Senate, No. 2216, printed as amended

[November 17, 2009 - Text of the Senate Bill relative to education reform (being the text of S2205, printed as amended]

The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT RELATIVE TO EDUCATION REFORM

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to drive forthwith innovation into school districts and turnaround underperforming schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

SECTION 1. Chapter 7 of the General Laws is hereby amended by striking out section 22A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 22A. Notwithstanding any other general or special law relating to collective purchasing, but subject to all other laws regulating public purchases and competitive bidding, the commonwealth and 1 or more of its cities, towns, districts, counties, authorities or commonwealth or Horace Mann charter schools, or 2 or more cities, towns, districts, counties,

authorities or commonwealth or Horace Mann charter schools, hereinafter called political subdivisions, may make purchases of materials, supplies, equipment or services through the state purchasing agent subject to such rules, regulations and procedures as may be established from time to time by the purchasing agent; provided, however, that the political subdivision shall accept sole responsibility for any payment due the vendor for its share of such purchase.

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

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

The education collaborative shall be managed by a board of directors which shall be comprised of 1 person appointed by each member school committee and 1 person appointed by each member charter board of trustees. All appointed persons shall be either a school committee member or his designee, or the superintendent of schools or his designee, or a member of the charter board of trustees. Members of the board of directors shall be entitled to a vote according to the terms of the education collaborative agreement. The department of education shall appoint an individual to serve in an advisory capacity to the education collaborative board. The

individual shall not be entitled to vote on any matter which comes before the board of directors of the education collaborative.

The written agreement which shall form the basis of the education collaborative shall set forth the purposes of the program or service, the financial terms and conditions of membership of the education collaborative, the method of termination of the education collaborative and of the withdrawal of member school committees, the procedure for admitting new members and for amending the collaborative agreement, the powers and duties of the board of directors of the education collaborative to operate and manage the education collaborative and any other matter not incompatible with law which the member committees and charter schools consider advisable. The agreement shall be subject to the approval of the member school committees and the commissioner of education.

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

The board of directors of the education collaborative shall appoint a treasurer who may be a treasurer of a city, town or regional school district belonging to the collaborative. The treasurer shall be authorized, subject to the direction of the board of directors of the education collaborative, to receive and disburse all monies of the trust fund without further appropriation. The treasurer shall give bond annually for the faithful performance of his duties as collaborative

treasurer in a form approved by the department of revenue and in the sum, not less than the amount established by the department, as shall be fixed by the board of directors of the education collaborative. The board of directors of the education collaborative in its discretion may pay compensation to the treasurer for his services. No member of the board of directors of the education collaborative shall be eligible to serve as treasurer of the collaborative.

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

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

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

The board of directors of the education collaborative shall be considered to be a public employer and have the authority to employ personnel, including teachers, to carry out the

purposes and functions of the education collaborative. No person shall be eligible for employment by the board of directors as an instructor of children with severe special needs, teacher of children with special needs, teacher, guidance counselor or school psychologist unless the person has been granted a certificate by the board of education under section 38G of chapter 71 or section 6 of chapter 71A or an approval under the regulations promulgated by the board of education under chapter 71B or chapter 74 with respect to the type of position for which he seeks employment; provided, however, that nothing herein shall be construed to prevent a board of directors of an education collaborative from prescribing additional qualifications. A board of directors of an education collaborative may, upon its request, be exempted by the board of education for any 1 school year from the requirements of this section to employ certified or approved personnel when compliance therewith would in the opinion of the board constitute a great hardship.

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

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

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

Section 1J. (a) The commissioner of elementary and secondary education may, on the basis of student performance data collected pursuant to section 1I, a school or district review performed under section 55A of chapter 15, or regulations adopted by the board of elementary and secondary education, designate 1 or more schools in a school district other than a Horace Mann charter school as underperforming or chronically underperforming. The board shall adopt regulations establishing standards for the commissioner to make such designations on the basis of data collected pursuant to section 1I or a school or district review performed under section 55A of chapter 15. Upon the release of the proposed regulations, the board shall file a copy thereof with the clerks of the house of representatives and the senate who shall refer the regulations to the joint committee on education. Within 30 of the filing, the committee may hold a public hearing on the regulations, shall issue a report and file a copy thereof with the board. The board, pursuant to applicable law, may adopt final regulations making the revisions in the proposed regulations as it deems appropriate after consideration of the report and shall forthwith file a copy of the regulations with the chairpersons of the joint committee on education and, not earlier than 30 days of the filing, the board shall file the final regulations with the state secretary. Schools that score in the lowest 20 per cent statewide in their respective school level based on (i) the combined composite performance index scores on the English language arts and mathematics Massachusetts Comprehensive Assessment System exams and (ii) beginning on July 1, 2011, the growth model used to evaluate improvement in student performance shall be deemed eligible for designation as underperforming or chronically underperforming status. Not more than 5 per cent of the public schools in the commonwealth may be designated as underperforming or chronically underperforming at any given time. If the department is no longer using the combined composite performance index as a measure of school and district performance, the department shall use the subsequently developed measure in conjunction with the growth model to determine the lowest 20 per cent of schools.

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

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

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

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

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

the local parent organization; (7) representatives of applicable state and local social service, health, and child welfare agencies, chosen by the superintendent; and (8) as appropriate, representatives of state and local workforce development agencies, chosen by the superintendent. If the school or district does not have a parent organization or if the organization does not select a parent, the superintendent shall select a volunteer parent of a student from the school. The superintendent shall convene such group within 30 days of the commissioner designating a school as underperforming and the group shall make its recommendations to the superintendent within 45 days of its initial meeting. Meetings of the local stakeholder group shall be open to the public and the recommendations submitted to the superintendent under this subsection shall be publicly available immediately upon their submission.

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

The superintendent shall also include in the creation of the innovation plan, after considering the recommendations of the local stakeholder group, the following: (1) steps to address social service and health needs of students at the school and their families, in order to help students arrive and remain at school ready to learn; provided, however, that this may include mental health and substance abuse screening; (2) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school community, in order to promote a safe and secure learning environment; (3) steps to improve workforce development services provided to students and their families at the school, in

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

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

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

(d) Notwithstanding any general or special law to the contrary, in creating the innovation plan required in subsection (b), the superintendent may, after considering the recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum of the school, including the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the school does not already have such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the school from the budget of the district, if the school does not already receive funding from the district at least equal to the average per pupil funding received for students of the same classification and grade level in the district; (4) provide funds, subject to appropriation and following consultation with applicable local unions, to increase the salary of any administrator or teacher in the school, in order to attract and retain highly-qualified administrators or teachers or to reward administrators or teachers who work in underperforming schools that achieve the annual goals set forth in the innovation plan; (5) expand the school day or school year or both of the school; (6) for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (7) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the superintendent regarding his consideration of and decisions on rehiring based on the reapplications; provided, however, the superintendent may only dismiss or fail to rehire a teacher for good cause; provided further, that the teacher has received 5 school days written notice of the decision to terminate that includes an explanation of the reason why the superintendent is not retaining the teacher in the school; provided further, that the teacher may seek review of a termination decision within 5 school days after receiving notice of the teacher's termination by filing a petition for expedited arbitration with the superintendent; provided further, that an arbitrator shall be selected according to the procedures in section 42 of chapter 71 within 3 business days and shall conduct a hearing within 10 business days of receiving the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or not the underperformance of the school is due to

factors beyond the control of the teacher and shall also consider the components of the innovation plan as proposed by the superintendent; and provided further, that the arbitrator's decision shall be issued within 10 business days from the completion of the hearing; (8) limit, suspend or change 1 or more school district policies, as such policies relate to the school; (9) include a provision of job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback; (10) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (11) put in place a plan for professional development for administrators at the school, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; (12) establish steps to assure a continuum of high-expertise teachers by aligning the following processes with the common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (13) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the school; (14) establish strategies to address mobility and transiency among the student population of the school; and (15) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).

