

HOUSE No. 4410

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill relative to education reform (Senate, No. 2216) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4410. December 30, 2009.

FOR THE COMMITTEE:

NAME:

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The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

The Committee on Ways and Means recommends that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

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

1 Section 1J (a) As used in this section and section 1K the following words shall, unless the
2 context clearly requires otherwise, have the following meanings:-

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

4 “Chronically underperforming school”, a school designated by the commissioner as chronically
5 underperforming pursuant to this section.

6 “Chronically underperforming district”, a school district, other than a single school district, that
7 has been declared chronically underperforming by the board of elementary and secondary
8 education pursuant to section 1K.

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

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

11 “Non-profit entity”, a corporation established pursuant to chapter 180.

12 “Superintendent”, the superintendent of the school district.

13 “Turnaround plan”, a plan developed and approved pursuant to this section or section 1K
14 designed to promote the rapid improvement of the academic achievement of the students in an
15 underperforming or chronically underperforming school or district.

16 “Underperforming school”, a school designated as underperforming by the commissioner
17 pursuant to this section.

18 (b) The commissioner may, on the basis of student performance data collected pursuant to
19 section 11, a school or district review performed pursuant to section 55A of chapter 15 or
20 regulations adopted by the board, designate 1 or more schools in a school district as
21 underperforming or chronically underperforming; provided, however, that before a school is
22 deemed chronically underperforming by the commissioner, a school shall have been deemed
23 underperforming and shall have failed to improve. Schools that score in the lowest 15 per cent
24 statewide among schools serving common grade levels and which have consistently failed to
25 improve the academic performance of their students shall be deemed subject to designation as
26 underperforming or chronically underperforming. The district in which such a school operates
27 shall submit a description of its personnel evaluation system to the commissioner who shall
28 insure that it complies with the guidelines established pursuant to section 1B and is being used to
29 inform and direct professional development opportunities made available to school personnel.
30 Not more than 3 per cent of the total number of public schools may be designated as
31 underperforming or chronically underperforming at any given time.

32 The board shall adopt regulations establishing standards for determining, on the basis of
33 data collected pursuant to section 11 or information from a school or district review performed
34 pursuant to said section 55A of said chapter 15, which schools are underperforming or
35 chronically underperforming. Said regulations shall take into account multiple indicators of
36 school quality in making determinations regarding underperformance or chronic
37 underperformance, including, without limitation: student attendance, dismissal, exclusion and
38 promotion rates; graduation rates; or the lack of demonstrated significant improvement for 2 or
39 more consecutive years in core academic subjects, either in the aggregate or among subgroups of
40 students, including designations based special education, low-income, English language
41 proficiency and racial classifications.

42 An underperforming or chronically underperforming school described in the following
43 subsections shall operate in accordance with the provisions of law regulating other public
44 schools, except as such provisions may conflict with the provisions of this section. Any student
45 who is enrolled in a school at the time it is designated as underperforming or chronically
46 underperforming shall retain the ability to remain enrolled in such school while remaining a
47 resident of the district.

48 (c) Upon designating 1 or more schools in a school district as an underperforming or
49 chronically underperforming school, the commissioner shall require the creation of a turnaround
50 plan for the school. In order to facilitate and oversee the creation of the turnaround plan and
51 carry out his responsibilities in this section, the commissioner may use the services of district or
52 departmental personnel, or both, as he deems appropriate. The commissioner may also provide
53 additional services to the stakeholder group in subsection (c) as he deems appropriate.

54 Prior to the creation of the turnaround plan, the commissioner shall convene a local
55 stakeholder group for the purpose of soliciting recommendations on the content of such plan in

56 order to maximize the rapid improvement of the academic achievement of students at the school.
57 The commissioner shall provide due consideration to the recommendations of the stakeholder
58 group. The local stakeholder group shall consist of not more than 11 members including : (i) the
59 superintendent, or his designee; (ii) the chair of the school committee, or his designee; (iii) the
60 president of the local teachers union, or his designee; (iii) an administrator from the school, who
61 may be the principal, chosen by the commissioner; (v) a teacher from the school chosen by the
62 faculty of the school; (vi) a parent from the school chosen by the local parent organization; (vii)
63 representatives of applicable state and local social service, health and child welfare agencies,
64 chosen by the commissioner; and (viii) as appropriate, representatives of state and local
65 workforce development agencies, chosen by the commissioner. If the school or district does not
66 have a parent organization or if such organization does not select a parent, the commissioner
67 shall select the parent from among volunteers from the school. The commissioner shall convene
68 such group within 30 days of his designating a school as underperforming or chronically
69 underperforming, and such group shall make its recommendations to the commissioner within 45
70 days of its initial meeting. Meetings of the local stakeholder group shall be open to the public,
71 and the recommendations submitted to the commissioner shall be publicly available immediately
72 upon their submission.

73 (d) The turnaround plan shall include provisions intended to maximize the rapid improvement
74 of the academic achievement of students at the school and shall, to the extent practicable, be
75 based on student outcome data, including, but not limited to: (i) data collected pursuant to
76 section 1I or information from a school or district review performed pursuant to section 55A of
77 chapter 15; (ii) student achievement on the Massachusetts Comprehensive Assessment System;
78 (iii) other measures of student achievement approved by the commissioner; (iv) student
79 promotion and graduation rates; (v) achievement data for different subgroups of students,
80 including low-income students as defined in chapter 70, limited English proficient students and
81 students receiving special education; (vi) student attendance, dismissal and exclusion rates; (vii)
82 steps to address social service and health needs of students at the school, and their families, in
83 order to help students arrive and remain at school ready to learn; (viii) steps to improve or
84 expand child welfare services and, as appropriate, law enforcement services in the school
85 community, in order to promote a safe and secure learning environment; (ix) steps to improve
86 workforce development services provided to students at the school, and their families, in order to
87 provide students and families with meaningful employment skills and opportunities, as
88 applicable; (x) steps to address achievement gaps for limited English proficient, special
89 education and low-income students, as applicable; (xii) a financial plan for the school, including
90 any additional funds to be provided by the district, commonwealth, federal government or other
91 sources; and (xiii) in order to assess the school across multiple measures of school performance
92 and student success, the turnaround plan shall include measurable annual goals, based on the
93 requirements and provisions of the plan including, without limitation, the following: (a) student
94 attendance, dismissals and exclusions; (b) student safety and discipline; (c) student promotion
95 and graduation; (d) student achievement on the Massachusetts Comprehensive Assessment

96 System; (e) progress in areas of academic underperformance; (f) progress among subgroups of
97 students, including low-income students as defined by chapter 70, limited English proficient
98 students and students receiving special education.

99 The secretaries of health and human services, labor and workforce development and
100 public safety and security, and other applicable state and local social service, health, and child
101 welfare officials shall coordinate with the secretary and the commissioner regarding the
102 implementation of strategies pursuant to clauses (i) to (iii), inclusive, of this subsection that are
103 included in a final turnaround plan and shall, subject to appropriation, reasonably support such
104 implementation consistent with the requirements of state and federal law applicable to the
105 relevant programs that each such official is responsible for administering.

106 (e) The turnaround plan approved by the commissioner may: (i) expand, alter, or replace the
107 curriculum and program offerings of the school; (ii) reallocate the uses of the existing budget of
108 the school; (iii) provide additional funds to the school from the budget of the district, if the
109 school does not already receive funding from the district at least equal to the average per pupil
110 funding received for students of the same classification and grade level in the district; (iv)
111 provide funds, subject to appropriation and following consultation with applicable local unions,
112 to increase the salary of any administrator or teacher in the school, in order to attract or retain
113 highly qualified administrators or teachers or to reward administrators or teachers who work in
114 underperforming schools that achieve the annual goals set forth in the turnaround plan; (v)
115 expand the school day or school year of the school, or both; (vi) for an elementary school, add
116 pre-kindergarten and full-day kindergarten classes, if the school does not already have such
117 classes; (vii) following consultation with applicable local unions, require the principal and all
118 administrators, teachers and staff to reapply for their positions in the school, with full discretion
119 vested in the superintendent regarding any such reapplications; (viii) limit, suspend or change 1
120 or more provisions of any contract or collective bargaining agreement, as such contract or
121 agreement applies to the school or facilitates changes that apply to the school; provided,
122 however, that the commissioner shall not reduce the compensation of any administrator, teacher
123 or staff member unless the hours of such person are proportionately reduced; (ix) limit, suspend,
124 or change 1 or more school district policies or practices, as such policies or practices relate to the
125 school; (x) include a provision of job-embedded professional development for teachers at the
126 school, with an emphasis on strategies that involve teacher input and feedback; (xi) provide for
127 increased opportunities for teacher planning time and collaboration focused on improving
128 student instruction; (xii) put in place a plan for professional development for administrators at
129 the school, with an emphasis on strategies that develop leadership skills and use the principles of
130 distributive leadership; or (xiii) include additional components, at the discretion of the
131 commissioner, based on the reasons why the school was designated as underperforming or
132 chronically underperforming, the findings or recommendations of a school or district review or
133 the recommendations of the group of stakeholders in subsection (b).

