions of chapter 70. The department shall further calculate the  
1452 percentage of actual net school spending reported by the sending district associated with tuition  
1453 costs for tuitioned-out special education students, including education that occurs in educational  
1454 collaboratives, and with spending on health care costs for retired employees, for any district for  
1455 which such costs are included in net school spending, and shall reduce the district's above  
1456 foundation spending percentage proportionately. The per pupil foundation budget component for  
1457 each charter school to which the sending district sends students shall be increased by said  
1458 adjusted above foundation spending percentage.

1459           The total tuition amount owed by a sending district to a charter school shall be the per  
1460 pupil tuition amount as defined above, multiplied by the total number of students attending the  
1461 charter school from that district in the current fiscal year. The sending district's total charter  
1462 school tuition amount for purposes of the following paragraphs shall be the sum of the district's  
1463 tuition amounts for each charter school to which the district sends students, calculated using the  
1464 provisions of this section. The receiving charter school's total charter school tuition amount shall  
1465 be the sum of the tuition amounts calculated for the charter school for each district sending  
1466 students to the charter school.

1467           If a charter school student previously attended a private or parochial school or was home  
1468 schooled, the commonwealth shall assume the first year cost for that student and shall not reduce  
1469 the sending district's chapter 70 aid for that student's tuition in that fiscal year.

1470           The state treasurer is hereby authorized and directed to deduct a district's total charter  
1471 school tuition amount, as calculated herein, from the total state school aid, as defined in section 2  
1472 of said chapter 70, of the district in which the student resides prior to the distribution of said aid.  
1473 In the case of a child residing in a municipality which belongs to a regional school district, the  
1474 charter school tuition amount shall be deducted from said chapter 70 education aid of the school  
1475 district appropriate to the grade level of the child. If, in a single district, the total of all such  
1476 deductions exceeds the total of said education aid, this excess amount shall be deducted from  
1477 other aid appropriated to the city or town. If, in a single district, the total of all such deductions  
1478 exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount;  
1479 provided, however, that if said district has exempted itself from the provisions of said chapter 70  
1480 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said  
1481 excess amount.

1482           The state treasurer is hereby further authorized and directed to disburse to the charter  
1483 school an amount equal to the charter school's total charter school tuition amount as defined  
1484 above.

1485           If more than 1 charter school is managed by a single network or board of trustees,  
1486 funding shall not be transferred among individual schools within the network unless such schools  
1487 are located in the same school district.

1488           The department shall, subject to appropriation, provide funding to charter schools for a  
1489 portion of the per pupil capital needs component included in the charter tuition amount and shall  
1490 reimburse the sending school districts for said costs. In fiscal year 2011 and thereafter, such  
1491 funding shall not be less than the per pupil amount provided in fiscal year 2010.

1492 (gg) Any district whose total charter school tuition amount is greater than its total charter  
1493 school tuition amount for the previous year shall be reimbursed by the commonwealth in  
1494 accordance with this paragraph and subject to appropriation; provided, however, that no funds  
1495 for said reimbursements shall be deducted from funds distributed pursuant to chapter 70. The  
1496 reimbursement amount shall be equal to 100 per cent of the increase in the year in which the  
1497 increase occurs and 25 per cent in the second, third, fourth, fifth and sixth years following.

1498 (hh) If the unencumbered amount of cumulative surplus revenue from tuition held by a  
1499 charter school at the end of a fiscal year, less (i) the amount of the fourth quarter tuition payment,  
1500 (ii) the amount held in reserve for the purchase or renovation of an academic facility pursuant to  
1501 a capital plan, and (iii) any reserve funds held as security for bank loans, exceeds 20 per cent of  
1502 its operating budget and its budgeted capital costs for the succeeding fiscal year as is reported in  
1503 a capital plan to be submitted in the school's most recent annual report, the amount in excess of  
1504 said 20 per cent shall be returned by the charter school to the sending district or districts and the  
1505 state in proportion to their share of tuition paid during the fiscal year. At the end of each fiscal  
1506 year, the commissioner shall certify the amounts described above and the amount, if any, by  
1507 which it exceeds 20 per cent of the school's operating budget and its budgeted capital costs for  
1508 the succeeding fiscal year, and shall report such amount to the school committee of the sending  
1509 district or districts and the applicable board of selectmen or city council by December 1 of each  
1510 year. A charter school shall annually make any payment required by this subsection no later than  
1511 December 31.

