

**HOUSE . . . . . No.**

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Carl M. Sciortino, Jr.**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to improve assessment and accountability to ensure students acquire 21st century skills.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Carl M. Sciortino, Jr.	34th Middlesex
Frank I. Smizik	15th Norfolk
Alice K. Wolf	25th Middlesex
Bill Bowles	2nd Bristol

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT TO IMPROVE ASSESSMENT AND ACCOUNTABILITY TO ENSURE STUDENTS ACQUIRE 21ST CENTURY SKILLS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 *Whereas*, Massachusetts has yet to fully realize the letter and spirit of the Education Reform Act of 1993,  
2 which called for a comprehensive assessment system composed of a variety of instruments and methods  
3 that are sensitive to different learning styles and barriers to learning such as English language proficiency  
4 and learning disabilities; and,

5 *Whereas*, to reach our aspirations for educational quality and equity, Massachusetts public schools need  
6 balanced systems of: evaluation, which is based on information on the functioning of students, staff, and  
7 schools; assessment, which is based on information about learning outcomes and progress; and  
8 accountability, which is holding schools and districts responsible for their practices and results; and,

9 *Whereas*, we need a system that reflects and supports high and broad aspirations for our children, and  
10 measures the breadth and depth of all the skills required for success in our changing world; and,

11 *Whereas*, such skills include the “21<sup>st</sup> Century skills” of creativity, critical thinking, problem solving,  
12 communication and collaboration, media and information literacy, flexibility, initiative, social and cross-  
13 cultural skills and understandings, leadership, self-motivation and responsibility; and,

14 *Whereas*, these skills are needed for students to succeed in college and skilled employment, but colleges  
15 and employers report that Massachusetts high school graduates still largely lack these capacities; and,

16 *Whereas*, achievement gaps remain unacceptably large, and dropout rates, already high before Education  
17 Reform, are rising among urban minority populations and among English language learners and students  
18 with disabilities; and,

19 *Whereas*, our current accountability structure suffers from an imbalance that places too much emphasis on  
20 standardized test outcomes and results in “goal distortion,” i.e., a diversion of attention from many  
21 important school goals to focus only on those that are measured by high stakes tests; and,

22 *Whereas*, a consequence of this goal distortion has been less social studies, science, art, music, and  
23 physical education, as well as lack of attention to the 21<sup>st</sup> century skills, particularly for low-income  
24 children; and,

25 *Whereas*, the federal No Child Left Behind law does not require that standardized tests be the form of  
26 assessment used by states and does not require test-based graduation requirements; and,

27 *Whereas*, local classroom-based assessments combined with limited state-wide assessments provide  
28 multiple sources of evidence of student learning and progress, together with an accreditation process, are  
29 needed to eliminate the goal distortion and narrowing that has resulted from the current system and ensure  
30 a balanced and comprehensive accountability system that addresses the full range of academic and other  
31 21<sup>st</sup> century skills;

32 Therefore, the following amendments to the Massachusetts General Laws should be adopted to improve  
33 our education system, ensure that all students are afforded a quality education, and ensure high school  
34 graduates possess a reasonable breadth and depth of knowledge and skills.

35 SECTION 1. Section 1D of chapter 69 of the General Laws, as appearing in the 2008 Official Edition, is  
36 hereby amended by adding after the third paragraph the following new paragraph:-

37 Before taking effect, the standards shall be reviewed and approved by the state affiliate of the professional  
38 association representing the academic discipline, or its successor as the case may be, for each standard as  
39 follows: in mathematics by the National Council of Teachers of Mathematics; in English Language Arts  
40 by the National Council of Teachers of English, the International Reading Association, and the National  
41 Association of Bilingual Educators; in science and technology by the National Association of Science  
42 Teachers, the National Technology Education Association and the Association for Career and Technical  
43 Education; in health by the National Association for Health, Physical Education, Recreation and Dance,  
44 the American School Counselors Association and the National Association of School Psychologists; in  
45 the arts by the National Art Education Association, the National Alliance for the Arts and the National  
46 Music Educators Association; in social studies by the National Council for the Social Studies, the

47 National Council for History Education and the National Geographic Alliance; and in foreign languages  
48 by the National Foreign Language Association.

49 SECTION 2. Section 1D of chapter 69 of the General Laws, as so appearing, is hereby amended by  
50 adding after the word "determination" in line 54 the following words:-

51 , according to the evaluation system established by the district or Commonwealth charter school  
52 according to section one I of this chapter.