134 If the turnaround plan proposes to reallocate funds to the school from the budget of the
135 district pursuant to clause (iii), the commissioner shall notify the school committee, in writing, of
136 the amount of and rationale for such reallocation.

137 If the superintendent does not accept an application submitted pursuant to clause (vii) or
138 if an employee does not submit such an application, the principal, administrator, teacher, or staff
139 member shall retain such rights as may be provided under law or any applicable collective
140 bargaining agreement, except that they shall not have the right to displace any teacher in any
141 other school. A teacher with professional teacher status in a school declared underperforming or
142 chronically underperforming may be dismissed for good cause.

143 (f) Within 60 days of the local stakeholder group making recommendations pursuant to
144 subsection (b), the commissioner shall submit a turnaround plan to the local stakeholder group,
145 and the school committee, both of whom may propose modifications to the plan. The plan shall
146 be immediately available to the public upon said submission. The local stakeholder group and
147 the school committee shall submit any proposed modifications to the turnaround plan to the
148 commissioner within 30 days after the date of submission of the turnaround plan and such
149 proposed modifications shall be immediately available to the public upon their submission. The
150 commissioner shall consider such modifications into the turnaround plan. Not more than 30 days
151 after receiving any proposed modifications pursuant to this subsection, the commissioner shall
152 issue a final turnaround plan for the school, which shall be immediately made available to the
153 public.

154 (g) Within 30 days of the issuance of a final turnaround plan pursuant to subsection (e), a
155 superintendent, school committee or a local union may appeal to the board regarding 1 or more
156 components of such plan, including the absence of 1 or more modifications proposed pursuant to
157 subsection (e). The board may, by majority vote, modify the plan if the board determines that: (i)
158 such modifications would further promote the rapid academic achievement of students in the
159 applicable school; (ii) a component of the plan was included, or a modification was excluded, on
160 the basis of demonstrably false information or evidence; or (iii) the commissioner failed to meet
161 the requirements of subsections (b) through (e). The decision of the board regarding an appeal
162 under this subsection shall be made within 45 days.

163 (h) In the case of an underperforming school, the commissioner shall, upon the completion of a
164 final turnaround plan, transmit such plan to the applicable superintendent, who shall be
165 responsible for implementing the plan. In the case of a chronically underperforming school, the
166 commissioner shall, upon the completion of a final turnaround plan, select an external receiver to
167 operate the school, who shall be responsible for implementing the plan. A receiver shall be a
168 non-profit entity or an individual with a demonstrated record of success in improving low-
169 performing schools or the academic performance of disadvantaged students.

170 (i) Notwithstanding the provisions of subsection (h), the commissioner may recommend to the
171 board that an external receiver, as defined in subsection (h), be appointed to operate an
172 underperforming school and implement the turnaround plan, or to assist the superintendent with
173 such implementation. The board may, by a majority vote, authorize the appointment of such a
174 receiver upon a determination that: (i) the applicable superintendent is unlikely to implement
175 such plan successfully; or (ii) conditions exist in the district that are likely to negatively affect
176 the ability of the superintendent to implement such plan successfully.

177 (j) Any external receiver selected by the commissioner to operate an underperforming or
178 chronically underperforming school pursuant to subsections (h) or (i) shall have full managerial
179 and operational control over such school as provided in the turnaround plan. A school placed
180 into receivership pursuant to this section shall continue to operate as a public school and the
181 school district shall remain the employer of record. An external receiver shall be an agent of the
182 school district and shall only be removed by the commissioner.

183 (k) Each turnaround plan shall be authorized for a period of up to 3 years, subject to the
184 provisions of subsection (l). The commissioner and the superintendent or external receiver may
185 jointly develop additional components of the turnaround plan and shall jointly develop annual
186 goals for each component of the plan, consistent with the provisions of subsections (c) to (e),
187 inclusive; provided, however, that said additional components or goals of the turnaround plan
188 approved by the commissioner and superintendent may be appealed pursuant to subsection (f).
189 The superintendent or external receiver, as applicable, shall be responsible for meeting the goals
190 of the plan.

191 (l) In the case of a chronically underperforming school, the commissioner or external receiver
192 shall provide a written report to the school committee on a quarterly basis to provide specific
193 information about the progress being made on the implementation of the school's turnaround
194 plan.

195 (m) The commissioner shall annually evaluate each underperforming or chronically
196 underperforming school. The purpose of said evaluation shall be to determine whether the school
197 has met the annual goals in its turnaround plan and to assess the overall implementation of the
198 turnaround plan. The review shall be in writing and shall be submitted to the superintendent and
199 school committee no later than July 1 for the preceding school year. Such review shall be
200 submitted in a format determined by the department.

201 Upon a determination by the commissioner that the school has failed to meet 1 or more
202 requirement of the turnaround plan, and that the failure to meet said requirement may be
203 corrected through reasonable modification of the plan, or that an amendment is necessary in view
204 of subsequent changes in the district that affect 1 or more components of the plan, including, but
205 not limited to, changes to contracts, collective bargaining agreements, or school district policies,
206 an amendment of the turnaround plan shall be permitted in a manner consistent with the

207 provisions of subsections (e) to (k), inclusive. In the event the commissioner determines that the
208 school has substantially failed to meet multiple goals in the turnaround plan, the commissioner
209 may: (i) in the case of an underperforming school operated by a superintendent, request authority
210 from the board to appoint an external receiver, as defined in subsection (h), to operate the school;
211 or (ii) in the case of a chronically underperforming school operated by an external receiver,
212 terminate the contract of such receiver. The commissioner shall not exercise the options under
213 clause (i) or (ii) of this subsection before the completion of the first full school year of the
214 operation of the underperforming or chronically underperforming school.

215 (n) Upon the expiration of a turnaround plan, the commissioner shall conduct a review of the
216 school to determine whether the school has improved sufficiently, requires further improvement,
217 or has failed to improve. On the basis of such review, the commissioner may determine that (i)
218 the school has improved sufficiently for the designation of the school as underperforming or
219 chronically underperforming to be removed; (ii) the school has improved, but not sufficiently to
220 change its designation, in which case the commissioner may renew the plan with the
221 superintendent or external receiver or create a new or modified plan for an additional period of
222 up to 3 years; (iii) in the case of a school that is operated by a superintendent and remains
223 chronically underperforming, appoint an external receiver, as defined in subsection (h), to
224 operate the school; or (4) consistent with the requirements of subsection (a), the school
225 designation should be changed. The commissioner may recommend the appointment of an
226 external receiver, pursuant to subsection (i) if the commissioner believes that a new or modified
227 turnaround plan implemented by the superintendent will not result in rapid improvement. In
228 enforcing the provisions of this subsection the commissioner shall: (i) in the case of a renewal of
229 an turnaround plan, determine subsequent annual goals for the plan with the input of the local
230 stakeholder group as defined in subsection (b) and pursuant to subsections (b) to (g), inclusive;
231 or (ii) create a new or modified turnaround plan as necessary, consistent with the requirements of
232 this section.

233 (o) The board shall adopt regulations for the administration and enforcement of this section;
234 provided, however, that said regulations shall include: (i) provisions for the removal of a
235 designation of a school as an underperforming or chronically underperforming school; (ii)
236 provisions for the transfer of the operation of an underperforming or a chronically
237 underperforming school from an external receiver to the school committee; (iii) provisions to
238 allow a school to retain measures adopted in a turnaround plan for a transitional period if, in the
239 judgment of the commissioner, such measures would contribute to the continued improvement of
240 the school; and (iv) provisions that clearly identify the conditions under which such a transitional
241 period shall end and the powers granted to the commissioner and board under this section cease
242 to apply to a school previously declared underperforming or chronically underperforming.

243 (p) On an annual basis, the commissioner shall report to the chairs of the joint committee on
244 education and the chairs of the house and senate committees on ways and means on the
245 implementation and fiscal impact of this section and section 1K. Such report shall, without

246 limitation, include a list of all schools currently designated as underperforming or chronically
247 underperforming; a list of all districts currently designated as chronically underperforming; the
248 plans and timetable for returning such schools and districts to the local school committee; and
249 strategies used in each of the schools and districts to maximize the rapid academic achievement
250 of students.

251 Section 1K. (a) Upon a determination by the board, pursuant to regulations adopted by the board,
252 that a school district, other than a single school district, has scored in the lowest 10 per cent
253 statewide in student achievement data collected pursuant to section 1I, when compared with
254 other district performance in schools of the same grade levels, and has consistently failed to
255 improve the academic performance of students attending school in the district, the commissioner
256 shall appoint a district review team pursuant to section 55A of chapter 15 to assess and report on
257 the reasons for the underperformance and the prospects for improvement, unless there has been
258 such an assessment by a district review within the previous year that the commissioner considers
259 adequate. Upon review of the findings of the district review team, the board may declare the
260 district chronically underperforming. Not more than 2.5 per cent of the total number school
261 districts may be designated as chronically underperforming at any given time.

262 Following a declaration by the board, the board shall designate a receiver for the district
263 with all the powers of the superintendent and school committee. The receiver shall be a non-
264 profit entity or an individual with a demonstrated record of success in improving low-performing
265 schools or the academic performance of disadvantaged students, and shall report directly to the
266 commissioner. An external receiver designated by the board to operate a district under this
267 subsection shall have full managerial and operational control over such district; provided,
268 however, that the school district shall remain a school district for the purposes of all other
269 general or special laws and a receiver shall be an agent of the school district.