1512 (ii) No teacher shall be hired by a commonwealth charter school who is not certified  
1513 pursuant to section 38G unless the teacher has successfully passed the state teacher test as  
1514 required in said section 38G.

1515 (jj) Each charter school shall submit an annual report, no later than August 1, to the  
1516 board, the local school committee, each parent or guardian of its enrolled students and each  
1517 parent or guardian contemplating enrollment in that charter school. The annual report shall be in  
1518 such form as may be prescribed by the board and shall include, but not be limited to: (i)  
1519 discussion of progress made toward the achievement of the goals set forth in the charter; and (ii)  
1520 a financial statement setting forth by appropriate categories the revenue and expenditures for the  
1521 year just ended and a balance sheet setting forth the charter school's assets, liabilities and fund  
1522 balances or equities.

1523 The department shall promulgate regulations creating a reporting requirement for a  
1524 charter school's net asset balance at the end of the fiscal year; provided, however, that said  
1525 regulations shall require, without limitation, the following: the revenue and expenditures for the  
1526 year just ended with a specific accounting of the uses of public and private dollars; how the  
1527 capital needs component of the charter school's tuition was spent; compensation and benefits for  
1528 teachers, staff, administrators, executives, and board of trustees; the amount of any and all funds  
1529 transferred to a management company; the sources of any surplus funds, specifically whether  
1530 they are private or public; how any surplus funds were used in the previous fiscal year; and the  
1531 planned use of any surplus funds in the upcoming fiscal year on in future fiscal years.

1532 Each charter school shall keep an accurate account of all its activities and all its receipts  
1533 and expenditures and shall annually cause an independent audit to be made of its accounts. Such  
1534 audit shall be filed annually on or before January 1 with the department and the state auditor and  
1535 shall be in a form prescribed by the state auditor. The state auditor may investigate the budget  
1536 and finances of charter schools and their financial dealings, transactions and relationships, and

1537 shall have the power to examine the records of charter schools and to prescribe methods of  
1538 accounting and the rendering of periodic reports.

1539 (kk) The commissioner shall collect data on the racial, ethnic and socio-economic make-  
1540 up of the student enrollment of each charter school in the commonwealth. The commissioner  
1541 shall also collect data on the number of students enrolled in each charter school who have  
1542 individual education plans pursuant to chapter 71B and those requiring English language learners  
1543 programs under chapter 71A. The commissioner shall file said data annually with the clerks of  
1544 the house and senate and the joint committee on education not later than December 1.

1545 (ll) Individuals or groups may complain to a charter school's board of trustees concerning  
1546 any claimed violations of the provisions of this section by the school. If, after presenting their  
1547 complaint to the trustees, the individuals or groups believe their complaint has not been  
1548 adequately addressed, they may submit their complaint to the board which shall investigate such  
1549 complaint and make a formal response.

1550 (mm) The board shall promulgate regulations for implementation and enforcement of this  
1551 section.

1552 SECTION 8. Said chapter 71 is hereby further amended by adding the following  
1553 section:-

1554 Section 92. (a) An Innovation School shall be a public school, operating within a public  
1555 school district, that is established for the purpose of improving school performance and student  
1556 achievement through increased autonomy and flexibility. An Innovation School may be  
1557 established as a new public school or as a conversion of an existing public school. A student

1558 who is enrolled in a school at the time it is established as an Innovation School shall retain the  
1559 ability to remain enrolled in the school if the student chooses to do so.

1560 (b) An Innovation School may establish an advisory board of trustees. An Innovation  
1561 School shall have increased autonomy and flexibility in 1 or more of the following areas: (i)  
1562 curriculum; (ii) budget; (iii) school schedule and calendar; (iv) staffing policies and procedures,  
1563 including waivers from or modifications to, contracts or collective bargaining agreements; (v)  
1564 school district policies and procedures; and (vi) professional development. An Innovation School  
1565 shall receive each school year from the school committee the same per pupil allocation as any  
1566 other district school receives. An Innovation School may retain any unused funds and use the  
1567 funds in subsequent school years. An Innovation School may establish a non-profit organization  
1568 that may, among other things, assist the school with fundraising. A district shall not reduce its  
1569 funding to an Innovation School as a result of the school's fundraising activities.