53 SECTION 3. Section 1D of chapter 69 of the General Laws, as so appearing, is hereby amended by  
54 adding after the fifth paragraph, the following new paragraph:-

55 To fulfill the high school graduation competency determination, the state shall require students to pass a  
56 course in tenth grade English, a math course, a science or technology course, and a U.S. or world history  
57 course. The student's grade in each said course shall include an end-of-course examination developed by  
58 the board. Any such examination shall count for no more than twenty percent of a student's final grade in  
59 the course and shall have no other consequences for individual students. In any such examination, the  
60 state shall ensure that no more than twenty-five percent of the score will be obtained through use of  
61 multiple-choice or short-answer items, and at least seventy-five percent of the score in that examination  
62 will be obtained through performance assessment items appropriate to the subject. Performance  
63 assessment items shall include essays, tasks, projects, performances, exhibits, laboratory experiments, or  
64 other similar performance assessment items that are intended in significant part to assess student  
65 acquisition of 21st century skills, as defined in Section 1I. Such items may be scored by teachers in the  
66 local district where the student attends school. The board shall ensure quality control and comparability of  
67 scoring across schools and districts. Local school districts may be allowed to use their own assessments  
68 and not use the state end-of-course exams provided, however, that local assessments meet the other  
69 criteria in this chapter, are based on state standards, and are approved by the department.

70 SECTION 4. Section 1E of chapter 69 of the General Laws, as so appearing, is hereby amended by  
71 adding the following new paragraph at the end thereof:-

72 Before taking effect, the standards shall be reviewed and approved by the state affiliate of the professional  
73 association representing the academic discipline, or its successor as the case may be, for each standard as  
74 follows, as described in Section 1D.

75 SECTION 5. Section 1I of chapter 69 of the General Laws, as so appearing, is hereby amended by  
76 striking the first through fourth paragraphs, and inserting in place thereof the following paragraphs:-

77 Every ten years all public schools, including Commonwealth and Horace Mann charter schools, shall take  
78 the steps necessary to become accredited by the New England Association of Schools and Colleges,

79 hereinafter referred to as NEASC. The governing school authority, if any, shall take all steps necessary to  
80 assist each school in its jurisdiction to achieve such accreditation. If, after four years from the beginning  
81 of the accreditation process, a school fails to achieve accreditation, fails to make significant progress  
82 toward accreditation, or is placed on probation status by the NEASC, the commissioner may initiate  
83 proceedings pursuant to section 1J of this chapter.

84 Each school district shall develop and adopt a system for evaluating on an annual basis the overall  
85 performance and progress of both the district and individual public schools within the district, including  
86 Horace Mann charter schools. Each Commonwealth charter school shall develop and adopt a system for  
87 evaluating on an annual basis the overall performance of the school. Each local evaluation system shall be  
88 designed to help improve the overall quality of the school and district in educating the whole child,  
89 measure outcomes and results regarding student learning and progress, and improve the effectiveness of  
90 curriculum and instruction. These would include outcomes in eight broad categories: basic academic  
91 knowledge and skills, critical thinking and problem-solving, appreciation of the arts and literature,  
92 preparation for skilled employment, social skills and work ethic, citizenship and community  
93 responsibility, physical health and emotional health. In its design and application, each evaluation system  
94 shall strike a balance among considerations of accuracy, fairness, expense and administration.

95 In both district and Commonwealth charter schools, the evaluation system shall include a criterion-  
96 referenced assessment system designed to measure current student academic status and the extent to  
97 which the school or district has succeeded in improving or has failed to improve student academic  
98 performance. Said performance shall be defined as student acquisition of the skills, competencies and  
99 knowledge called for by the academic standards and embodied in the curriculum frameworks established  
100 by the board pursuant to sections 1D and 1E, in the areas of mathematics, science and technology, history  
101 and social science, English, foreign languages, the arts, and health. The district may include other gauges  
102 of student learning judged by the district to be relevant and meaningful to students, parents, teachers,  
103 administrators, and taxpayers.

104 The local assessment system shall gather and report information about student learning on either a  
105 comprehensive or statistically valid sampling basis. To ensure quality and comparability across districts,  
106 the assessment system shall meet the NEASC standards on assessment. In addition, the board may  
107 establish other means for ensuring comparability across districts and for providing feedback to districts  
108 and schools aimed at improving assessment, teaching and learning, including rescoring samples of student  
109 work.

110 The local assessment system shall be comprised primarily of work samples and portfolios that  
111 predominantly include performance assessment items, and shall facilitate authentic and direct gauges of  
112 student performance. Performance assessment items include essays, tasks, projects, performances,

113 exhibits, laboratory experiments, or other similar performance assessment items, administered on demand  
114 or as part of the ongoing student work in the class, that are intended in significant part to assess student  
115 acquisition of 21st century skills, defined as including the following: creativity, critical thinking, problem  
116 solving, communication and collaboration, media and information literacy, flexibility, initiative, social  
117 and cross-cultural skills and understandings, leadership, self-motivation and responsibility.