270 In adopting regulations regarding designation of a district as chronically
271 underperforming, the board shall ensure that such regulations take into account multiple
272 indicators of district quality, such as student attendance, dismissal and exclusion rates, student
273 promotion and graduation rates in the district or the lack of demonstrated significant
274 improvement for 2 or more consecutive years in core academic subjects, either in the aggregate
275 or among subgroups of students, including designations based on special education
276 classification, low-income, English language proficiency and racial classifications.

277 (b) The commissioner and the receiver shall jointly create a turnaround plan to promote the
278 rapid improvement of the chronically underperforming district. The plan shall specifically focus
279 on the school or schools in the district that have been labeled chronically underperforming
280 pursuant section 1J and the district policies or practices that have contributed to chronic
281 underperformance.

282 Prior to the creation of the turnaround plan the commissioner and receiver shall convene
283 a local stakeholder group for the purpose of soliciting recommendations on the content of such
284 plan in order to maximize the rapid improvement of the academic achievement of students. The
285 commissioner shall provide due consideration to the recommendations of the local stakeholder
286 group. The local stakeholder group shall consist of 11 members including: (i) the superintendent,
287 or his designee; (ii) the chair of the school committee, or his designee; (iii) the president of the
288 local teachers union, or his designee; (iv) an administrator from the district, chosen by the
289 commissioner from among volunteers from the district; (v) a teacher from the district, chosen by
290 the local teachers union; (vi) a parent from the district chosen by the local parent organization;
291 (vii) representatives of applicable state and local social service, health and child welfare agencies
292 chosen by the commissioner; and (viii) as appropriate, representatives of state and local
293 workforce development agencies chosen by the commissioner. If the district does not have a
294 parent organization or if such organization does not select a parent, the commissioner shall select
295 the parents from among volunteers from the district. The commissioner and receiver shall
296 convene such group within 30 days of the board designating a district as chronically
297 underperforming, and such a group shall make its recommendations to the commissioner and
298 receiver within 45 days of its initial meetings. Meetings of the local stakeholder group shall be
299 open to the public, and the recommendations submitted to the commissioner and receiver
300 pursuant to this subsection shall be publicly available immediately upon their submission.

301 (c) The turnaround plan shall include measures intended to maximize the rapid improvement of
302 the academic achievement of students in the district and shall, to the extent practicable, base the
303 plan on student outcome data, including, but not limited to: (i) data collected pursuant to section
304 1I, or information from a school or a district review performed pursuant to section 55A of
305 chapter 15; (ii) student achievement on the Massachusetts Comprehensive Assessment System;
306 (iii) other measures of student achievement, approved by the commissioner; (iv) student
307 promotion and graduation rates; (v) achievement data for different subgroups of students,
308 including low-income students as defined in chapter 70, limited English proficient students and
309 students receiving special education; (vi) student attendance, dismissal and exclusion rates; (vii)
310 steps to address social service and health needs of students in the district, and their families, in
311 order to help students arrive and remain at school ready to learn; (viii) steps to improve or
312 expand child welfare services and, as appropriate, law enforcement services in the school district
313 community, in order to promote a safe and secure learning environment; (ix) steps to improve
314 workforce development services provided to students in the district, and their families, in order
315 to provide students and families with meaningful employment skills and opportunities, as
316 applicable; (x) steps to address achievement gaps for limited English proficient, special
317 education and low-income students, as applicable; (xi) a financial plan for the district including
318 any additional funds to be provided by the commonwealth, federal government or other sources;
319 and (xii) in order to assess the district across multiple measures of district performance and
320 student success, the turnaround plan shall include measurable annual goals based on the
321 requirements and provisions of the plan including, without limitation, the following: (a) student

322 attendance, dismissal and exclusion rates; (b) student safety and discipline; (c) student promotion
323 and graduation; (d) student achievement on the Massachusetts Comprehensive Assessment
324 System; (e) progress in areas of academic underperformance; and (f) progress among subgroups
325 of students, including low-income students as defined by chapter 70, limited English proficient
326 students and students receiving special education.

327 The secretaries of health and human services, public safety and security and labor and
328 workforce development, and other applicable state and local social service, health and child
329 welfare officials shall coordinate with the secretary and the commissioner regarding the
330 implementation of strategies pursuant to clauses (i) to (iii), inclusive, of this subsection that are
331 included in a turnaround plan and shall, subject to appropriation, reasonably support such
332 implementation consistent with the requirements of state and federal law applicable to the
333 relevant programs that each such official is responsible for administering.

334 (d) The turnaround plan approved by the commissioner may: (i) expand, alter or replace the
335 curriculum and program offerings of the district or of a school in the district; (ii) reallocate the
336 uses of the existing budget of the district in order to ensure that all underperforming and
337 chronically underperforming schools in the district receive funding at least equal to the average
338 per pupil funding received for students of the same classification and grade level in the district;
339 (iii) provide funds, subject to appropriation, to increase the salary of any administrator or teacher
340 in the district working in an underperforming or chronically underperforming school, in order to
341 attract or retain highly qualified administrators or teachers to those schools or in order to reward
342 administrators or teachers who work in chronically underperforming districts that achieve the
343 annual goals set forth in the turnaround plan; (iv) expand the school day or school year of
344 schools in the district, or both; (v) limit, suspend or change 1 or more provisions of any contract
345 or collective bargaining agreement in the district; provided, however, that the commissioner shall
346 not reduce the compensation of any administrator, teacher or staff member unless the hours of
347 such person are proportionately reduced; (vi) add pre-kindergarten and full-day kindergarten
348 classes, if the district does not already have such classes; (vii) following consultation with
349 applicable local unions, require all district administrators, principals, school administrators,
350 teachers and staff to reapply for their positions within the district, with full discretion vested in
351 the receiver regarding such reapplications; (viii) limit, suspend or change 1 or more school
352 district policies or practices; (ix) include a provision of job-embedded professional development
353 for teachers in the district, with an emphasis on strategies that involve teacher input and
354 feedback; (x) provide for increased opportunities for teacher planning time and collaboration
355 focused on improving student instruction; (xi) put in place a plan for professional development
356 for administrators in the district, with an emphasis on strategies that develop leadership skills and
357 use the principles of distributive leadership; or (xii) include additional components, at the
358 discretion of the commissioner, based on the reasons why the district was designated as
359 chronically underperforming, the findings or recommendations of a district review and
360 recommendations of local stakeholders in subsection (b).

361 If the receiver does not accept an application submitted pursuant to clause (vii) or if an
362 employee does not submit such an application, the administrator, principal, teacher or staff
363 member shall retain such rights as may be provided under law or any applicable collective
364 bargaining agreement, except that they shall not have the right to displace any teacher in any
365 other school. A teacher with professional teacher status in a school declared underperforming or
366 chronically underperforming may be dismissed for good cause.

367 (e) The commissioner shall, within 60 days of completion of the turnaround plan required in
368 subsection (b), submit the plan to the board for approval. Within 30 days of submission of the
369 turnaround plan to the board, a superintendent, school committee or local union may appeal to
370 the board regarding 1 or more components of the plan. The board may, by majority vote, modify
371 the plan if the board determines that: (i) such modifications would further promote the academic
372 achievement of students in the district; (ii) such modifications would further promote the rapid
373 improvement of the district; (iii) a component of the plan was included, or a modification was
374 excluded, on the basis of demonstrably false information or evidence; or (iv) the commissioner
375 failed to meet the requirements of subsections (b) to (d), inclusive. The decision of the board
376 regarding an appeal under this subsection shall be made within 45 days.

377 (f) The turnaround plan shall be authorized for a period of up to 3 years, subject to the
378 provisions of subsection (h). The commissioner and receiver may jointly develop additional
379 components of the plan, pursuant to subsections (b) to (e), inclusive, and shall jointly develop
380 annual goals for each component of the plan. The receiver shall be responsible for meeting the
381 goals of the turnaround plan.

382 (g) The commissioner and receiver shall provide a written report to the school committee on a
383 quarterly basis providing specific information about the progress being made on the
384 implementation of the district's turnaround plan.

385 (h) The commissioner shall annually evaluate the performance of the receiver. The purpose of
386 such annual evaluation shall be to determine whether the district has met the annual requirements
387 of the turnaround plan and to assess the overall implementation of the turnaround plan. The
388 evaluation shall be in writing and submitted to the board and the local school committee no later
389 than July 1 for the preceding school year. Such review shall be submitted in a format determined
390 by the board.

391 Upon determination by the commissioner that the receiver has failed to meet 1 or more
392 requirements of the turnaround plan, and the failure to meet said requirements may be corrected
393 through reasonable modification of such plan, or an amendment is necessary in view of
394 subsequent changes in the district that affect 1 or more components of the plan, including, but
395 not limited to, changes to contracts, collective bargaining agreements or school district policies,
396 the commissioner may amend the turnaround plan, as necessary, subject to the approval of the
397 board and in a manner consistent with subsections (b) to (f), inclusive. In the event the

398 commissioner determines that the receiver has substantially failed to meet multiple goals in the
399 turnaround plan the commissioner may terminate such receiver, except that such termination
400 shall not occur before the completion of the first full school year of the receivership of the
401 district.