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

(e) Within 30 days of the local stakeholder group making recommendations under subsection (b), the superintendent shall submit an innovation plan to the local stakeholder group, the school committee and the commissioner, all of whom may propose modifications to the plan. The superintendent shall make such plan immediately available to the public upon the submission. The stakeholder group, the school committee and the commissioner shall submit any proposed modifications

to the superintendent not more than 30 days after the date of submission of the innovation plan and the proposed modifications shall be made public immediately upon their submission to the superintendent. The superintendent shall consider and may incorporate the modifications into the plan if the superintendent determines that inclusion of the modifications would further promote the rapid academic achievement of students at the school or may alter or reject the proposed modifications submitted under this subsection. Within 30 days of receiving any proposed modifications under this subsection, the superintendent shall issue a final innovation plan for the school and the plan shall be made publicly available.

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

(g) If, after considering the recommendations of the group of stakeholders, the superintendent considers it necessary to maximize the rapid academic achievement of students at the applicable school by altering the compensation, hours and working conditions of the administrators, teachers, principals and staff at the school or by altering other provisions of a contract or collective bargaining agreement applicable to the administrators, teachers, principals and staff, the superintendent may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining

agreements to facilitate such achievement. The bargaining shall be conducted in good faith and completed not later than 30 days from the point at which the superintendent requested that the parties bargain. The agreement shall be subject to ratification within 10 business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within 30 days or if the agreement is not ratified within 10 business days by the bargaining unit members of the school, the parties shall submit remaining unresolved issues as an appeal to a joint resolution committee for expedited arbitration on the next business day following the end of the 30 day bargaining period or failure to ratify.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The secretaries of health and human services, labor and workforce development, public safety and other applicable state and local social service, health and child welfare officials shall coordinate with the secretary of education and the commissioner regarding the implementation of strategies under clauses (1) to (3), inclusive, of the second paragraph that are included in a final innovation plan and shall, subject to appropriation, reasonably support the implementation consistent with the requirements

of state and federal law applicable to the relevant programs that each official is responsible for administering.

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

(o) In creating the innovation plan required in subsection (m), the commissioner may, after considering the recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum of the school, including the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the school does not already have such programs or courses; (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the school from the budget of the district, if the school does not already receive funding from the district at least equal to the average per pupil funding received for students of the same classification and grade level in the district; (4) provide funds, subject to appropriation, to increase the salary of an administrator or teacher in the school, in order to attract and retain highly-qualified administrators or teachers or to reward administrators or teachers who work in chronically underperforming schools that achieve the

annual goals set forth in the innovation plan; (5) expand the school day or school year or both of the school; (6) for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or collective bargaining agreement, as the contract or agreement applies to the school; provided, however that the change may include the adoption of model provisions identified by the commissioner from among existing contracts or collective bargaining agreements , provided, further, that the commissioner shall not reduce the compensation of an administrator, teacher or staff member unless the hours of the person are proportionately reduced; (8) require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the commissioner regarding his consideration of and decisions on rehiring based on the reapplications; provided, however, the commissioner may only dismiss or fail to rehire a teacher for cause; provided further, that the teacher has received 5 school days written notice of the decision to terminate that includes an explanation of the reason why the commissioner is not retaining the teacher in the school; provided further, that the teacher may seek review of a termination decision within 5 school days after receiving notice of the teacher's termination by filing a petition for expedited arbitration with the commissioner; provided further, that an arbitrator shall be selected according to the procedures in section 42 of chapter 71 within 3 business days and shall conduct a hearing within 10 business days of receiving the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or not the chronic underperformance of the school is due to factors beyond the control of the teacher and shall also consider the components of the innovation plan as proposed by the commissioner; and provided further, that the arbitrator's decision shall be issued within 10 business days from the completion of the hearing; (9) limit, suspend or change 1 or more school district policies, as such policies or practices relate to the school; (10) include a provision of job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback; (11) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (12) establish a plan for professional development for administrators at the school, with an emphasis on strategies that develop

leadership skills and use the principles of distributive leadership; (13) establish steps to assure a continuum of high expertise teachers by aligning the following processes with the common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (14) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the school; (15) establish strategies to address mobility and transiency among the student population of the school; and (16) include additional components, at the discretion of the commissioner, based on the reasons the school was designated as chronically underperforming and the recommendations of the local stakeholder group in subsection (m).

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

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

(p) Within 30 days of the local stakeholder group making recommendations under subsection (m), the commissioner shall submit an innovation plan to the local stakeholder group, the superintendent and the school committee, all of whom may propose modifications to the plan. The commissioner shall make the plan immediately available to the public upon submission. The stakeholder group, the superintendent and the school committee shall submit any proposed modifications to the commissioner within 30 days after the date of submission of the innovation plan and the proposed modifications shall be made public immediately upon their submission to the commissioner. The commissioner shall consider and incorporate the modifications into the plan if the commissioner determines that inclusion of the modifications would further promote the rapid academic achievement of students at the applicable

school. The commissioner may alter or reject modifications submitted pursuant to this subsection. Within 30 days of receiving any proposed modifications, the commissioner shall issue a final innovation plan for the school and the plan shall be made publicly available.

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

(r) In the case of a chronically underperforming school, the commissioner may, under the circumstances described in this subsection, send a targeted assistance team to the school to assist the superintendent with the implementation of the innovation plan, require the superintendent to implement the innovation plan, or select an external receiver to operate the school and implement the innovation plan. The commissioner may appoint such receiver if the commissioner determines that: (1) the superintendent is unlikely to implement the plan successfully; or (2) conditions exist in the district that are likely to negatively affect the ability of the superintendent to implement such plan successfully. A receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low performing schools or the academic performance of disadvantaged students. A receiver shall be subject to section 11A½ of chapter 30Aand chapter 66. A receiver who is an individual shall also be subject to chapter 268A.

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

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

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

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

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

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

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

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

(w) Upon the expiration of an innovation plan for a chronically underperforming school, the commissioner shall conduct a review of the school to determine whether the school has improved sufficiently, requires further improvement or has failed to improve. On the basis of such review, the commissioner may: (1) on the basis of a superintendent's or external receiver's success in meeting the terms of the plan, renew the plan with the superintendent or external receiver for an additional period of not more than 3 years; (2) if a school that is operated by a superintendent and remains chronically underperforming, appoint an external receiver, as defined in subsection (r), to operate the school; (3) if a chronically underperforming school that is operated by an external receiver and remains chronically underperforming, transfer the operation of the school from the receiver to the applicable superintendent or to another external receiver; or (4) determine that the school has improved sufficiently for the designation of chronically underperforming to be removed. The commissioner shall: (1) in the case of a renewal of an innovation plan, jointly determine subsequent annual goals for each component of the plan with the superintendent or external receiver, as applicable; or (2) create a new or modified innovation plan as necessary, consistent with the requirements of this section.