118 Each local evaluation and assessment system shall be approved by the school committee, or by the  
119 governing board of any school not under the direction and control of a school committee. Every school  
120 district or school must submit its proposed evaluation and assessment systems to the Department of  
121 Elementary and Secondary Education for review and approval prior to the implementation of said  
122 systems. The department shall establish criteria to use in its review and approval process. Local  
123 evaluation and assessment information may be used in any evaluation of school or district performance or  
124 progress, such as that described in Sections 1J and 1K of this Chapter.

125 In addition, each district or Commonwealth charter school, under procedures and guidelines established  
126 by the department, shall administer the following statewide standardized tests as part of its assessment  
127 system: reading or language arts tests in grades 3, 5 and 7 only; math tests in grades 4, 6 and 8 only; and  
128 the standardized end-of-course assessments described in Section 3. No other statewide standardized tests  
129 shall be given and the administration of such statewide standardized tests shall be limited to no more than  
130 five school days total in any school year; provided further, that the school, district and individual student  
131 scores for any statewide standardized tests must be reported to the school and district no later than the end  
132 of the school year in which the test was taken. Said statewide standardized tests shall be used for  
133 purposes of diagnosis, remediation, and assessment of the extent to which the school's students have  
134 acquired the skills, competencies and knowledge called for by the academic standards and embodied in  
135 the curriculum frameworks established by the board pursuant to sections 1D and 1E. They shall not be  
136 used to deny any student graduation, except as included in the competency determination described in  
137 Section D, or promotion to the next grade, except as one component of a comprehensive evaluation, or  
138 any other benefit of public education. Test scores shall be reported to each student and to his or her  
139 parents or guardians and shall be reported in the aggregate at the school and district level. Aggregate  
140 scores may be used as one component of any evaluation of school or district progress, such as that  
141 described in Section 1J of this Chapter.

142 Prior to the use of any state tests described in the previous paragraph, the tests shall be reviewed and  
143 approved by the state affiliate of the professional association representing the academic discipline, or their  
144 successors as the case may be, for each test, as described in Section 1D.

145 Notwithstanding any provision of this chapter to the contrary, reporting by the department of performance  
146 levels on the statewide standardized tests shall not include the term "failing" or any similar pejorative  
147 term.

148 The department shall provide professional development and training to teachers in the construction, use  
149 and scoring of performance assessment items. The department shall provide technical assistance to  
150 schools and school districts to develop performance assessments, as required by this section, including the  
151 development of models for local assessment systems. The department also shall work with schools,  
152 districts, colleges and universities, and other states, to develop collections of high-quality performance  
153 assessment items that schools and districts may use in classroom instruction and assessment.

154 The department shall provide technical assistance to schools and school districts to achieve the  
155 accreditation and implement the evaluation systems required by this section, including the development of  
156 models for local evaluation systems. The department shall fund the costs associated with achieving and  
157 maintaining accreditation by the NEASC, including teacher reassign time, substitute teachers and other  
158 staff participation costs associated with the accreditation process, as well as the costs associated with the  
159 performance evaluation systems required by this section.

160 SECTION 6. Section 1I of chapter 69 of the General Laws, as so appearing, is hereby amended by  
161 inserting the following paragraph at the end thereof:-

162 Each public school, including Commonwealth and Horace Mann charter schools, shall annually report to  
163 the public how all its students have performed under the assessment system established by the district, or  
164 by the school in the case of a Commonwealth charter school. Each district shall report how each of its  
165 schools and the district as a whole have performed under the evaluation and assessment systems, and each  
166 Commonwealth charter school shall similarly report. The reports shall be in a uniform format within each  
167 school district, or within the school in the case of a Commonwealth charter school, and shall break down  
168 the data by student status, including economically disadvantaged, race, gender, disability, English  
169 proficiency, and such other categories as the district or school deems useful. The school report shall  
170 include how each school's performance relates to its school improvement plan. The report also shall  
171 include the school's progress in obtaining or renewing accreditation by the NEASC and results of the  
172 statewide standardized test.

173 Each district shall compile and review the reports of each school. It shall evaluate the strengths, progress,  
174 problems and needs for each school and the district as a whole, and submit a report to the department.  
175 Each Commonwealth charter school shall submit its school evaluation report to the department. The  
176 department shall review each district and Commonwealth charter school report and where it deems  
177 appropriate make recommendations to the district or school and ensure the provision of resources and

178 other assistance designed to help each district or school improve. The department shall focus on providing  
179 assistance to schools that are not accredited and or schools or districts whose reports indicate a  
180 particularly urgent need for assistance. The nature and results of such recommendations and assistance  
181 shall be included in subsequent school and district reports. These reports may be used as one component  
182 of any evaluation of school or district progress, such as that described in Section 1J of this Chapter.