402 (i) After the period of receivership, there shall be a reevaluation of a district's status under this
403 section. The board shall adopt regulations for the administration and enforcement of this section;
404 provided, however, that said regulations shall include: (i) provisions for the removal of a
405 designation of a district as chronically underperforming; (ii) provisions for the transfer of the
406 operation of a chronically underperforming district from an external receiver to the
407 superintendent and school committee, based on the improvement of such district; (iii) provisions
408 to allow a district to retain measures adopted in a turnaround plan for a transitional period if, in
409 the judgment of the commissioner, such measures would contribute to the continued
410 improvement of the district; and (iv) provisions that clearly identify the conditions under which
411 such a transitional period shall end and the powers granted to the commissioner and board under
412 this section shall cease to apply to a district previously declared chronically underperforming. At
413 any time after a chronically underperforming district has been placed in receivership, the school
414 committee of such district may petition the commissioner for a determination as to whether the
415 turnaround plan adopted pursuant to subsection (b) should be modified or eliminated, and
416 whether the school district shall no longer be designated as chronically underperforming. The
417 decision of the commissioner shall be based on regulations adopted by the board pursuant to this
418 subsection. A school committee may seek review by the board of any adverse determination.

419 (j) Upon failure of a district to sufficiently improve to enable removal of the designation of such
420 district as chronically underperforming, the commissioner may: (i) develop subsequent annual
421 goals for each component of the turnaround plan with the receiver, and renew the turnaround
422 plan for an additional period of up to 3 years; or (ii) create a new turnaround plan, consistent
423 with the requirements of this section.

424 (k) If a municipality has failed to fulfill its fiscal responsibilities pursuant to chapter 70, the
425 commissioner may declare the school district such municipality serves as chronically
426 underperforming, subject to the approval of the board. The municipality's mayor or chairman of
427 the board of selectmen shall have the opportunity to present evidence to the board. A vote by the
428 board that a school district is chronically underperforming for fiscal reasons shall authorize the
429 commissioner to petition the commissioner of revenue to require an increase in funds for the
430 school district, alleging that the amount necessary in the municipality for the support of public
431 schools has not been included in the annual budget appropriations. The commissioner of revenue
432 shall determine the amount of any deficiency pursuant to the sums required under chapter 70, if
433 any, and issue an order compelling the municipality to provide a sum of money equal to such
434 deficiency. If the municipality does not provide a sum of money equal to such deficiency, the
435 commissioner of revenue, in accordance with his powers in section 23 of chapter 59, shall not
436 approve the tax rate of the municipality for the fiscal year until the deficiency is alleviated.

437 Nothing in this subsection shall be construed as creating a cause of action for educational
438 malpractice by students or their parents, guardians or persons acting as parents.

439 If the district is declared chronically underperforming pursuant to this subsection, the provisions
440 of this subsection shall supersede those in subsections (a) to (j), inclusive.

441 SECTION 2. Chapter 71 of the General Laws, as so appearing, is hereby amended by striking
442 out section 89 and inserting in place thereof the following section:-

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

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

446 “Charter school” or “charter schools”, commonwealth charter schools or Horace Mann charter
447 schools unless specifically stated otherwise.

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

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

450 “District”, or “school district”, the school department of a city or town.

451 “Superintendent”, the superintendent of the district.

452 (b) The purposes for establishing charter schools are: (i) to stimulate the development of
453 innovative programs within public education; (ii) to provide opportunities for innovative learning
454 and assessments; (iii) to provide parents and students with greater options in choosing schools
455 within and outside their school districts; (iv) to provide teachers with a vehicle for establishing
456 schools with alternative, innovative methods of educational instruction and school structure and
457 management; (v) to encourage performance-based educational programs; (vi) to hold teachers
458 and school administrators accountable for students' educational outcomes; and (vii) to provide
459 models for replication in other public schools.

460 (c) A commonwealth charter school shall be a public school, operated under a charter granted by
461 the board, which operates independently of any school committee and is managed by a board of
462 trustees. The board of trustees of a commonwealth charter school, upon receiving a charter from
463 the board, shall be deemed to be public agents authorized by the commonwealth to supervise and
464 control the charter school.

465 A Horace Mann charter school shall be a public school or part of a public school operated
466 under a charter approved by the local school committee in which the school is located and by the
467 local collective bargaining agent; provided, however, that all charters shall be granted by the
468 board. Horace Mann charter schools shall be operated and managed by a board of trustees

469 independent of the school committees which approved said schools. The board of trustees may
470 include a member of the school committee.

471 (d) Persons or entities eligible to submit an application to establish a charter school shall
472 include, but shall not be limited to, a non-profit business or corporate entity, 2 or more certified
473 teachers or 10 or more parents; provided, however, that no for profit business or corporate entity
474 shall be eligible to apply for a charter. Said application may be filed in conjunction with a
475 college, university, museum or other similar non-profit entity. Private and parochial schools shall
476 not be eligible for charter school status. The board may authorize a single board of trustees to
477 manage more than 1 charter school; provided, however, that each school is issued its own
478 charter. The commissioner shall provide technical assistance to public school districts to assist in
479 the development of proposals for Horace Mann charter schools.

480 (e) The board shall establish the information needed in an application for the approval of a
481 charter school; provided, however, that said application shall include, but shall not be limited to,
482 a description of: (i) the mission, purpose, innovation and specialized focus of the proposed
483 charter school; (ii) the innovative methods to be used in the charter school and how they differ
484 from the district or districts from which the charter school is expected to enroll students; (iii) the
485 organization of the school in terms of ages of students or grades to be taught along with an
486 estimate of the total enrollment of the school and the district or districts from which the school
487 will enroll students; (iv) the method for admission to the charter school; (v) the educational
488 program, instructional methodology and services to be offered to students, including research on
489 how the proposed program may improve the academic performance of the subgroups listed in the
490 recruitment and retention plan; (vi) the school's capacity to address the particular needs of
491 limited English proficient students, if applicable, to learn English and learn content matter,
492 including the employment of staff that meets the criteria established by the department; (vii) how
493 the school will involve parents as partners in the education of their children; (viii) the school
494 governance and bylaws; (ix) a proposed arrangement or contract with an organization that would
495 manage or operate the school, including any proposed or agreed upon payments to such
496 organization; (x) the financial plan for the operation of the school; (xi) the provision of school
497 facilities and pupil transportation; (xii) the number and qualifications of teachers and
498 administrators to be employed; (xiii) procedures for evaluation and professional development for
499 teachers and administrators; (xiv) a statement of equal educational opportunity which shall state
500 that charter schools shall be open to all students, on a space available basis, and shall not
501 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation,
502 mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the
503 English language or academic achievement; and (xv) a student recruitment and retention plan,
504 including deliberate, specific strategies the school will use to ensure the provision of equal
505 educational opportunity as stated in the preceding clause and to attract, enroll and retain a student
506 population that, when compared to students in similar grades in schools from which the charter
507 school is expected to draw students, contains a comparable academic and demographic profile.

508 (f) The student recruitment and retention plan required pursuant to clause (xv) of subsection (e)
509 shall include, but shall not be limited to, a detailed description of deliberate, specific strategies
510 the school will use to maximize the number of students who successfully complete all school
511 requirements and prevent students from dropping out. The student recruitment and retention plan
512 shall include annual goals for: (i) recruitment activities; (ii) student retention activities; and (iii)
513 student retention.

514 (g) In order to ensure that a commonwealth charter school is able to fulfill its obligations under
515 its recruitment and retention plan, the school district or districts from which the commonwealth
516 charter school is expected to enroll students shall annually provide, at the request of a
517 commonwealth charter school, to a third party mail house authorized by the department, the
518 addresses for all students in the district eligible to enroll in the school, unless a student's parent
519 or guardian requests that the district withhold this information, and the department may require
520 the charter school send a mailing in the most prevalent languages of the district or districts that
521 the charter school is authorized to serve.

522 (h) An application submitted for the establishment of a commonwealth charter school shall: (i)
523 be submitted to the board for approval pursuant to this section; and (ii) be filed with the local
524 school committee for each school district from which the charter school is expected to enroll
525 students. Before final approval to establish a commonwealth charter school, the board shall hold
526 a public hearing on said application in the school district in which the proposed charter school is
527 to be located, and solicit and review comments on the application from the local school
528 committee from each school district in which said charter school is expected to enroll students.
529 At least 1 member of the board shall attend the public hearing.

530 All material in support of, or in opposition to, the school submitted to the department or
531 the board shall be made available to the applicant and affected school districts prior to a vote by
532 the board on a commonwealth charter school application.

533 (i) (1) Not more than 120 charter schools shall be allowed to operate in the commonwealth at any
534 time, excluding those approved pursuant to paragraph (3) of this subsection; provided further,
535 that of said 120 charter schools, 48 shall be reserved for Horace Mann charter schools and 72
536 shall be reserved for commonwealth charter schools. The board shall not approve a new
537 commonwealth charter school in any community with a population of less than 30,000 as
538 determined by the most recent United States Census estimate, unless it is a regional charter
539 school.