1570 (c) An Innovation School established under this section shall be authorized by the local  
1571 school committee and shall operate according to an innovation plan, which shall articulate the  
1572 areas of autonomy and flexibility under subsection (b). To the extent practicable, the innovation  
1573 plan shall be based on student outcome data, including, but not limited to: (i) student  
1574 achievement on the Massachusetts Comprehensive Assessment System; (ii) other measures of  
1575 student achievement, approved by the commissioner, as appropriate; (iii) student promotion,  
1576 graduation rates and dropout rates; (iv) achievement data for different subgroups of students,  
1577 including low-income students as defined by chapter 70, limited English-proficient students and  
1578 students receiving special education; and (v) student attendance, dismissal rates and exclusion  
1579 rates.

1580 An Innovation School shall operate in accordance with the law regulating other public  
1581 schools, except as the law conflicts with this section or any innovation plans created thereunder.

1582 (d) An Innovation School is a school in which: (i) faculty and leadership are primarily  
1583 responsible for developing the innovation plan under which the school operates and leadership is  
1584 responsible for meeting the terms of the innovation plan; or (ii) an external partner is primarily  
1585 responsible for developing the innovation plan under which the school operates and the external  
1586 partner is responsible for meeting the terms of the innovation plan.

1587 (e) Nothing in this section shall be construed to prohibit: (i) the establishment of an  
1588 Innovation School as an academy within an existing public school; (ii) the establishment of an  
1589 Innovation School serving students from 2 or more school districts; provided, however, that all  
1590 of the provisions of this section are met by each school district; (iii) the simultaneous  
1591 establishment of 2 or more Innovation Schools as an Innovation Schools Zone within a school  
1592 district; or (iv) the establishment of an Innovation School as a virtual public school that provides  
1593 instruction to students through distance learning, including online learning programs and  
1594 courses, subject to regulations adopted by the board of elementary and secondary education.

1595 (f) The following shall be eligible applicants for the purposes of establishing an  
1596 Innovation School: (i) parents; (ii) teachers; (iii) parent-teacher organizations; (iv) principals; (v)  
1597 superintendents; (vi) school committees; (vii) teacher unions; (viii) colleges and universities; (ix)  
1598 non-profit community-based organizations; (x) non-profit business or corporate entities; (xi)  
1599 non-profit charter school operators; (xii) non-profit education management organizations; (xii)  
1600 educational collaboratives; (xiv) consortia of these groups; and (xv) non-profit entities



1601 authorized by the commissioner. Private and parochial schools shall not be eligible to operate an  
1602 Innovation School.

1603 (g) The local school committee, local teacher's union and superintendent of the district  
1604 shall follow a process, consistent with this subsection and subsections (h) to (o), inclusive, for  
1605 which an existing district school may be converted to an Innovation School or by which a new  
1606 Innovation School may be established within the district. This process shall require that an  
1607 eligible applicant proposing to establish an Innovation School prepare a prospectus regarding the  
1608 proposed school. The prospectus shall include, but not be limited to, a description of: (i) whether  
1609 the school will be a new school or a conversion of an existing school; (ii) if the school is a new  
1610 school, the proposed location of the school; (iii) if the school is a conversion of an existing  
1611 school, the school that is being proposed for conversion; (iv) the external partners, if any, that  
1612 will be involved in the school; (v) the number of students the school is anticipated to serve and  
1613 the number of staff expected to be employed at the school; (vi) the overall vision for the school,  
1614 including improving school performance and student achievement; (vii) specific needs or  
1615 challenges the school shall be designed to address; (viii) a preliminary assessment of the  
1616 autonomy and flexibility under subsection (b) that the school will seek; (ix) why such flexibility  
1617 is desirable to carry out the objectives of the school; (x) anticipated components of the school's  
1618 innovation plan; (xi) a preliminary description of the process that shall be used to involve  
1619 appropriate stakeholders in the development of the innovation plan; and (xii) a proposed  
1620 timetable for development and establishment of the proposed school.