183 SECTION 7. Chapter 69 of the General Laws, as so appearing, is hereby amended by striking section 1J  
184 and inserting in place thereof the following section:-

185 Section 1J. If, after four years from the beginning of the accreditation process, a school fails to achieve  
186 accreditation required by section 1D, fails to make significant progress toward accreditation, or is placed  
187 on probation status by the NEASC, the commissioner may appoint an independent fact-finding team to  
188 assess the reasons for the non-accreditation, failure to make progress or probation status, and the  
189 prospects for improvement. Upon review of the conclusions of the fact-finding team, the board may,  
190 according to regulations established by the board, declare the school chronically under-performing.

191 Upon a determination that a school is chronically under-performing, the following steps may be taken:

192 (1) The principal of the school may be immediately removed and may not be assigned to the school for  
193 the following school year if the board finds that the principal played a significant role in the under-  
194 performance of the school;

195 (2) The superintendent may designate a new principal for the school;

196 (3) If the school does not receive funding from the district at least equal to the average per pupil funding  
197 received for students of the same classification and grade level in the district, the district shall provide  
198 additional funding sufficient to bring funding for that school to such level;

199 (4) Such other actions determined by the board of elementary and secondary education, to be reasonably  
200 calculated to significantly increase the number of students attending the school who satisfy the student  
201 performance standards.

202 The department shall monitor the efforts and results of any actions taken pursuant to this section and  
203 continue to intervene, as it deems appropriate, until it determines that the school has made sufficient  
204 progress and is capable of continuing sufficient progress.

205 SECTION 9. Chapter 69 of the General Laws, as so appearing, is hereby amended by striking section 1K  
206 and inserting in place thereof the following section:-

207 Section 1K. If, after four years from the beginning of the accreditation process, more than one-third of  
208 the schools in a district fail to achieve accreditation required by section 1D, fail to make significant



209 progress toward accreditation, or are placed on probation status by the NEASC, the commissioner shall  
210 appoint an independent fact-finding team to assess the reasons for the non-accreditation, failure to make  
211 progress or probation status, and the prospects for improvement. Upon review of the conclusions of the  
212 fact-finding team, the board may, according to regulations established by the board, declare the district  
213 chronically under-performing. Following such a declaration, the board shall designate a receiver for the  
214 district with all the powers of the superintendent and school committee or other applicable executive  
215 officer and governing board. The receiver shall report directly to the commissioner. At its option, the  
216 board may revoke the charter of the Commonwealth charter school. For purposes of this section, the term  
217 "district" shall include a Commonwealth charter school. Said receivership shall continue until the board  
218 determines that the district or Commonwealth charter school has made sufficient progress and is capable  
219 of continuing sufficient progress.

220 If a municipality has failed to fulfill its fiscal responsibilities to education under chapter seventy, the  
221 commissioner shall recommend to the board that the district be declared chronically under-performing.  
222 The municipality's mayor or chairman of the board of selectmen shall have the opportunity to present  
223 evidence to the board. A vote by the board that a school district is chronically under-performing for fiscal  
224 reasons shall authorize the commissioner to petition the commissioner of revenue to require an increase in  
225 funds for the school district, alleging that the amount necessary in said community for the support of  
226 public schools has not been included in the annual budget appropriations. The commissioner of revenue  
227 shall determine the amount of any deficiency pursuant to the sums required under chapter seventy, if any,  
228 and issue an order compelling the community to provide a sum of money equal to such deficiency. If the  
229 community does not provide a sum of money equal to such deficiency, the commissioner of revenue, in  
230 accordance with his powers in section twenty-three of chapter fifty-nine, shall not approve the tax rate of  
231 the community for the fiscal year until the deficiency is alleviated. This section shall not be construed to  
232 create a cause of action for educational malpractice by students or their parents, guardians or persons  
233 acting as parents.

234 SECTION 10. The Commissioner of Elementary and Secondary Education shall select a panel of three  
235 experts from a list of nationally qualified experts in educational assessment provided by the National  
236 Research Council of the National Academy of Sciences, and two educators, one an elementary teacher  
237 and the other a secondary school teacher, from a list of experienced teachers provided by the  
238 Massachusetts Teachers Association and the AFT-Massachusetts, to perform a study of the validity,  
239 reliability, quality and age and language appropriateness of the statewide standardized tests established in  
240 section II. .

241 The Commissioner of Elementary and Secondary Education shall enter into a contract on behalf of the  
242 Department of Elementary and Secondary Education, with the selected panel of experts to conduct such a

243 study. The Commissioner and the Department of Elementary and Secondary Education shall assist the  
244 panel in obtaining all information, documents or other evidence necessary to conduct the study.

245 The findings, conclusions and recommendations of the Commission shall be presented to the Board of  
246 Elementary and Secondary Education and to the Joint Committee on Education.