540 Applications to establish a charter school shall be submitted to the board each year by
541 November 15. The board shall review the applications and grant new charters in February of the
542 following year.

543 (2) In any fiscal year, no public school district's total charter school tuition payment to
544 commonwealth charter schools shall exceed 9 per cent of said district's net school spending;

545 provided, however, that a public school district's total charter tuition payment to commonwealth
546 charter schools shall not exceed 18 per cent of said district's next school spending if the school
547 district qualifies under paragraph (3). The commonwealth shall incur charter school tuition
548 payments for siblings attending commonwealth charter schools to the extent that their attendance
549 would otherwise cause said school district's charter school tuition payments to exceed 9 per cent
550 of said school district's net school spending or 18 per cent for those districts that qualify under
551 paragraph (3).

552 Under no circumstances shall the total number of students attending commonwealth
553 charter schools exceed 4 per cent of the total number of students attending public schools,
554 excluding those approved pursuant to paragraph (3). Not less than 2 of the new commonwealth
555 charters approved by the board in any year shall be granted for charter schools located in districts
556 where overall student performance on the statewide assessment system approved by the board
557 pursuant to section 1I of chapter 69 is in the lowest 10 per cent statewide in the 2 years preceding
558 said charter application.

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

567 (3) In any fiscal year, if the board determines the combined Composite Performance
568 Index scores on the English language arts and mathematics Massachusetts Comprehensive
569 Assessment System exams for a school district place said district in the lowest 10 per cent of all
570 statewide Massachusetts Comprehensive Assessment System exam performance scores released
571 in the 2 consecutive school years prior to the date the charter school application is submitted, the
572 school district's total charter school tuition payment to commonwealth charter schools may
573 exceed 9 per cent of said district's net school spending but shall not exceed 18 per cent. For a
574 district qualifying under this paragraph whose charter school tuition payments exceed 9 per cent
575 of said school district's net school spending, the board shall only approve an application for the
576 establishment of a commonwealth charter school if an applicant, or a provider with which an
577 applicant proposes to contract, has a record of operating at least 1 school or similar program that
578 demonstrates academic success and organizational viability and serves student populations
579 similar to those the proposed school seeks to serve, from among the following categories:
580 eligible for free lunch; eligible for reduced price lunch; special education; limited English
581 proficient of similar language proficiency level as measured by the Massachusetts English
582 Proficiency Assessment examination; sub-proficient, which shall mean students who have scored
583 in the "needs improvement", "warning" or "failing" categories on the mathematics or English

584 language arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3
585 years or as defined by the department using a similar measurement; students who are determined
586 to be at risk of dropping out of school based on predictors determined by the department;
587 students who have dropped out of school; or other at-risk students who should be targeted in
588 order to eliminate achievement gaps among different groups of students. In the case of a district
589 approaching its net school spending cap, the board shall give preference to applications from
590 providers building networks of schools in more than 1 municipality.

591 The recruitment and retention plan of charters approved under the provisions of this
592 paragraph shall, in addition to the requirements, under subsections (e) and (f), including without
593 limitation, a detailed description of deliberate, specific strategies the charter school will use to
594 attract, enroll and retain a student population that, when compared to students in similar grades
595 in schools from which the charter school will enroll students, contains a comparable or greater
596 percentage of students from 3 or more of the categories listed above. If a school is or will be in a
597 district with 10 per cent or more of limited English proficient students, the recruitment strategies
598 shall include a variety of outreach efforts in the most prevalent languages of the district. The
599 recruitment and retention plan shall be updated each year to account for changes in both district
600 and charter school enrollment.

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

606 (j) The board shall make the final determination on granting charter school status and may
607 condition charters on the applicant's taking certain actions or maintaining certain conditions. The
608 board shall establish criteria for the approval of a charter application and recommendations to the
609 board shall be based upon and reference those criteria.

610 If a final application is deemed inadequate by the department, the department may
611 provide feedback to the applicant and invite it to submit a stronger application in the
612 future. Once a final application has been filed, only minor, non-substantive amendments shall be
613 allowed. The department shall maintain a written detailed summary of interviews it conducts
614 with final charter applicants, and include that summary with the final application materials that
615 are provided to the board, local school officials and the public.

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

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

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

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

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

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

635 (6) to incur temporary debt in anticipation of receipt of funds; provided that a Horace Mann
636 school shall obtain the approval of the local school committee and appropriate local
637 appropriating authorities and officials relative to any proposed lien or encumbrance upon public
638 school property or relative to any financial obligation for which the local school district shall
639 become legally obligated; and provided further, that notwithstanding any law to the contrary, the
640 terms of repayment of any charter school's debt shall not exceed the duration of the school's
641 charter without the approval of the board;

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

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

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

648 (m) Charter schools shall be open to all students, on a space available basis, and shall not
649 discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation,
650 mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in
651 the English language or a foreign language, and academic achievement. Charter schools may
652 limit enrollment to specific grade levels and may structure curriculum around particular areas of
653 focus such as mathematics, science or the arts. There shall be no application fee for admission to
654 a charter school. There shall be no tuition charge for students attending charter schools.

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

661 If the total number of students who are eligible to attend and apply to a charter school and
662 who reside in the city or town in which the charter school is located, or are siblings of students
663 already attending said charter school, is greater than the number of spaces available, an
664 admissions lottery, including all eligible students applying, shall be held to fill all of the spaces
665 in that school from among said students. If there are more spaces available than eligible
666 applicants from the city or town in which said charter school is located and who are siblings of
667 current students, and more eligible applicants than spaces left available, a lottery shall be held to
668 determine which of said applicants shall be admitted; provided, however, that any lottery
669 conducted for Horace Mann charter schools shall reflect the enrollment priorities of this section.
670 Notwithstanding the provisions of this subsection, upon application by the board of trustees of a
671 charter school or by the persons or entities seeking to establish a charter school, the board may
672 amend or grant a charter designating such school a regional charter school; provided, however,
673 that such regional charter school shall be exempt from the local preference provision of this
674 paragraph; provided further, that such regional charter school shall continue to grant a preference
675 of siblings of currently enrolled students; and provided further, that if the number of applicants
676 remaining is greater than the number of spaces available, such regional charter school shall
677 conduct a single lottery to determine which applicants shall be admitted.

678 The names of students who entered the lottery but did not gain admission shall be
679 maintained on a waitlist, which shall be forwarded to the department no later than June 1 in the
680 year in which the lottery is held. In addition to the names of students, the school shall supply to
681 the department each student's home address, telephone number, grade level and other
682 information the department deems necessary.

683 (o) Each charter school shall annually, no later than April 1, notify each public school district in
684 writing of the number of students who will be attending the charter school from that district the
685 following September as well as the number of new students who will be transferring from that
686 district to the charter school in the following September. Tuition for charter school students shall
687 only be paid for the number of students for whom notification has been reported by April 1.
688 Tuition for charter school students shall be paid only for students actually enrolled in said school.

689 (p) A student may withdraw from a charter school at any time and enroll in another public school
690 where said student resides.

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

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

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

703 The commissioner shall facilitate the dissemination of successful innovation programs of
704 charter schools and provide technical assistance for other school districts to replicate such
705 programs. Each charter school shall collaborate with its sending district or districts on the
706 sharing of innovative practices.

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

719 (t) Horace Mann charter schools shall be exempt from local collective bargaining agreements to
720 the extent provided by the terms of its charter; provided, however, that employees of the Horace
721 Mann charter school shall continue to be members of the local collective bargaining unit and
722 shall accrue seniority and shall receive, at a minimum, the salary and benefits established in the
723 contract of the local collective bargaining unit where said Horace Mann charter school is located.
724 Employees of Horace Mann charter schools shall be exempt from all union and school
725 committee work rules to the extent provided by said school's charter. Employees in Horace Mann
726 charter schools shall be required to work the full work day and work year to the extent provided
727 by the terms of the school's charter.

728 (u) Notwithstanding the provisions of this section or any other general or special law to the
729 contrary, for the purposes of chapter 268A: (i) a charter school shall be deemed to be a state
730 agency; and (ii) the appointing official of a member of the board of trustees of a charter school
731 shall be deemed to be the commissioner. Members of boards of trustees of charter schools
732 operating under the provisions of this section shall file a disclosure annually with the state ethics
733 commission, the department and the city or town clerk wherein such charter school is located.
734 Said disclosure is in addition to the requirements of said chapter 268A and a member of a board
735 of trustees must also comply with the disclosure and other requirements of said chapter 268A.
736 The form of the disclosure shall be prescribed by the ethics commission and shall be signed
737 under penalty of perjury. Such form shall be limited to a statement in which members of the
738 board of trustees shall disclose any financial interest that they or a member of their immediate
739 families, as defined in section 1 of said chapter 268A, have in any charter school located in the
740 commonwealth or in another state or with a person doing business with a charter school.