(x) The board of elementary and secondary education shall adopt regulations regarding: (1) the conditions under which an underperforming or chronically underperforming school shall no longer

be designated as an underperforming or chronically underperforming school; and (2) the transfer of the operation of an underperforming or a chronically underperforming school from a superintendent or an external receiver, as applicable, to the school committee. The regulations shall include provisions to allow a school to retain measures adopted in an innovation plan if, in the judgment of the commissioner, the measures would contribute to the continued improvement of the school.

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

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

Section 1K. (a) Upon a determination by the board of elementary and secondary education, pursuant to regulations adopted by the board, that a school district has scored in the lowest 5 per cent statewide based on (i) the combined composite performance index for English language arts and math and (ii) beginning on July 1, 2011, the growth model used to evaluate improvement in student performance, the commissioner shall appoint an independent factfinding team to assess the reasons for the underperformance and the prospects for improvement. The fact-finding team shall include at least one person with expertise in the academic achievement of limited English-proficient students. Upon review of the findings of the fact-finding team, the board may declare the district chronically underperforming on the basis of student performance data collected pursuant to section 1I, district review performed under section 55A of chapter 15, or upon regulations adopted by the board. Following

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

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

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

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

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

committee, or a designee; (3) the president of the local teacher's union, or a designee; (4) a selection of administrators from the district, chosen by the commissioner from among volunteers from the district; (5) a selection of teachers from the district, chosen by the local teacher's union; (6) a selection of parents from the district chosen by the local parent organization; (7) representatives of applicable state and local social service, health, and child welfare agencies chosen by the commissioner; and (8) as appropriate, representatives of state and local workforce development agencies chosen by the commissioner. If the district does not have a parent organization or if the organization does not select a parent, the commissioner shall select a volunteer parent of a student from the district. The commissioner and receiver shall convene the group within 30 days of the board designating a district as chronically underperforming and the group shall make its recommendations to the commissioner and receiver within 45 days of its initial meetings. Meetings of the local stakeholder group shall be open to the public and the recommendations submitted to the commissioner and receiver shall be publicly available immediately upon their submission.

(c) In creating the innovation plan, the commissioner and receiver shall include measures intended to maximize the rapid academic achievement of students in the district and shall, to the extent practicable, base the plan on student outcome data, including, but not limited to: (1) data collected pursuant to section 1I, or a school or district review performed under section 55A of chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System; (3) other measures of student achievement, as appropriate; (4) student promotion and graduation rates; (5) achievement data for different subgroups of students, including low-income students as defined in chapter 70, limited English-proficient students and students receiving special education; and (6) student attendance and dismissal rates. In creating the innovation plan required in subsection (b), the commissioner and receiver shall include, after considering the recommendations of the local stakeholder group, the following: (1) steps to address social service and health needs of students and their families in the district in order to help students arrive and remain at school ready to learn; provided, however, that this may include mental

607 health and substance abuse screening; (2) steps to improve or expand child welfare services and, as
608 appropriate, law enforcement services in the school district community, in order to promote a safe and
609 secure learning environment; (3) as applicable, steps to improve workforce development services
610 provided to students and their families in the district in order to provide students and families with
611 meaningful employment skills and opportunities; (4) steps to address achievement gaps for limited
612 English-proficient, special education and low-income students, as applicable; and (5) a budget for the
613 district including any additional funds to be provided by the commonwealth, federal government or other
614 sources.

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

621 In order to assess the district across multiple measures of district performance and student
622 success, the innovation plan shall include measurable annual goals including, but not limited to, the
623 following: (1) student attendance and dismissal rates; (2) student safety and discipline; (3) student
624 promotion and graduation; (4) student achievement on the Massachusetts Comprehensive Assessment
625 System; (5) progress in areas of academic underperformance; (6) progress among subgroups of students,
626 including low-income students as defined by chapter 70, limited English-proficient students and students
627 receiving special education; (7) reduction of achievement gaps among different groups of students; (8)
628 student acquisition and mastery of 21st-century skills; (9) development of college readiness, including at
629 the elementary and middle school levels; (10) parent and family engagement; (11) building a culture of
630 academic success among students; (12) building a culture of student support and success among faculty

and staff; and (13) developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable.

(d) Notwithstanding any general or special law to the contrary, in creating the innovation plan under subsection (b), the commissioner and the receiver may, after considering the recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum of the district or of a school in the district, including the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the district or schools in the district do not already have such programs or courses; (2) reallocate the uses of the existing budget of the district; (3) provide funds, subject to appropriation, to increase the salary of an administrator or teacher in the district, in order to attract and retain highly-qualified administrators or teachers or to reward administrators or teachers who work in chronically underperforming districts that achieve the annual goals set forth in the innovation plan; (4) expand the school day or school year or both of schools in the district; (5) limit, suspend or change 1 or more provisions of any contract or collective bargaining agreement in the district, including the adoption of model provisions identified by the commissioner from among existing contracts or collective bargaining agreements in the commonwealth; provided, however, that the commissioner shall not reduce the compensation of an administrator, teacher or staff member unless the hours of the person are proportionately reduced; (6) add pre-kindergarten and full-day kindergarten classes, if the district does not already have the classes; (7) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the commissioner regarding his consideration of and decisions on rehiring based on the reapplications; provided, however, the commissioner may only dismiss or fail to rehire a teacher for cause; provided further, that the teacher has received 5 school days written notice of the decision to terminate that includes an explanation of the reason why the commissioner is not retaining the teacher in the school; provided further, that the teacher may seek review of a termination decision within 5 school

days after receiving notice of the teacher's termination by filing a petition for expedited arbitration with the commissioner; provided further, that an arbitrator shall be selected according to the procedures in section 42 of chapter 71 within 3 business days and shall conduct a hearing within 10 business days of receiving the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider whether or not the underperformance of the school is due to factors beyond the control of the teacher and shall also consider the components of the innovation plan as proposed by the commissioner; and provided further, that the arbitrator's decision shall be issued within 10 business days from the completion of the hearing; (8) limit, suspend or change 1 or more school district policies, as such policies or practices relate to the school; (9) include a provision of job-embedded professional development for teachers in the district, with an emphasis on strategies that involve teacher input and feedback; (10) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (11) establish a plan for professional development for administrators in the district, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; (12) establish steps to assure a continuum of high expertise teachers by aligning the following processes with the common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (13) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the district; (14) establish strategies to address mobility and transiency among the student population of the district; and (15) include additional components, at the discretion of the commissioner and the receiver, based on the reasons the district was designated as chronically underperforming and based on the recommendations of the local stakeholder group in subsection (b).