1621 (h) Upon completion of the prospectus under subsection (g), an eligible applicant shall  
1622 submit the prospectus to the superintendent, who shall within 30 days convene a screening  
1623 committee consisting of the superintendent or a designee, a school committee member or a

1624 designee selected by the school committee and a representative from the leadership of the local  
1625 teacher's union.

1626           The screening committee shall review the prospectus for the purpose of determining  
1627 whether the prospectus: (i) presents a sound and coherent plan for improving school performance  
1628 and student achievement; (ii) supports or enhances existing educational efforts in the district; and  
1629 (iii) reasonably can be expanded into a comprehensive innovation plan. In the case of a new  
1630 school, the committee will prepare an impact statement describing how the new school will  
1631 affect the children and faculty in the district. Within 30 days of receiving a prospectus, the  
1632 screening committee shall decide, on the basis of a two-thirds vote, to accept or reject the  
1633 prospectus, or return the prospectus to the eligible applicant for revisions. If a prospectus is  
1634 rejected or returned, the screening committee shall submit a detailed explanation for the decision  
1635 to the applicant. A prospectus that is rejected or returned may be revised and resubmitted for  
1636 subsequent consideration.

1637           (i) Upon the acceptance of a prospectus by the screening committee under subsection  
1638 (h), the applicant shall form an innovation plan committee of not more than 11 individuals within  
1639 30 days. The purpose of the innovation plan committee shall be to: (i) develop the innovation  
1640 plan described in subsection (c); (ii) assure that appropriate stakeholders are represented in the  
1641 development of the proposed Innovation School; and (iii) provide meaningful opportunities for  
1642 the stakeholders to contribute to the development of such school. The size and composition of  
1643 the innovation plan committee shall be determined by the applicant; provided, however, that the  
1644 committee shall include: (i) the applicant; (ii) the superintendent or a designee; (iii) a school  
1645 committee member or a designee; (iv) a parent who has 1 or more children enrolled in the  
1646 school, or in the case of a new school, from the district; (v) a principal employed by the district;

1647 and (vi) 2 teachers employed by the district. The applicant shall select the parent from among  
1648 nominees submitted by parent-teacher organizations in the district. If the district does not  
1649 contain a parent-teacher organization or if the organization does not submit nominees, the  
1650 applicant shall select the parent from among volunteers in the area or community the proposed  
1651 school is expected to serve. The applicant shall select the principal and 1 teacher from among  
1652 volunteers in the district and 1 teacher from among nominees submitted by the local teacher's  
1653 union.

1654 (j) Upon the formation of the innovation plan committee in subsection (i), the committee  
1655 shall develop the innovation plan for the proposed Innovation School. The purpose of the  
1656 innovation plan shall be to comprehensively articulate the areas of autonomy and flexibility  
1657 under subsection (b) that the proposed school will use. The innovation plan shall include, but not  
1658 be limited to: (i) a curriculum plan, which shall include a detailed description of the curriculum  
1659 and related programs for the proposed school and how the curriculum is expected to improve  
1660 school performance and student achievement; (ii) a budget plan, which shall include a detailed  
1661 description of how funds shall be used differently in the proposed school to support school  
1662 performance and student achievement; (iii) a school schedule plan, which shall include a detailed  
1663 description of the ways, if any, the program or calendar of the proposed school will be enhanced  
1664 or expanded; (iv) a staffing plan, which shall include a detailed description of how the school  
1665 principal, administrators, faculty and staff will be recruited, employed, evaluated and  
1666 compensated in the proposed school and any proposed waivers or modifications of collective  
1667 bargaining agreements; (v) a policy and procedures plan, which shall include a detailed  
1668 description of the unique operational policies and procedures to be used by the proposed school  
1669 and how the procedures shall support school performance and student achievement; and (vi) a

1670 professional development plan, which shall include a detailed description of how the school may  
1671 provide high-quality professional development to its administrators, teachers and staff.

1672 In order to assess the proposed school across multiple measures of school performance  
1673 and student success, the innovation plan shall include measurable annual goals including, but not  
1674 limited to, the following: (i) student attendance; (ii) student safety and discipline; (iii) student  
1675 promotion and graduation and dropout rates; (iv) student achievement on the Massachusetts  
1676 Comprehensive Assessment System; (v) progress in areas of academic underperformance; and  
1677 (vi) progress among subgroups of students, including low-income students as defined by chapter  
1678 70, limited English-proficient students and students receiving special education; (7) reduction of  
1679 achievement gaps among different groups of students.