741 Each member of a board of trustees of a charter school shall file such disclosure for the
742 preceding calendar year with the commission within 30 days after becoming a member of such
743 board of trustees, on or before September 1 of each year thereafter that such person is a member
744 of such board and on or before September 1 of the year after such person ceases to be a member
745 of such board; provided, however, that no member of a board of trustees shall be required to file
746 such disclosure for the year in which he ceases to be a member of such board if he served less
747 than 30 days in such year.

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

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

760 Following the appropriation of the district's operating budget for the fiscal year, the
761 amount approved by the local appropriating authority for the operation of each Horace Mann
762 charter school shall be available for expenditure by the board of trustees of such school for any
763 lawful purpose without further approval by the superintendent or the school committee. In no
764 case shall a Horace Mann charter school expend or incur obligations in excess of its budget
765 request; provided, however, that a Horace Mann charter school shall be authorized to spend

766 federal and state grants and other funds received independent of the school district not accounted
767 for in said charter school's budget request without prior approval from the superintendent or the
768 school committee.

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

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

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

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

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

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

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

796 (cc) The children who reside in the school district in which the charter school is located shall be
797 provided transportation to the charter school by the resident district's school committee on
798 similar terms and conditions as transportation is provided to children attending local district
799 schools if such transportation is requested by the charter school. In providing such transportation,
800 said school committee shall accommodate the particular school day and school year of the

801 charter school; provided, however, that in the event that a school committee limits transportation
802 for district school students, the school district shall not be required to provide transportation to
803 any commonwealth charter school beyond said limitations. Schools operating pursuant to a
804 charter granted after January 1, 1997, and all charter schools during fiscal year 1999 and
805 thereafter, shall not receive funds for transportation above the amount actually required by such
806 charter school for the provision of transportation services to eligible students. If the sending
807 district provides an alternative method of transportation for students enrolled in the sending
808 district's public schools, it shall not be assessed for transportation costs which exceed the per
809 pupil cost of said alternative. Costs for transportation shall be included only if transportation is
810 provided for students in the same program and grade level as those in the charter school.
811 Students who do not reside in the district in which the charter school is located shall be eligible
812 for transportation in accordance with section 12B of chapter 76. A regional charter school as
813 designated by the board, and whose charter provides for transportation of all students from
814 charter municipalities shall also be reimbursed by the commonwealth under section 16C of
815 chapter 71 for transportation provided to pupils residing outside the municipality where the
816 charter school is located, but no reimbursement for transportation between the charter school and
817 home shall be made on account of any pupil who resides less than 1.5 miles from the charter
818 school, measured by a commonly traveled route. All such transportation shall be determined in
819 advance of the approval of the district's final budget for a fiscal year; provided, however, that a
820 commonwealth charter school shall be required to determine such transportation in the first year
821 of its operation as soon as practicable.

822 (dd) A charter granted by the board shall be for 5 years. The board shall develop procedures and
823 guidelines for revocation and renewal of a school's charter; provided, however, that a charter for
824 a Horace Mann charter school shall not be renewed by the board without a majority vote of the
825 school committee and local collective bargaining unit in the district where said charter school is
826 located; provided, however, that a commonwealth charter shall not be renewed unless the board
827 of trustees of the charter school has documented in a manner approved by the board that said
828 commonwealth charter school has provided models for replication and best practices to the
829 commissioner and to other public schools in the district where the charter school is located.

830 When deciding on charter renewal, the board shall consider progress made in student
831 academic achievement, whether the school has met its obligations and commitments under the
832 charter, the extent to which the school has followed its recruitment and retention plan by using
833 deliberate, specific strategies towards recruiting and retaining the categories of students
834 enumerated in paragraph (3) of subsection (i) and the extent to which the school has enhanced its
835 plan as necessary. The board may impose conditions on the charter school upon renewal if it
836 fails to adhere to and enhance its recruitment and retention plan as required. When deciding on
837 charter renewal, the board shall take into account the annual attrition of students. The board shall
838 also consider innovations that have been successfully implemented by the charter school and the
839 evidence that supports the effectiveness of these practices. Upon renewal of its charter, a school

840 shall update and enhance its recruitment and retention plan as necessary to account for changes
841 in enrollment.

842 (ee) The board may revoke a school's charter if the school has not fulfilled any conditions
843 imposed by the board in connection with the grant of the charter or the school has violated any
844 provision of its charter. The board may place conditions on a charter or may place a charter
845 school on a probationary status to allow the implementation of a remedial plan after which, if
846 said plan is unsuccessful, the charter may be summarily revoked.

847 (ff) Commonwealth charter schools shall be funded as follows: the commonwealth shall pay a
848 tuition amount to the charter school, which shall be the sum of the tuition amounts calculated
849 separately for each district sending students to the charter school. Tuition amounts for each
850 sending district shall be calculated by the department using the formula set forth herein, to
851 reflect, as much as practicable, the actual per pupil spending amount that would be expended in
852 the district if the students attended the district schools. The tuition amount shall be calculated
853 separately for each district sending students to a charter school, and for each charter school to
854 which a district sends students. Each district's per pupil tuition amount for each charter school to
855 which it sends students shall include a per pupil foundation budget component, adjusted to
856 reflect the actual net school spending in the sending district.

857 In calculating the per pupil foundation budget component, the department shall calculate
858 a foundation budget for the students from each sending district attending the charter school in the
859 previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the
860 department shall not include in said calculation the assumed tuitioned-out special education
861 enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2.
862 The per pupil foundation budget component shall be the district's foundation budget for the
863 charter school, as so calculated, divided by the number of students attending the charter school
864 from the sending district in the previous fiscal year. The per pupil foundation budget component
865 shall be calculated separately for each charter school to which a district sends students. The
866 foundation budget for a charter school shall be the sum of the foundation budgets for the charter
867 school for each district sending students to the charter school.

868 In adjusting the per pupil foundation budget component, the department shall calculate
869 for each sending district an above foundation spending percentage, which shall be the percentage
870 by which the district's actual net school spending exceeds the foundation budget for the district,
871 as calculated pursuant to the provisions of chapter 70. The department shall further calculate the
872 percentage of actual net school spending reported by the sending district associated with tuition
873 costs for tuitioned-out special education students, including education that occurs in educational
874 collaboratives, and with spending on health care costs for retired employees, for any district for
875 which such costs are included in net school spending, and shall reduce the district's above
876 foundation spending percentage proportionately. The per pupil foundation budget component for

877 each charter school to which the sending district sends students shall be increased by said
878 adjusted above foundation spending percentage.

879 The total tuition amount owed by a sending district to a charter school shall be the per
880 pupil tuition amount as defined above, multiplied by the total number of students attending the
881 charter school from that district in the current fiscal year. The sending district's total charter
882 school tuition amount for purposes of the following paragraphs shall be the sum of the district's
883 tuition amounts for each charter school to which the district sends students, calculated using the
884 provisions of this section. The receiving charter school's total charter school tuition amount shall
885 be the sum of the tuition amounts calculated for the charter school for each district sending
886 students to the charter school.

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

890 The state treasurer is hereby authorized and directed to deduct a district's total charter
891 school tuition amount, as calculated herein, from the total state school aid, as defined in section 2
892 of said chapter 70, of the district in which the student resides prior to the distribution of said aid.
893 In the case of a child residing in a municipality which belongs to a regional school district, the
894 charter school tuition amount shall be deducted from said chapter 70 education aid of the school
895 district appropriate to the grade level of the child. If, in a single district, the total of all such
896 deductions exceeds the total of said education aid, this excess amount shall be deducted from
897 other aid appropriated to the city or town. If, in a single district, the total of all such deductions
898 exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount;
899 provided, however, that if said district has exempted itself from the provisions of said chapter 70
900 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said
901 excess amount.

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

905 The department shall, subject to appropriation, provide funding to charter schools for a
906 portion of the per pupil capital needs component included in the charter tuition amount. In fiscal
907 year 2011 and thereafter, such funding shall not be less than the per pupil amount provided in
908 fiscal year 2010.

909 (gg) Any district whose total charter school tuition amount is greater than its total charter school
910 tuition amount for the previous year shall be reimbursed by the commonwealth in accordance
911 with this paragraph and subject to appropriation; provided, however, that no funds for said
912 reimbursements shall be deducted from funds distributed pursuant to chapter 70. The
913 reimbursement amount shall be equal to 100 per cent of the increase in the year in which the

914 increase occurs; 60 per cent of that amount in the first year following; and 40 per cent of that
915 amount in the second year following.

916 (hh) If the unencumbered amount of cumulative surplus revenue from tuition held by a charter
917 school at the end of a fiscal year, less (i) the amount of the fourth quarter tuition payment, (ii) the
918 amount held in reserve for the purchase or renovation of an academic facility pursuant to a
919 capital plan, and (iii) any reserve funds held as security for bank loans, exceeds 20 per cent of its
920 operating budget and its budgeted capital costs for the succeeding fiscal year, the amount in
921 excess of said 20 per cent shall be returned by the charter school to the sending district or
922 districts and the state in proportion to their share of tuition paid during the fiscal year. At the end
923 of each fiscal year, the commissioner shall certify the amounts described above and the amount,
924 if any, by which it exceeds 20 per cent of the school's operating budget and its budgeted capital
925 costs for the succeeding fiscal year, and shall report such amount to the school committee of the
926 sending district or districts and the applicable board of selectmen or city council by December 1
927 of each year. A charter school shall annually make any payment required by this subsection no
928 later than December 31.