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

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

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

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

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

If the commissioner determines that the receiver has not met 1 or more goals in the plan and the failure to meet the goals may be corrected through reasonable modification of the plan, the commissioner may amend the innovation plan, as necessary. After assessing the implementation of the innovation plan in the district, the commissioner may amend the plan if the commissioner determines that the amendment is necessary in view of subsequent changes in the district that affect 1 or more components of the plan, including, but not limited to, changes to contracts, collective bargaining agreements, or school district policies. If the commissioner determines that the receiver has substantially failed to meet multiple goals in the innovation plan, the commissioner may terminate such receiver; provided, however,

that the termination shall not occur before the completion of the first full school year of the receivership of the district.

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

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

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

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

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

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

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

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

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

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

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

Section 89. (a) Charter schools shall be established: (1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools inside and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative and innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs; (6) to hold teachers and school administrators accountable for students’ educational outcomes; and (7) to provide models for replication in other public schools.

(b) A commonwealth charter school shall be a public school, operated under a charter granted by the board of elementary and secondary education, which operates independently of a school committee and is managed by a board of trustees. The board of trustees of a commonwealth charter school, upon receiving a charter from the board of elementary and secondary education, shall be considered to be public agents authorized to supervise and control the charter school. The board of elementary and

797 secondary education may grant a charter or amend an existing charter designating a commonwealth
798 charter school as a regional charter school if the school enrolls students from more than 1 district.

799 A Horace Mann charter school shall be a public school or part of a public school operated under
800 a charter approved by the school committee in the district in which the school is located; provided,
801 however, that the school committee shall consult with the local teacher's union before the approval; and
802 provided further, that all charters shall be granted by the board of elementary and secondary education. A
803 Horace Mann charter school shall have a memorandum of understanding with the school committee of
804 the district in which the charter school is located which, at a minimum, defines the services and facilities
805 to be provided by the district to the charter school and states the funding of the charter school by the
806 district. A Horace Mann charter school established as a conversion of an existing public school shall
807 include in its memorandum of understanding an agreement regarding any waivers to applicable
808 collective bargaining agreements, which such agreement shall be approved by a majority of the school
809 faculty. A vote by the school faculty shall be held and finalized within 30 days of submission of the
810 charter school application to the board of elementary and secondary education. A Horace Mann charter
811 school shall be operated and managed by a board of trustees independent of the school committee which
812 approved the school. The board of trustees may include a member of the school committee.

813 (c) For the purposes of this section, the words "charter school" shall refer to both commonwealth
814 charter schools and Horace Mann charter schools unless specifically stated otherwise.

815 (d) The following shall be eligible to apply to establish a charter school: (1) parents; (2)
816 teachers; (3) parent-teacher organizations; (4) principals; (5) superintendents; (6) school committees; (7)
817 teacher unions; (8) colleges and universities; (9) non-profit community-based organizations; (10) non-
818 profit business or corporate entities; (11) non-profit charter school operators; (12) non-profit education
819 management organizations; (13) non-profit educational collaboratives; (14) consortia of these groups;
820 and (15) non-profit entities authorized by the commissioner. Private and parochial schools shall not be

eligible to establish a charter school. The commissioner shall provide technical assistance to public school districts to assist in the development of proposals for Horace Mann charter schools.

(e) The board of elementary and secondary education shall establish the information needed in an application for the approval of a charter school; provided, however, that the application shall include, but not be limited to, a description of: (1) the mission, purpose, innovation and specialized focus of the proposed charter school; (2) the innovative methods to be used in the charter school and how they differ from the district or districts from which the charter school will enroll students; (3) whether the proposed educational program or model is being successfully implemented in the school district or districts from which the charter will enroll students; (4) the organization of the school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the school and the district from which the school may enroll students; (5) the method for admission to the charter school; (6) a student recruitment and retention plan; (7) the educational program, instructional methodology and services to be offered to students, including research on how the proposed program may improve the academic performance of the subgroups listed in the recruitment and retention plan; (8) the school's capacity to address the particular needs of limited English-proficient students, if applicable, to learn English and learn content matter, including the employment of staff that meets the criteria established by the department; (9) how the school shall involve parents as partners in the education of their children; (10) the school governance and bylaws; (11) a proposed or signed arrangement or contract with an organization that would manage or operate the school, including any proposed or agreed upon payments to the organization; (12) the financial plan for the operation of the school; (13) the provision of school facilities and pupil transportation; (14) the number and qualifications of teachers and administrators to be employed; (15) procedures for evaluation and professional development for teachers and administrators; and (16) a statement of equal educational opportunity which shall state that the charter school shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry,

athletic performance, special need, proficiency in the English language or academic achievement. In the case of a Horace Mann charter school, the application shall include a draft memorandum of understanding, as described in subsection (b).

(f) The student recruitment and retention plan of clause (6) of subsection (e) shall include, but not be limited to, a detailed description of deliberate, specific strategies the charter school shall use to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school shall enroll students, contains a comparable or greater percentage of students from 3 or more of the following categories: students eligible for free lunch as defined in section 2 of chapter 70; students eligible for reduced price lunch as defined in said section 2 of said chapter 70; special education students; limited English-proficient students of similar language proficiency level as measured by the Massachusetts English Proficiency Assessment examination; sub-proficient students, which shall mean students who have scored in the needs improvement, warning or failing categories on the mathematics or English language arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a similar measurement; students who are determined to be at risk of dropping out of school based on predictors determined by the department; students who have dropped out of school; or other at-risk students who should be targeted in order to eliminate achievement gaps among different groups of students as enumerated above. If the charter school is in a district with 10 per cent or more of limited English-proficient students, the recruitment strategies shall include a variety of outreach efforts in the most prevalent languages of the district. The student recruitment and retention plan shall include, but not be limited to, a detailed description of deliberate, specific strategies the school shall use to maximize the number of students who successfully complete all school requirements, prevent students from dropping out and minimize the number of students in the categories enumerated in this subsection from returning to district schools. The student recruitment and retention plan shall include annual goals for: (1) recruitment activities; (2) the number of students in the categories of students identified in the plan who

seek to enroll in the school; (3), student retention activities; and (4) student retention. The recruitment and retention plan shall be updated annually to account for changes in both district and charter school enrollment.

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

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

(h) An application submitted for the establishment of a commonwealth charter school shall be: (1) submitted to the board of elementary and secondary education for approval pursuant to this section; and (2) filed with the local school committee for each school district from which the charter school may enroll students. Before final approval to establish a commonwealth charter school, the board of elementary and secondary education shall hold a public hearing on the application in the school district in which the proposed charter school is to be located. If the school is a regional commonwealth charter

school, the public hearing shall be held in a location within the region. At least 1 member of the board shall attend each public hearing soliciting comment on a pending application and shall report to the board on the hearing. Before final approval to establish a commonwealth charter school, the board of elementary and secondary education shall solicit and review comments on the application from the local school committee for each school district from which the charter school may enroll students. A department report regarding the application shall be made available to the commonwealth charter school applicant and affected districts within 10 days of the completion of the report.

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

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

The commonwealth shall incur charter school tuition payments for siblings attending commonwealth charter schools to the extent that their attendance would otherwise cause the school district's charter school tuition payments to exceed 9 per cent of the school district's net school spending or 18 per cent in the case of the lowest performing 10 per cent of school districts. If a district is no

919 longer in the lowest 10 per cent, the net school spending cap shall be 9 per cent, unless the district net
920 school spending was above 9 per cent in the year before moving out of the lowest 10 per cent in which
921 case the net school spending cap shall remain at the higher level plus enrollment already approved by the
922 board. If a district is again ranked in the lowest 10 per cent based on 2 consecutive years of
923 performance, the net school spending cap shall increase pursuant to this section.