1680 A majority vote of the innovation plan committee shall be required for approval of the  
1681 innovation plan.

1682 (k) The provisions of the collective bargaining agreements applicable to the  
1683 administrators, teachers and staff in the school shall be considered to be in operation at an  
1684 Innovation School, except to the extent the provisions are waived or modified under the  
1685 innovation plan and such waivers or modifications are approved under subsections (l) and (m).

1686 (l) In the case of a school conversion, upon completion of the innovation plan in  
1687 subsection (j), , the applicant shall submit the innovation plan to teachers in the school that is  
1688 proposed for conversion for approval by secret ballot within 30 days. A two-thirds vote of the  
1689 teachers shall be required to approve the plan. Upon approval of an innovation plan by the  
1690 applicable union members the plan shall, within 7 days, be submitted to the schoolcommittee. If

1691 a two-thirds vote is not achieved, the innovation plan committee may revise the innovation plan  
1692 as necessary and submit the revised plan to the teachers for a subsequent vote.

1693           In the case of a new school, upon the completion of the innovation plan in subsection (j),  
1694 the applicant, a local union and the superintendent shall negotiate waivers or modifications to the  
1695 applicable collective bargaining agreement necessary for the school to implement the innovation  
1696 plan. Upon the conclusion of the negotiations, the innovation plan shall be submitted  
1697 immediately to the school committee. If the negotiations have not resulted in an agreement  
1698 within 40 days, either party may petition the division of labor relations for the selection of an  
1699 arbitrator. The division shall select an arbitrator within 3 days of the petition from a list  
1700 submitted by the parties. The arbitrator shall conduct a hearing within 14 days of the arbitrator's  
1701 selection. The arbitrator shall consider the parties' positions and the needs of the students in the  
1702 district. The arbitrator's decision shall be consistent with the contents of the innovation plan  
1703 developed by the applicant. The arbitrator shall, within 14 days of the close of the hearing,  
1704 submit a decision which shall be final and binding on the parties.

1705           (m) Upon receipt of an innovation plan regarding an Innovation School, a school  
1706 committee shall hold at least 1 public hearing on the innovation plan. After the public hearing,  
1707 but not later than 60 days after the receipt of the innovation plan, the school committee shall, on  
1708 the basis of the quality of the plan and in consideration of comments submitted by the public,  
1709 undertake a final vote to authorize the Innovation School for a period of not more than 5 years,  
1710 subject to subsection (n). Approval of the majority of the school committee as fully constituted  
1711 shall be required to authorize an Innovation School. If the approval is not obtained, an  
1712 innovation plan committee may revise the innovation plan and: (i) in the case of a new school,  
1713 submit the revised plan to the school committee for a subsequent vote; or (ii) in the case of a

1714 conversion, submit the revised plan to the teachers in the school that is proposed for conversion  
1715 for a vote, pursuant to subsection (l); provided, however, that the plan meets the requirements for  
1716 approval under subsection (l), submit the revised plan to the school committee for a subsequent  
1717 vote. A school committee shall vote on a revised plan submitted pursuant to this subsection  
1718 within 60 days of the receipt of such plan and contract.

1719 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the  
1720 superintendent at least annually. The superintendent shall transmit the evaluation to the school  
1721 committee and the commissioner of elementary and secondary education. The purpose of the  
1722 evaluation shall be to determine whether the school has met the annual goals in its innovation  
1723 plan and assess the implementation of the innovation plan at the school. If the school committee  
1724 determines, on the advice of the superintendent, that the school has not met 1 or more goals in  
1725 the innovation plan and that the failure to meet the goals may be corrected through reasonable  
1726 modification of the plan, the school committee may amend the innovation plan as necessary.  
1727 After the superintendent assesses the implementation of the innovation plan at the school, the  
1728 school committee may, on the advice of the superintendent, amend the plan if the school  
1729 committee determines that the amendment is necessary in view of subsequent changes in the  
1730 district that affect 1 or more components of the plan, including, but not limited to, changes to  
1731 contracts, collective bargaining agreements or school district policies; provided, however, that an  
1732 amendment involving a subsequent change to a teacher contract shall first be approved by  
1733 teachers at the school under the procedures in subsection (l).