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

932 (jj) Each charter school shall submit an annual report, no later than August 1, to the board, the
933 local school committee, each parent or guardian of its enrolled students and each parent or
934 guardian contemplating enrollment in that charter school. The annual report shall be in such form
935 as may be prescribed by the board and shall include without limitation: (i) discussion of progress
936 made toward the achievement of the goals set forth in the charter; and (ii) a financial statement
937 setting forth by appropriate categories the revenue and expenditures for the year just ended and a
938 balance sheet setting forth the charter school's assets, liabilities and fund balances or equities.

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

948 Each charter school shall keep an accurate account of all its activities and all its receipts
949 and expenditures and shall annually cause an independent audit to be made of its accounts. Such
950 audit shall be filed annually on or before January 1 with the department and the state auditor and

951 shall be in a form prescribed by the state auditor. The state auditor may investigate the budget
952 and finances of charter schools and their financial dealings, transactions and relationships, and
953 shall have the power to examine the records of charter schools and to prescribe methods of
954 accounting and the rendering of periodic reports.

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

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

966 (mm) The board shall adopt regulations for implementation and enforcement of this section.

967 SECTION 3. Chapter 71 of the General Laws is hereby amended by adding at the end thereof
968 the following section:-

969 Section 92. (a) As used in this section the following words shall, unless the context clearly
970 requires otherwise, have the following meanings:-

971 “Applicant”, the person applying to establish an innovation school.

972 “Board”, the board of trustees of an innovation school; provided, however, that an innovation
973 school shall not be required to establish a board.

974 “Commissioner”, the commissioner of the board of elementary and secondary education

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

976 “Committee”, the innovation plan committee established pursuant to subsection (c).

977 “District” or “school district”, the school department of a city or town.

978 “Innovation plan”, shall articulate the areas of autonomy and flexibility required by this section
979 that the innovation school will utilize; provided, however, that to the extent practicable, the
980 innovation plan shall be based on student outcome data, including, but not limited to: (i) student
981 achievement on the Massachusetts Comprehensive Assessment System; (ii) other measures of
982 student achievement approved by the commissioner; (iii) student promotion and graduation rates;
983 (iv) achievement data for different subgroups of students, including low-income students as

984 defined pursuant to chapter 70, limited English proficient students and students receiving special
985 education; and (v) student attendance, dismissal and exclusion rates.

986 “Innovation school” shall be a public school, operating within a district, and authorized by the
987 local school committee established for the purpose of improving school performance and student
988 achievement through increased autonomy and flexibility; provided, however, that an innovation
989 school shall be a school: (i) in which school faculty and leadership are primarily responsible for
990 developing the innovation plan under which the school operates, and in which school leadership
991 is responsible for meeting the terms of the innovation plan; or (ii) in which an external partner or
992 partners is primarily responsible for developing the innovation plan under which the school
993 operates, and in which the external partner or partners is responsible for meeting the terms of the
994 innovation plan.

995 “Person”, a parent, teacher, parent-teacher organization, principal, superintendent, school
996 committee, teacher union, college or university, non-profit community-based organization, non-
997 profit business or corporate entity, non-profit charter school operator, non-profit education
998 management organization, educational collaborative, consortia of these groups, or any non-profit
999 entity authorized by the commissioner; provided, however, that private or parochial schools shall
1000 not be considered a person for the purposes of this section.

1001 “Superintendent”, the superintendent of the district.

1002 (b) A person may establish an innovation school as: (i) a new public school; or (ii) as a
1003 conversion of an existing public school; provided, however, that upon election of a student
1004 enrolled in an existing public school, said student shall remain enrolled in the innovation school.

1005 An innovation school shall have increased autonomy and flexibility in one or more of the
1006 following areas: (i) curriculum; (ii) budget; (iii) school schedule and calendar; (iv) staffing
1007 policies and procedures, including waivers from, or modifications to, contracts or collective
1008 bargaining agreements; (v) school district policies and procedures; and (vi) professional
1009 development. An innovation school shall receive each school year from the district the same per
1010 pupil allocation as an equivalent district school. An innovation school may retain any unused
1011 funds and use such funds in subsequent school years. An innovation school may establish a non-
1012 profit organization that may, without limitation, assist the school with fundraising; provided,
1013 however, that a district may not reduce its funding to an innovation school as a result of such
1014 school’s fundraising activities.

1015 (c) A person seeking to establish an innovation school shall file with the superintendent an
1016 application including, without limitation, a description of: (i) whether the school will be a new
1017 school or a conversion of an existing public school; (ii) if the school is a new school, the
1018 proposed location of the school; (iii) if the school is a conversion of an existing public school the
1019 name of the public school to be converted; (iv) the external partners, if any, that will be involved
1020 in the operation of the innovation school; (v) the number of students projected to be enrolled, and

1021 the number of staff expected to be employed at the school; (vi) the overall vision for the school,
1022 including with respect to improving school performance and student achievement; (vii) specific
1023 needs or challenges the innovation school will be designed to address; (viii) a preliminary
1024 assessment of the autonomy and flexibility to be provided pursuant to this section that the school
1025 will seek; (ix) why such flexibility is desirable to carry out the objectives of the school; (x) a
1026 preliminary description of the process that will be used to involve appropriate stakeholders in the
1027 development of the innovation plan; and (xi) a proposed timetable for development and
1028 establishment of the proposed innovation school.

1029 Upon submission of the application to the superintendent, the superintendent shall, within
1030 30 days, convene a screening committee consisting of the superintendent or his designee, a
1031 school committee member designated by the school committee, and a representative from the
1032 leadership of the local teachers union designated by the president of the local union.

1033 The screening committee shall review the application for the overall purpose of
1034 determining whether the application: (i) presents a sound and coherent plan for improving school
1035 performance and student achievement; (ii) supports or enhances existing educational efforts in
1036 the district; and (iii) reasonably can be expanded into a comprehensive innovation plan. In the
1037 case of a new school, the committee shall prepare an impact statement describing how the new
1038 school will affect the children and faculty in the district. Within 30 days of receiving an
1039 application, the screening committee shall, on the basis of a 2/3 vote, accept or reject the
1040 application, or return the application to the eligible applicant for revisions. In any case in which
1041 an application is rejected or returned, the screening committee shall submit, within 21 days, a
1042 detailed explanation for such decision to the applicant. Any prospectus that is rejected or
1043 returned may be revised and resubmitted for subsequent consideration.

1044 Upon approval of the application by the screening committee the applicant shall, within
1045 30 days, form an innovation plan committee consisting of not more than 11 individuals. The
1046 committee shall: (i) develop the innovation plan; (ii) assure that appropriate stakeholders are
1047 represented in the development of the proposed innovation school; and (iii) provide meaningful
1048 opportunities for such stakeholders to contribute to the development of such school. The size
1049 and composition of the innovation plan committee shall be determined by the applicant;
1050 provided, however, that the committee shall include: (a) the applicant or a designee; (b) the
1051 superintendent or his designee; (c) a school committee member or their designee; (d) a parent of
1052 a child enrolled in the public school to be converted, or in the case of a new school, from the
1053 district; (e) a principal employed by the district; and (f) 2 teachers employed by the district. The
1054 applicant shall select the parent from among nominees submitted by parent-teacher organizations
1055 in the district. If the district does not contain a parent-teacher organization, or if such
1056 organization does not submit nominees, the applicant shall select the parent from among
1057 volunteers in the area or community the school is expected to serve. The applicant shall select
1058 the principal and 1 teacher from among volunteers in the district, and 1 teacher from among
1059 nominees submitted by the local teachers union.

1060 The committee shall develop the innovation plan for the proposed innovation school.
1061 The purpose of the innovation plan shall be to establish the areas of autonomy and flexibility for
1062 the proposed innovation school. The innovation plan shall include, but shall not be limited to: (i)
1063 a curriculum plan, including a detailed description of the curriculum and related programs for the
1064 proposed school, and how such curriculum is expected to improve school performance and
1065 student achievement; (ii) a budget plan, including a detailed description of how funds will be
1066 used differently in the proposed school to support school performance and student achievement;
1067 (iii) a school schedule plan, including a detailed description of the ways, if any, the program or
1068 calendar of the proposed school will be enhanced or expanded; (iv) a staffing plan, including a
1069 detailed description of how the school principal, administrators, faculty and staff will be
1070 recruited, employed, evaluated and compensated in the proposed school and any proposed
1071 waivers or modifications of collective bargaining agreements; (v) a policy and procedures plan,
1072 including a detailed description of the unique operational policies and procedures to be used by
1073 the proposed school, and how such procedures will support school performance and student
1074 achievement; and (vi) a professional development plan, including a detailed description of how
1075 the school will provide high quality professional development to its administrators, teachers and
1076 staff.

1077 The innovation plan shall also include measurable annual goals including, but not limited
1078 to, the following: (i) student attendance; (ii) student safety and discipline; (iii) student promotion
1079 and graduation; (iv) student achievement on the Massachusetts Comprehensive Assessment
1080 System; (v) progress in areas of academic underperformance; and (vi) progress among subgroups
1081 of students, including low-income students as defined by chapter 70, limited English proficient
1082 students and students receiving special education.