924 As early as possible in the application process and not later than October 15, the board shall
925 determine and make available to the public a list of the school districts in the lowest 10 per cent and shall
926 provide information about net school spending in each such district. Applications to establish a charter
927 school shall be submitted to the board annually by November 15. The board shall review the applications
928 and grant new charters in February of the following year. At least 2 of the new commonwealth charters
929 approved by the board in any year shall be granted for commonwealth charter schools located in districts
930 where overall student performance on the statewide assessment system approved by the board of
931 elementary and secondary education pursuant to section 1I of chapter 69 and, beginning on July 1,
932 2011, the growth model used to evaluate improvement in student performance is in the lowest 10
933 per cent statewide in the 2 years preceding the charter application. In any year, the board shall approve
934 only 1 regional charter school application of a commonwealth charter school located in a school district
935 where overall student performance on the statewide assessment system and, beginning on July 1,
936 2011, the growth model used to evaluate improvement in student performance is in the top 10 per
937 cent in the year preceding charter application.

938 For districts scoring in the lowest 10 per cent for the previous 2 years as measured by the
939 combined Composite Performance Index scores on the English language arts and mathematics
940 Massachusetts Comprehensive Assessment System exams and, beginning on July 1, 2011, the
941 growth model used to evaluate improvement in student performance, the board may only approve
942 an application for the establishment of a commonwealth charter school under this subsection for eligible

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

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

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

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

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

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

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

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

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

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

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

If a final application is fundamentally flawed, the department may provide feedback to the applicant and invite it to submit a stronger application in the future. Once a final application has been filed, only minor, non-substantive amendments shall be allowed. The department shall maintain a

written summary of interviews it conducts with final charter applicants and include that summary with the final application materials that are provided to the board, local school officials and the public.

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

(l) A charter school established under a charter granted by the board shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the following:(1) to adopt a name and corporate seal; provided, however, that the name selected must include the words charter school; (2) to sue and be sued, but only to same extent and upon the same conditions that a municipality can be sued; (3) to acquire real property, from public or private sources, by lease, lease with an option to purchase or by gift, for use as a school facility; provided, however, in the case of a Horace Mann charter school, the approval of the local school committee shall be obtained before acquisition of such real property owned or controlled by the body; (4) to receive and disburse funds for school purposes; (5) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the charter school intends to procure substantially all educational services under contract with another person, the terms of the contract must be approved by the board either as part of the original charter or by way of an amendment thereto; and provided further, that the board shall not approve contract terms whose purpose or effect are to avoid the prohibitions of this section against the charter school status for private and parochial schools or a for-profit entity operating a charter school;(6) to incur temporary debt in anticipation of receipt of funds; provided, however, that a Horace Mann charter school shall obtain the approval of the local school committee and appropriate local appropriating authorities and officials relative to a proposed lien or encumbrance upon public school property or relative to a financial obligation for which the local school district shall

1012 become legally obligated; and provided further, that notwithstanding any law to the contrary, the terms
1013 of repayment of a charter school's debt shall not exceed the duration of the school's charter without the
1014 approval of the board; (7) to solicit and accept any grants or gifts for school purposes; and (8) to have
1015 such other powers available to a business corporation formed under chapter 156B that are not
1016 inconsistent with this chapter.

1017 (m) Charter schools shall not charge a public school for the use or replication of any part of their
1018 curriculum subject to the prescriptions of a contract between the charter schools and a third party
1019 provider.

1020 (n) Charter schools shall be open to all students, on a space available basis, and shall not
1021 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental
1022 or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English
1023 language or a foreign language and academic achievement. Charter schools may limit enrollment to
1024 specific grade levels and may structure curriculum around particular areas of focus such as mathematics,
1025 science or the arts. There shall be no application fee for admission to a charter school. A charter school
1026 shall not charge tuition or a fee related to required educational programs.

1027 A commonwealth charter school shall only enroll students from the district identified in its
1028 charter. If a commonwealth charter school wants to enroll students from other districts or move the
1029 school to a district not identified in its charter, it must seek an amendment to its charter from the board.
1030 Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled
1031 in the school on the date that the application is filed with the board of elementary and secondary and to
1032 their siblings if the school is a conversion of an existing school, second to other students actually
1033 enrolled in the public schools of the district where the Horace Mann charter school is to be located and
1034 third, to other resident students.

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

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

(q) A student may withdraw from a charter school at any time and enroll in another public school where the student resides. When a student stops attending a charter school for any reason, the

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

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

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

After an applicant has filed a charter school application, the applicant may request a facilities assessment from the Massachusetts School Building Authority. A charter school may request an assessment at any time. The authority, at the request of a charter school or applicant for a charter school, may conduct an assessment of a facility intended for use or used as a school building. The facilities

assessment shall be conducted by the authority in a format and manner prescribed by the authority and the charter school shall pay for the cost of conducting the facilities assessment. The charter school shall provide complete access to its school facilities for the purpose of the authority conducting a facilities assessment. The facilities assessment shall include an assessment of the charter school's maintenance process and a review of the maintenance practices and procedures in place at the school. The maintenance review shall be conducted in a format and manner prescribed by the authority.

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

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

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

The commissioner of elementary and secondary education shall annually record and submit to the joint committee on education a record of successful innovative programs of charter schools and may

provide technical assistance for school districts to replicate the programs. Additionally, the commissioner of elementary and secondary education shall issue a report on past innovative programs used in successful practices for charter schools implemented in public schools in the commonwealth. Each charter school and sending districts shall be required to demonstrate a good faith effort to collaborate on the sharing of innovative practices. Successful innovative programs shall be made publically available, both in print and electronically.

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

(u) A charter school shall operate in accordance with its charter and the law regulating other public schools; provided, however, that the sections 41 and 42 shall not apply to employees of commonwealth charter schools. Charter schools shall comply with chapters 71A and 71B; provided, however, that the fiscal responsibility of a special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district where the student resides. If a charter school expects that a special needs student currently enrolled in the charter school may be in need of the services of a private day or residential school, it shall convene an individual education plan team meeting for the student. Notice of the team meeting shall be provided to the special education department of the school district in which the child resides at least 5 days in advance. Personnel from the school district in which the child resides shall participate in the team meeting concerning future placement of the child.

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

(w) Notwithstanding this section or any other general or special law to the contrary, for the purposes of chapter 268A: (1) a charter school shall be deemed to be a state agency; and (2) the appointing official of a member of the board of trustees of a charter school shall be deemed to be the commissioner of education. Members of boards of trustees of charter schools operating under this section shall file a disclosure annually with the state ethics commission, the department of secondary and elementary education and the city or town clerk where the charter school is located. The disclosure is in addition to the requirements of said chapter 268A and a member of a board of trustees shall also comply with the disclosure and other requirements of said chapter 268A. The form of the disclosure shall be prescribed by the ethics commission and shall be signed under penalty of perjury. The form shall be limited to a statement in which members of the board of trustees shall disclose any financial interest that they or a member of their immediate families, as defined in section 1 of said chapter 268A, have in a charter school located in the commonwealth or in any other state or with a person doing business with a charter school.