1734 If the school committee determines, on the advice of the superintendent, that the school  
1735 has substantially failed to meet multiple goals in the innovation plan, the school committee may:  
1736 (i) limit 1 or more components of the innovation plan; (ii) suspend 1 or more components of the

1737 innovation plan; or (iii) terminate the authorization of the school; provided, however, that the  
1738 limitation or suspension shall not take place before the completion of the second full year of the  
1739 operation of the school and the termination shall not take place before the completion of the third  
1740 full year of the operation of the school.

1741 (o) At the end of the period of authorization of an Innovation School approved under  
1742 subsection (m), the leadership of the school may petition the school committee to extend the  
1743 authorization of the school for an additional period of not more than 5 years. Before submitting  
1744 the petition, the leadership of the school shall convene a selection of school stakeholders,  
1745 including, but not limited to, administrators, teachers, other school staff, parents and external  
1746 partners, as applicable, to discuss whether the innovation plan at the school requires revision and  
1747 to solicit recommendations as to the potential revisions. After considering the recommendations  
1748 of the stakeholder group, the leadership of the school and the applicable superintendent shall  
1749 jointly update the innovation plan as necessary; provided, however, that a proposal regarding a  
1750 new waiver or exemption from the local teacher's union contract shall be approved by teachers at  
1751 the school, under subsection (l). Approval of the majority of the school committee as fully  
1752 constituted shall be required to extend the period of authorization of an Innovation School. If the  
1753 approval is not obtained, the leadership of the school and superintendent may jointly revise the  
1754 innovation plan and submit the revised plan to the school committee for a subsequent vote. If the  
1755 school committee does not extend the authorization of the school, the leadership of the school  
1756 may seek the authorization from the board of elementary and secondary education. The board  
1757 shall vote on the requested extension within 60 days of its receipt for approval of such extension.

1758 (p) The commissioner of elementary and secondary education shall, to the extent  
1759 practicable, be responsible for the following: (i) the provision of planning and implementation

1760 grants to eligible applicants to establish Innovation Schools; (ii) provision of technical assistance  
1761 and support to eligible applicants; (iii) the collection and publication of data and research related  
1762 to the Innovation Schools initiative; (iv) the collection and publication of data and research  
1763 related to successful programs serving limited English-proficient students attending Innovation  
1764 Schools; and (v) the collection and dissemination of best practices in Innovation Schools that  
1765 may be adopted by other public schools. The board of elementary and secondary education shall  
1766 promulgate regulations necessary to carry out this section. Annually, the commissioner shall  
1767 report to the joint committee on education, the house and senate committees on ways and means,  
1768 the speaker of the house of representatives and the senate president on the implementation and  
1769 fiscal impact of this section.

1770 SECTION 9. For the school districts in which net school spending on charter school  
1771 tuition does not exceed 18 per cent as set forth in subsection (i) of section 89 of chapter 71, the  
1772 following shall apply: (1) in fiscal year 2011, a public school district's total charter school tuition  
1773 payment to commonwealth charter schools shall be limited to 12 per cent of the district's net  
1774 school spending; (2) in fiscal year 2012, a public school district's total charter school tuition  
1775 payment to commonwealth charter schools shall be limited to 13 per cent of the district's net  
1776 school spending; (3) in fiscal year 2013, a public school district's total charter school tuition  
1777 payment to commonwealth charter schools shall be limited to 14 per cent of the district's net  
1778 school spending; (4) in fiscal year 2014, a public school district's total charter school tuition  
1779 payment to commonwealth charter schools shall be limited to 15 per cent of the district's net  
1780 school spending; (5) in fiscal year 2015, a public school district's total charter school tuition  
1781 payment to commonwealth charter schools shall be limited to 16 per cent of the district's net  
1782 school spending; (6) in fiscal year 2016, a public school district's total charter tuition payment to



1783 commonwealth charter schools shall be limited to 17 per cent of the district's net school  
1784 spending; and (7) in fiscal year 2017, a public school district's total charter tuition payment to  
1785 commonwealth charter schools shall be limited to 18 per cent of the district's net school  
1786 spending.