1083 A majority vote of the committee shall be required for approval of the innovation plan.

1084 Upon completion of the innovation plan for a public school conversion, the applicant
1085 shall submit any proposed waivers or modifications of an existing collective bargaining
1086 agreement in the innovation plan to members of the impacted local union in the public school
1087 that is proposed for conversion for approval by secret ballot within 30 days. A 2/3 vote of the
1088 members in the building shall be required to approve such plan. Upon approval of an innovation
1089 plan by the applicable union the plan shall, within 14 days, be submitted to the school
1090 committee. In any case in which a 2/3 vote is not achieved, the innovation plan committee may
1091 revise the innovation plan as necessary, and submit such revised plan to the teachers for a
1092 subsequent vote.

1093 Upon the completion of the innovation plan for the establishment of a new school, the
1094 applicant, a local union and the superintendent shall negotiate waivers or modifications to the
1095 applicable collective bargaining agreement necessary for the school to implement the innovation
1096 plan. Upon the conclusion of such negotiations, the innovation plan shall be submitted
1097 immediately to the school committee. If the parties fail to reach an agreement within 40 days,

1098 either party may petition the division of labor relations for the selection of an arbitrator. The
1099 division shall select an arbitrator within 3 days of such petition from a list submitted by the
1100 parties. The arbitrator shall conduct a hearing within 14 days of the arbitrator's selection. The
1101 arbitrator shall consider the parties' positions and the needs of the students in the district. The
1102 arbitrator shall submit a decision which shall be final and binding on the parties within 14 days
1103 of the close of the hearing; provided, however, that the arbitrator's decision shall be consistent
1104 with the contents of the innovation plan developed by the applicant.

1105 (d) Upon receipt of an innovation plan a school committee shall hold not less than 1 public
1106 hearing on the innovation plan. Not later than 60 days after the receipt of the innovation plan,
1107 the school committee shall, by majority vote and on the basis of the quality of the plan, and in
1108 consideration of comments submitted by the public, undertake a final vote to authorize the
1109 innovation school for a period of not more than 5 years, subject to the provisions of subsection
1110 (e). In any case in which such approval is not achieved, an innovation plan committee may
1111 revise the innovation plan and: (i) in the case of a new school, submit such revised plan to the
1112 school committee for a subsequent vote; or (ii) in the case of a conversion, submit such revised
1113 plan to the teachers in the school that is proposed for conversion for a vote, pursuant to
1114 subsection (c) and, provided the plan meets the requirements for approval under subsection (c),
1115 submit such revised plan to the school committee for a subsequent vote. A school committee
1116 shall vote on a revised plan submitted pursuant to this subsection within 60 days of the receipt of
1117 such plan and contract.

1118 (e) All innovation schools shall be evaluated by the superintendent on not less than an annual
1119 basis. The superintendent shall transmit such evaluation to the school committee and the
1120 commissioner. The purpose of such evaluation shall be to determine whether the school has met
1121 the annual goals in its innovation plan and assess the implementation of the innovation plan at
1122 the school. In any case in which the school committee determines, on the advice of the
1123 superintendent, that the school has not met 1 or more goals in the innovation plan, and that the
1124 failure to meet such goals may be corrected through reasonable modification of such plan, the
1125 school committee may amend the innovation plan as necessary, consistent with the provisions of
1126 subsection (c). After the superintendent assesses the implementation of the innovation plan at
1127 the school, the school committee may, on the advice of the superintendent, amend the plan if the
1128 school committee determines that such amendment is necessary in view of subsequent changes
1129 in the district that affect 1 or more components of the plan, including, but not limited to, changes
1130 to contracts, collective bargaining agreements or school district policies; provided, however, that
1131 any amendment involving a subsequent change to a teacher contract shall first be approved by
1132 teachers at the school, pursuant to the procedures in subsection (c).

1133 In any case in which the school committee determines, on the advice of the
1134 superintendent, that the school has substantially failed to meet multiple goals in the innovation
1135 plan, the school committee may, on the advice of the superintendent: (i) limit 1 or more
1136 components of the innovation plan, as necessary; (ii) suspend 1 or more components of the

1137 innovation plan, as necessary; or (iii) terminate the authorization of the school; provided,
1138 however, that such limitation or suspension shall not take place before the completion of the
1139 second full year of the operation of the school, and such termination may not take place before
1140 the completion of the third full year of the operation of the school.

1141 At the end of the period of authorization of an innovation school, the leadership of such
1142 school may petition the school committee to extend the authorization of the school for an
1143 additional period of not more than 5 years. Before submitting such petition, the leadership of the
1144 school shall convene a selection of school stakeholders including, but not limited to,
1145 administrators, teachers, other school staff, parents and external partners, as applicable, to
1146 discuss whether the innovation plan at the school requires revision, and to solicit
1147 recommendations as to such potential revisions. After considering the recommendations of the
1148 stakeholder group, the leadership of the school and the applicable superintendent shall jointly
1149 update the innovation plan as necessary; provided, however, that any proposal regarding a new
1150 waiver or exemption from the local teachers union contract shall be approved by teachers at the
1151 school, pursuant to the provisions of subsection (c). Approval of the majority of the school
1152 committee shall be required to extend the period of authorization of an innovation school. In any
1153 case in which such approval is not achieved, the leadership of the school and superintendent may
1154 jointly revise the innovation plan, pursuant to subsection (c) and submit such revised plan to the
1155 school committee for a subsequent vote. If the school committee does not extend the
1156 authorization of the school, the leadership of the school may seek such authorization from the
1157 board. The board shall vote on the requested extension within 60 days of its receipt for approval
1158 of such extension.

1159 (f) The commissioner shall: (i) to the extent practicable, provide planning and implementation
1160 grants to eligible applicants to establish innovation schools; (ii) to the extent practicable,
1161 provided technical assistance and support to eligible applicants; (iii) assist in the collection and
1162 publication of data and research related to the innovation schools initiative; (iv) assist in the
1163 collection and publication of data and research related to successful programs serving limited
1164 English proficient students attending innovation schools; and (v) assist in the collection and
1165 dissemination of best practices in innovation schools that can be adopted by other public schools.

1166 (g) Nothing in this section shall be construed as prohibiting: (i) the establishment of an
1167 innovation school as an academy within an existing public school; (ii) the establishment of an
1168 innovation school serving students from 2 or more school districts provided that all of the
1169 provisions of this section are met by each school district; (iii) the simultaneous establishment of
1170 2 or more innovation schools as an innovation schools zone within a school district; or (iv) the
1171 establishment of an innovation school as a virtual public school that provides instruction to
1172 students through distance learning, including online learning programs and courses, subject to
1173 regulations adopted by the board.

1174 (h) The provisions of the collective bargaining agreements applicable to the administrators,
1175 teachers and staff in the school shall be deemed to be in operation at an innovation school, except
1176 to the extent such provisions are waived or modified under the innovation plan, and such waivers
1177 or modifications are approved pursuant to the succeeding subsections.

1178 (i) The board shall promulgate rules and regulations for the administration and enforcement of
1179 this section.

1180 (j) The commissioner shall annually, no later than January 1, report to the joint committee on
1181 education and the house and senate committees on ways and means on the implementation and
1182 fiscal impact of this section.

1183 SECTION 4. For the school districts in which net school spending on charter school tuition shall
1184 not exceed 18 per cent as set forth in subsection (i) of section 89 of chapter 71 of the General
1185 Laws, the following shall apply: in fiscal year 2011, a public school district's total charter school
1186 tuition payment to commonwealth charter schools shall be limited to 12 per cent of said district's
1187 net school spending. In fiscal year 2012, a public school district's total charter school tuition
1188 payment to commonwealth charter schools shall be limited to 13 per cent of said district's net
1189 school spending. In fiscal year 2013, a public school district's total charter school tuition
1190 payment to commonwealth charter schools shall be limited to 14 per cent of said district's net
1191 school spending. In fiscal year 2014, a public school district's total charter school tuition
1192 payment to commonwealth charter schools shall be limited to 15 per cent of said district's net
1193 school spending. In fiscal year 2015, a public school district's total charter school tuition
1194 payment to commonwealth charter schools shall be limited to 16 per cent of said district's net
1195 school spending. In fiscal year 2016, a public school district's total charter tuition payment to
1196 commonwealth charter schools shall be limited to 17 per cent of said district's net school
1197 spending. In fiscal year 2017, a public school district's total charter tuition payment to
1198 commonwealth charter schools shall be limited to 18 per cent of said district's net school
1199 spending.

1200 SECTION 5. Notwithstanding any general or special law to the contrary, a charter school whose
1201 charter was granted prior to January 1, 2010 shall have a recruitment and retention plan required
1202 pursuant to subsections (e) and (f) of section 89 of chapter 71 of the General laws in effect for
1203 the 2011-2012 school year or at the time of its next charter renewal, whichever occurs first:

1204 and by striking out the title and inserting in place thereof the following title: "An Act Relative to
1205 the Achievement Gap."