Each member of a board of trustees of a charter school shall file the disclosure for the preceding calendar year with the commission within 30 days after becoming a member of the board of trustees, by September 1 of each year thereafter that the person is a member of the board and by September 1 of the year after the person ceases to be a member of the board; provided, however, that no member of a board

of trustees shall be required to file such disclosure for the year in which the member ceases to be a member of the board if the member served less than 30 days in that year.

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

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

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

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

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

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

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

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

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

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

(ee) The students who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on similar terms and conditions as transportation is provided to students attending local district schools, if such transportation is requested by the charter school. In providing the transportation, the school committee shall accommodate the particular school day and school year of the charter school; provided, however, that in the event that a school committee limits transportation for district school students, the school district shall not be required to provide transportation to a commonwealth charter school beyond those limitations. A charter school and the sending district shall meet to plan bus routes and charter school starting and ending times in order to assist the district with cost effective means of transportation. Schools operating pursuant to a charter granted after January 1, 1997, and all charter schools during fiscal year 1999 and thereafter, shall not receive funds for transportation above the amount actually required by the charter school for the transportation services to eligible students. If the sending district provides an alternative method of transportation for students enrolled in the sending district's public schools, it shall not be assessed for transportation costs which exceed the per pupil cost of the alternative. Costs for transportation shall be included only if transportation is provided for students in the same program and grade level as those in the charter school. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section 12B of chapter 76. A regional charter school as designated by the board of elementary and secondary education whose charter provides for transportation of all students from charter municipalities shall also be reimbursed under section 16C of chapter 71 for transportation provided to pupils residing outside the municipality where the charter school is located; provided, however, that no reimbursement for transportation between the charter school and a student's home shall be made if a pupil resides less than 1 1/2 miles from the charter school, measured by a commonly traveled route. If a charter school

1225 provides its own transportation, the school shall coordinate and collaborate with the sending district to
1226 provide cost effective means of transportation. All transportation shall be determined in advance of the
1227 approval of the district's final budget for a fiscal year.

1228 If a charter school student previously attended a private or parochial school or was home
1229 schooled, the commonwealth shall assume the first year cost for that student and shall not reduce the
1230 sending district's chapter 70 aid for that student's tuition in that fiscal year.

1231 (ff) If a charter school plans to make a major change in its operations, the school's board of trustees
1232 shall submit in writing to the board of elementary and secondary education a request to amend its charter.
1233 Major changes are defined as those that fundamentally affect a school's mission, organizational structure or
1234 educational program, as further defined by regulation.
1235 If a charter school plans to make a minor change in its operations, the school's board of trustees shall
1236 submit in writing to the commissioner of elementary and secondary education a request to amend its charter.
1237 Minor changes are defined as changes that do not fundamentally alter a school's organizational structure or
1238 educational program, as further defined by regulation.
1239 The board of elementary and secondary education or the commissioner, as applicable, shall
1240 approve or deny amendment requests. A request for a change to a Horace Mann charter school's charter
1241 also requires the approval of the local school committee.

1242 If a commonwealth charter school seeks an amendment to change its maximum enrollment,
1243 including grades served, the municipality of its location or the districts specified in its charter, the
1244 department shall provide a copy of the request to the superintendents of the affected districts and provide
1245 them notice of their right to submit written comment to the commissioner within 30 days.

1246 If the commissioner denies an amendment request, the charter school's board of trustees may seek
1247 review of the commissioner's decision by the board.

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

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

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

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

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

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

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

In calculating the per pupil foundation budget component, the department shall calculate a foundation budget for the students from each sending district attending the charter school in the previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, however, that the department

shall not include in the calculation the assumed tuitioned-out special education enrollment, nor any amounts generated by the assumed enrollment, as defined by said section 2 of said chapter 70. The per pupil foundation budget component for the charter school shall be the district's foundation budget, as so calculated, divided by the number of students attending the charter school from the sending district in the previous fiscal year. The per pupil foundation budget component shall be calculated separately for each charter school to which a district sends students. The foundation budget for a charter school shall be the sum of the foundation budgets for the charter school for each district sending students to the charter school.

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

The total tuition amount owed to a charter school shall be the per pupil tuition amount as defined in this section, multiplied by the total number of students attending the charter school from that district in the current fiscal year. The amount shall be composed of district sponsored tuition and state sponsored

tuition. The district sponsored tuition shall be the total tuition amount owed to the charter school on behalf of district students for the previous fiscal year. The state sponsored tuition shall be the positive difference, if any, between the total tuition amount for the current fiscal year and the district sponsored tuition amount. The sending district's total charter school tuition amount for purposes of the following paragraphs shall be the sum of the district-sponsored tuition amounts for each charter school to which the district sends students, calculated using this section, The receiving charter school's total charter school tuition amount shall be the sum of the tuition amounts calculated for the charter school for each district sending students to the charter school. The total state-sponsored charter school tuition amount for a receiving charter school shall be provided directly to the charter school by the commonwealth as part of section 3 of chapter 70 and the distribution of the general appropriation act for a fiscal year or any successor method of determining local aid distributions. The amounts appearing in section 3 of the general appropriation act shall be the state sponsored tuition amounts; provided, however, upon calculation of final state-sponsored tuition amounts for the current fiscal year, the department shall adjust state sponsored tuition amounts based on the calculations for affected charter schools.

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

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

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

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

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

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

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

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

(ll) Each charter school shall submit an annual report to the board of elementary and secondary education, to the local school committee of each district from which the charter school enrolls students, to each parent or guardian of its enrolled students and to each parent or guardian contemplating enrollment in that charter school. The annual report shall be issued not later than August 1 for the preceding school year. The annual report shall be in the form as may be prescribed by the board of elementary and secondary education and shall include at least the following components: (1) discussion of progress made toward the achievement of the goals set forth in the charter; (2) discussion of progress made toward the goals and retention efforts described in the school's recruitment and retention plan; provided, however, that if a charter school has not enrolled and retained a student population matching such goals, the report must explain why this is the case; (3) an accounting of how many students were

designated as requiring special education services or English language services by language proficiency level as measured by the Massachusetts English Proficiency Assessment examination upon enrollment and how many of these students were subsequently no longer designated as such, along with a description of methods used by the school to achieve these outcomes and the rationale behind the methodologies used; (4) the number of students, teachers and administrators who have left each charter school and their reasons for leaving; (5) the number of students enrolled in the charter school eligible for free lunch as defined in section 2 of chapter 70; (6) the number of students enrolled in the charter school eligible for reduced price lunch as defined in section 2 of said chapter 70; (7) the number of homeless students enrolled in the charter school; and (8) the number of students in the care of the department of youth services enrolled in each charter school.

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

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

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

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

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

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

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

Section 92. (a) An Innovation School shall be a public school, operating within a public school district, that is established for the purpose of improving school performance and student achievement through increased autonomy and flexibility. An Innovation School may be established as a new public school or as a conversion of an existing public school. A student who is enrolled in a school at the time it is established as an Innovation School shall retain the ability to remain enrolled in the school if the student chooses to do so.