1787 SECTION 10. Within 6 months of the receipt of any federal funding through Race to the  
1788 Top program realized through the adoption of this act, the executive office of education shall  
1789 report to the house and senate committees on ways and means and the joint committee on  
1790 education a detailed plan providing for the use and potential future uses of the funding along  
1791 with an accounting therein.

1792 SECTION 11. Notwithstanding any general or special law to the contrary, the department  
1793 of elementary and secondary education shall draft a model policy for school districts regarding  
1794 the grade placement and eligibility for high school graduation of students leaving a  
1795 commonwealth charter school and seeking to enroll in a district school. In drafting the model  
1796 policy, the department shall confer with school districts and commonwealth charter schools. The  
1797 model policy shall be made available not later than December 31, 2010. Until a school district  
1798 adopts a policy regarding the grade placement or eligibility for high school graduation of  
1799 students leaving a commonwealth charter school, when determining the appropriate grade  
1800 placement or eligibility for high school graduation of a student leaving a commonwealth charter  
1801 school and enrolling in a district school, a district shall examine the course of study and level of  
1802 academic attainment of the student.

1803 SECTION 12. Notwithstanding any general or special law to the contrary, a charter  
1804 school whose charter was granted before January 1, 2010 shall have a recruitment and retention

1805 plan required under subsection (f) of section 89 of chapter 71 of the General Laws in effect for  
1806 the 2011-2012 school year or at the time of its next charter renewal, whichever occurs first.

1807 SECTION 13. Notwithstanding subsection (gg) of section 89 of chapter 71 of the General  
1808 Laws, any district that incurred an increase in commonwealth charter tuition costs between July  
1809 1, 2008 and June 30, 2010 shall be reimbursed in an amount equal to 100 per cent of the increase  
1810 in the year in which the increase occurs, 60 per cent of that amount in the first year following and  
1811 40 per cent of that amount in the second year following.

1812 SECTION 14. Notwithstanding any special or general law to the contrary, the department  
1813 of elementary and secondary education shall study the possibility of allowing students living  
1814 outside of the commonwealth who are eligible to attend public schools operating in the same  
1815 geographic area as a charter school or a regional charter school to be eligible to attend the charter  
1816 or regional charter school. The department shall examine the rules and regulations necessary to  
1817 implement this change which shall include, but not be limited to, collection of out-of-state tuition  
1818 from students living outside of the commonwealth and attending a commonwealth charter  
1819 school, collection of tuition from foreign exchange students attending a commonwealth charter  
1820 school and reimbursement of commonwealth charter schools for services rendered to foreign  
1821 exchange students and students living outside of the commonwealth. The department shall issue  
1822 its report and its recommendations, if any, together with drafts of legislation necessary to carry  
1823 those recommendations into effect to the joint committee on education not later than August 15,  
1824 2010.

1825 SECTION 15. Notwithstanding any general or special law to the contrary, regional  
1826 school transportation payments made by the state in any fiscal year through the general

1827 appropriations act shall not be lowered by a greater percentage than any reduction made to state  
1828 chapter 70 payments in that fiscal year.

1829           SECTION 16. Notwithstanding any general or special law to the contrary, the  
1830 department of elementary and secondary education shall prepare a report on the current status of  
1831 the public education financing system in the commonwealth as it currently exists. The report  
1832 shall include, but shall not be limited to, the following: (1) the source of and potential remedies  
1833 for any existing discrepancies between the fiscal demands placed upon and the fiscal assistance  
1834 provided to municipalities and school districts with similar fiscal capacity and educational  
1835 responsibilities, including those placed and provided pursuant to chapter 70; (2) a consideration  
1836 and evaluation of all the financial resources made available to schools and districts, from all  
1837 sources, and how they relate to student learning and educational opportunity; and (3) a review of  
1838 successful educational programs in schools and school districts that achieve their success at  
1839 relatively lower per pupil costs when compared with schools and districts serving student  
1840 populations with similar academic and socio-economic characteristics and an assessment of the  
1841 possibility of replicating such programs in other schools and school districts. In compiling the  
1842 report, the department shall consult with various education personnel, advocacy organizations,  
1843 and economic experts. The department shall file said report not later than December 31, 2011 to  
1844 the joint committee on education.