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

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

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

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

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

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

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

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

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

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

1535 does not contain a parent-teacher organization or if the organization does not submit nominees, the
1536 applicant shall select the parent from among volunteers in the area or community the proposed school is
1537 expected to serve. The applicant shall select the principal and 1 teacher from among volunteers in the
1538 district and 1 teacher from among nominees submitted by the local teacher's union.

1539 (j) Upon the formation of the innovation plan committee in subsection (i), the committee shall
1540 develop the innovation plan for the proposed Innovation School. The purpose of the innovation plan
1541 shall be to comprehensively articulate the areas of autonomy and flexibility under subsection (b) that the
1542 proposed school will use. The innovation plan shall include, but not be limited to: (1) a curriculum plan,
1543 which shall include a detailed description of the curriculum and related programs for the proposed school
1544 and how the curriculum is expected to improve school performance and student achievement; (2) a
1545 budget plan, which shall include a detailed description of how funds shall be used differently in the
1546 proposed school to support school performance and student achievement; (3) a school schedule plan,
1547 which shall include a detailed description of the ways, if any, the program or calendar of the proposed
1548 school will be enhanced or expanded; (4) a staffing plan, which shall include a detailed description of
1549 how the school principal, administrators, faculty and staff will be recruited, employed, evaluated and
1550 compensated in the proposed school and any proposed waivers or modifications of collective bargaining
1551 agreements; (5) a policy and procedures plan, which shall include a detailed description of the unique
1552 operational policies and procedures to be used by the proposed school and how the procedures shall
1553 support school performance and student achievement; and (6) a professional development plan, which
1554 shall include a detailed description of how the school may provide high-quality professional
1555 development to its administrators, teachers and staff.

1556 In order to assess the proposed school across multiple measures of school performance and
1557 student success, the innovation plan shall include measurable annual goals including, but not limited to,
1558 the following: (1) student attendance and dismissal rates; (2) student safety and discipline; (3) student
1559 promotion and graduation; (4) student achievement on the Massachusetts Comprehensive Assessment

System; (5) progress in areas of academic underperformance; (6) progress among subgroups of students, including low-income students as defined by chapter 70, limited English-proficient students and students receiving special education; (7) reduction of achievement gaps among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the elementary and middle school levels; (10) parent and family engagement; (11) building a culture of academic success among students; and (12) building a culture of student support and success among school faculty and staff.

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

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

(l) In the case of a school conversion, upon completion of the innovation plan in subsection (j), , the applicant shall submit the innovation plan to teachers in the school that is proposed for conversion for approval by secret ballot within 30 days. A two-thirds vote of the teachers shall be required to approve the plan. Upon approval of an innovation plan by the teachers, the plan shall be submitted immediately to the school committee. If a two-thirds vote is not achieved, the innovation plan committee may revise the innovation plan as necessary and submit the revised plan to the teachers for a subsequent vote.

In the case of a new school, upon the completion of the innovation plan in subsection (j), the applicant, a local union and the superintendent shall negotiate waivers or modifications to the applicable collective bargaining agreement necessary for the school to implement the innovation plan. Upon the conclusion of the negotiations, the innovation plan shall be submitted immediately to the school

1584 committee. If the negotiations have not resulted in an agreement within 40 days, either party may
1585 petition the division of labor relations for the selection of an arbitrator. The division shall select an
1586 arbitrator within 3 days of the petition from a list submitted by the parties. The arbitrator shall conduct a
1587 hearing within 14 days of the arbitrator's selection. The arbitrator shall consider the parties' positions
1588 and the needs of the students in the district. The arbitrator's decision shall be consistent with the
1589 contents of the innovation plan developed by the applicant. The arbitrator shall submit a decision which
1590 shall be final and binding on the parties, within 14 days of the close of the hearing.

1591 (m) Upon receipt of an innovation plan regarding an Innovation School, a school committee
1592 shall hold at least 1 public hearing on the innovation plan. After the public hearing, but not later than 60
1593 days after the receipt of the innovation plan, the school committee shall, on the basis of the quality of the
1594 plan and in consideration of comments submitted by the public, undertake a final vote to authorize the
1595 Innovation School for a period of not more than 5 years, subject to subsection (n). Approval of the
1596 majority of the school committee as fully constituted shall be required to authorize an Innovation School.
1597 If the approval is not obtained, an innovation plan committee may revise the innovation plan and: (i) in
1598 the case of a new school, submit the revised plan to the school committee for a subsequent vote; or (ii)
1599 in the case of a conversion, submit the revised plan to the teachers in the school that is proposed for
1600 conversion for a vote, pursuant to subsection (l); provided, however, that the plan meets the
1601 requirements for approval under subsection (l), submit the revised plan to the school committee for a
1602 subsequent vote. A school committee shall vote on a revised plan submitted pursuant to this subsection
1603 within 60 days of the receipt of such plan and contract.

1604 (n) All Innovation Schools authorized under subsection (m) shall be evaluated by the
1605 superintendent at least annually. The superintendent shall transmit the evaluation to the school
1606 committee and the commissioner of elementary and secondary education. The purpose of the evaluation
1607 shall be to determine whether the school has met the annual goals in its innovation plan and assess the
1608 implementation of the innovation plan at the school. If the school committee determines, on the advice

of the superintendent, that the school has not met 1 or more goals in the innovation plan and that the failure to meet the goals may be corrected through reasonable modification of the plan, the school committee may amend the innovation plan as necessary. After the superintendent assesses the implementation of the innovation plan at the school, the school committee may, on the advice of the superintendent, amend the plan if the school committee determines that the amendment is necessary in view of subsequent changes in the district that affect 1 or more components of the plan, including, but not limited to, changes to contracts, collective bargaining agreements, or school district policies; provided, however, that an amendment involving a subsequent change to a teacher contract shall first be approved by teachers at the school, under the procedures in subsection (l).

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

(o) At the end of the period of authorization of an Innovation School approved under subsection (m), the leadership of the school may petition the school committee to extend the authorization of the school for an additional period of not more than 5 years. Before submitting the petition, the leadership of the school shall convene a selection of school stakeholders, including, but not limited to, administrators, teachers, other school staff, parents and external partners, as applicable, to discuss whether the innovation plan at the school requires revision and to solicit recommendations as to the potential revisions. After considering the recommendations of the stakeholder group, the leadership of the school and the applicable superintendent shall jointly update the innovation plan as necessary; provided, however, that a proposal regarding a new waiver or exemption from the local teacher’s union contract shall be approved by teachers at the school, under subsection (l). Approval of the majority of

the school committee as fully constituted shall be required to extend the period of authorization of an Innovation School. If the approval is not obtained, the leadership of the school and superintendent may jointly revise the innovation plan and submit the revised plan to the school committee for a subsequent vote. If the school committee does not extend the authorization of the school, the leadership of the school may seek the authorization from the board of elementary and secondary education. The board shall vote on the requested extension within 60 days of its receipt for approval of such extension.

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

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

1659 school tuition payment to commonwealth charter schools shall be limited to 15 per cent of the district's
1660 net school spending; (5) in fiscal year 2015, a public school district's total charter school tuition payment
1661 to commonwealth charter schools shall be limited to 16 per cent of the district's net school spending; (6)
1662 in fiscal year 2016, a public school district's total charter tuition payment to commonwealth charter
1663 schools shall be limited to 17 per cent of the district's net school spending; and (7) in fiscal year 2017, a
1664 public school district's total charter tuition payment to commonwealth charter schools shall be limited to
1665 18 per cent of the district's net school spending.

1666 SECTION 8A. The department of education shall provide technical assistance to a school or
1667 district that receives competitive grant funding distributed under the American Recovery and
1668 Reinvestment Act of 2009 in order to assist those schools or districts in developing a long-term plan to
1669 sustain an initiatives supported by said American Recovery and Reinvestment Act of 2009 competitive
1670 grant funding.

1671 SECTION 8B. Within 6 months of the receipt of any federal funding through Race to the Top
1672 program, so-called, realized through the adoption of this act, the executive office of education shall
1673 report to the house and senate committee's on ways and means and the joint committee on education a
1674 detailed plan providing for the use and potential future uses of the funding along with an accounting
1675 therein.

1676 SECTION 9. Notwithstanding any general or special law to the contrary the department of
1677 elementary and secondary education shall draft a model policy for school districts regarding the grade
1678 placement and eligibility for high school graduation of students leaving a commonwealth charter school
1679 and seeking to enroll in a district school. In drafting the model policy, the department shall confer with
1680 school districts and commonwealth charter schools. The model policy shall be made available not later
1681 than December 31, 2010. Until a school district adopts a policy regarding the grade placement or
1682 eligibility for high school graduation of students leaving a commonwealth charter school, when

determining the appropriate grade placement or eligibility for high school graduation of a student leaving a commonwealth charter school and enrolling in a district school, a district shall examine the course of study and level of academic attainment of the student.

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

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

SECTION 11A. Notwithstanding any special or general law to the contrary, the department of elementary and secondary education shall study the possibility of allowing students living outside of Massachusetts who are eligible to attend public schools operating in the same geographic area as a charter school or a regional charter school to be eligible to attend the charter or regional charter school. The department shall examine the rules and regulations necessary to implement this change which shall include, but not be limited to, collection of out-of-state tuition from students living outside of Massachusetts and attending a commonwealth charter school, collection of tuition from foreign exchange students attending a commonwealth charter school and reimbursement of commonwealth charter schools for services rendered to foreign exchange students and students living outside of Massachusetts. The department shall issue its report and any recommendations to the joint committee on education not later than August 15, 2010.

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

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

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

SECTION 11D. Notwithstanding any general or special law to the contrary, the department of elementary and secondary education shall investigate and study the adequacy of educational secondary school programs offered to students in their district of residence who apply, but are not selected, for admission to vocational-technical secondary education program; provided, however, that the department shall develop recommendations for developing an educational program designed to meet the career needs of such students and to encourage completion of requirement for a high school diploma including, but not limited to, a cost analysis and method of providing sustained funding. The department shall report on its findings not later than December 31, 2012 to the joint committee on education, the joint committee on labor and workforce development and the house and senate committees on ways and means.

SECTION 11E. Notwithstanding any general or special law to the contrary, regional school transportation payments made by the state in any fiscal year through the general appropriations act shall

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

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

For purposes of its work, the committee and consultant shall have access to all necessary papers, vouchers, books and records pertaining to the department of elementary and secondary education and to any school district in the commonwealth. The department of elementary and secondary education shall cooperate with the committee and consultant for any purpose connected to its work including, but not limited to, participating in interviews and producing books, records and documents. School districts and their personnel shall make every effort to cooperate with reasonable requests of the committee and consultant for any purpose connected to its work pursuant to this act and to the extent possible shall participate in interviews and producing books, records and documents. The committee and consultant may request reasonable assistance from the commissioner of elementary and secondary education and from the superintendent of a school district. The commissioner shall furnish the committee and consultant with relevant information in his possession which is requested by the committee and consultant. School districts shall endeavor to provide relevant information in their possession to committee and consultant to the extent possible consistent with the need to maintain the confidentiality of information in their possession.

The committee shall:

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

(2) Include in its request for proposals the requirements that in conducting its study, the consultant shall: (a) consider and evaluate all the resources which relate to student learning and educational opportunity, including, but not limited to class size, special education programs, including programs for English language learners, pre-school programs for all 3 and 4 year-olds and full-day kindergarten, additional resources needed to assure educational opportunity for low-income students, salaries needed to attract and retain high quality professionals, technology, extra-curricular programs, remedial programs for students at risk of failing to satisfy graduation requirements, additional resources needed to implement the model curriculum on global education and international studies as developed by the department of elementary and secondary education, quality books and equipment for science labs programs, programs which insure adequate preparation for careers in science, technology engineering and mathematics and historical inequities and methods of preventing such inequities from arising in the future; (b) provide the committee with a proposed work plan before beginning the study;(c) interview and consult with representatives of educational professions and other groups involved in issues of educational policy and finance, including, but not limited to the Massachusetts Association of School

Superintendents, the Massachusetts Association of School Committees, the Massachusetts Teachers Association, the American Federation of Teachers/Massachusetts, the Massachusetts Secondary School Administrators Association, the Massachusetts Municipal Association, the Rennie Center for Education Research and Policy, the Council for Fair School Finance, the Massachusetts Budget and Policy Center, the Massachusetts Taxpayers Foundation, Massachusetts Business Alliance for Education, the commissioner of the department of elementary and secondary education, the Robert H. Goddard Council on Science, Technology, Engineering and Mathematics Education, the Massachusetts Science, Technology, Engineering and Mathematics Resource Network, the Massachusetts Parent-Teacher Association, Inc., Stand for Children, Inc., academics and researchers involved in educational strategies and the public through public hearings and through other means as the consultant shall direct; (d) review successful educational programs in schools and school districts with diverse socio-economic characteristics and racial make-up and assess the possibility of replicating such programs in other schools and school districts; (e) file monthly progress reports with the committee outlining the work of the previous month and the work planned for the upcoming month; (f) after the completion of one-third of the work and again after completion of two-thirds of the work, participate in a forum with the committee to provide an opportunity for public comment;

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

SECTION 11G. Notwithstanding any special or general law to the contrary and subject to appropriation, there is hereby established a pilot program for the purpose of providing substance abuse and addiction training to a teacher or a guidance counselor in each middle school and high school in Suffolk county. The teacher or guidance counselor shall then conduct an initial screening, intervention

1804 and referral of those students who are identified as having substance abuse and addiction needs for a
1805 subsequent comprehensive assessment and appropriate treatment.

1806 SECTION 11H. Charter schools shall allow a minimum of 1 day of teaching observation by a
1807 public school teacher per academic semester in any of the schools core subject areas. For the purposes
1808 of this section core subject areas shall include English, math, foreign language, social studies,
1809 performing arts and music, chemistry, biology, physics and earth sciences.

1810 SECTION 11I. By January 1, 2011, the commissioner of the department of elementary and
1811 secondary education shall make a report to the chairs of the joint committee on education on the
1812 department's plan to implement the inclusion of the growth model used to evaluate improvement in
1813 student performance, as required under sections 3, 4 and 6.