

House 1 Revised Outside Sections

Homeless Amendments (Senate Sections 8B-8E)

SECTION 4. The first paragraph of section 30 of chapter 23B of the General Laws, as appearing in section 37 of chapter 4 of the acts of 2009, is hereby amended by adding the following sentence:-

The department shall administer the program throughout the commonwealth at locations that are geographically convenient to families who are homeless or at risk of homelessness and shall administer the program in a fair, just and equitable manner.

SECTION 5. Paragraph (B) of said section 30 of said chapter 23B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following 2 sentences:-

Emergency housing assistance shall be denied to a family who, at any time within 1 year immediately prior to the filing of an application for emergency assistance, has depleted, assigned or transferred real or personal property that would have rendered such family ineligible for assistance if: (a) the depletion, transfer or assignment was not reasonable at the time or was not for good cause reasons; or (b) the depletion, transfer or assignment was made for the purpose of making the family eligible for emergency assistance. For purposes of the preceding sentence, good cause reasons shall include, but not be limited to, that the funds were expended for necessary or reasonable costs of living such as rent, utilities, food, health related needs, education related expenses or transportation.

SECTION 6. The first sentence of the second subparagraph of paragraph (C) of said section 30 of said chapter 23B, as so appearing, is hereby amended by striking out the words "any benefits" and inserting in place thereof the following words:-

Any nonshelter benefits.

SECTION 7. Paragraph (F) of said section 30 of said chapter 23B, as so appearing, is hereby amended by striking out the third subparagraph and inserting in place thereof the following subparagraph:-

A hearing held pursuant to this section shall be conducted by a hearing officer designated by the hearings manager and shall be conducted as an adjudicatory proceeding under chapter 30A. The department shall offer the person appealing the option to hold the hearing: (a) such that the hearing officer, person appealing and department representatives shall be in 1 location for the hearing and such location shall be convenient to the person appealing; (b) telephonically; or (c) through other available means such as videoconferencing. The person appealing shall have the right to choose among these options. No employee shall review, interfere with, change or attempt to influence any hearing decision by a hearing officer. The hearings manager shall be responsible for the fair and efficient operation of the division in conformity with state and federal laws and regulations and may review and discuss with the hearing officers such decisions solely in order to carry out this responsibility. The hearing manager shall be responsible for the training of hearing officers, scheduling of hearings and the

compilation of decisions. The hearings manager may grant a request by the person appealing for a remand of the decision to the hearings officer who made the initial decision or another hearings officer for reconsideration of an initial decision. The final decision of the hearing officer shall be the decision of the department

Commonwealth Wellness Fund (House 101, Section 13)

SECTION 8. Chapter 29 of the General Laws is hereby amended by inserting after section 2YYY the following section:-

Section 2ZZZ. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Wellness Fund. The fund shall be credited with all sales tax revenues collected from the sale of candy, soft drinks and alcoholic beverages under chapter 64H. Amounts credited to the fund shall be expended, subject to appropriation, to support alcohol and tobacco addiction services, health promotion, school-based health programs, teenage pregnancy prevention, domestic violence and sexual assault prevention, work force expansion services and other critical programs that support the wellness of residents of the commonwealth.

Statutory Carry Forward Adjustment (Senate Section 12)

SECTION 9. Section 5C of said chapter 29 is hereby amended by striking out, in line 5, the figure “½”, as so appearing, and inserting in place thereof the following figure:- ¼.

Telecom - 1 (House 101, Section 21)

SECTION 10. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by inserting after the word “than”, in line 220, the following words:- a telephone or telegraph corporation taxed under section 52A of chapter 63 or.

Telecom - 2 (House 101, Section 22)

SECTION 11. Said section 5 of said chapter 59 of the General Laws, as so appearing, is hereby further amended by inserting after the words “two A”, in line 223, the following words:- , other than a telephone or telegraph corporation,.

Telecom - 3 (House 101, Section 23)

SECTION 12. Clause Sixteenth of said section 5 of said chapter 59 of the General Laws is hereby further amended by striking out paragraph (2), as inserted by section 2 of chapter 173 of the acts of 2008, and inserting in place thereof the following paragraph:-

(2) In the case of (a) a business corporation subject to tax under section 39 of chapter 63 that is not a manufacturing corporation, or (b) a telephone or telegraph corporation subject to tax under section 52A of chapter 63, all property owned by the corporation other than the following:- real estate, poles, underground conduits, wires and pipes, and machinery used in the conduct of the business, which term, as used in this clause, shall not be considered to include stock in trade or any personal property directly used in connection with dry cleaning or laundering processes or in the refrigeration of goods or in the air-conditioning of premises or in any purchasing, selling, accounting or administrative function. Notwithstanding the preceding sentence, a telephone or telegraph corporation shall be subject to property tax assessment on machinery used in

the conduct of its business and leased to it by a corporation that is not a telephone or telegraph corporation, and the telephone or telegraph corporation shall include such property on its list to the board of assessors where the property is situated under section 29 of this chapter.

Telecom - 4 (House 101, Section 24)

SECTION 13. Clause Fifth of section 18 of said chapter 59, as appearing in the 2006 Official Edition, is hereby amended by adding the following 2 sentences:- Poles, underground conduits, wires and pipes of telecommunications companies laid in or erected upon public or private ways and property shall be assessed to their owners in the cities or towns where they are laid or erected. For purposes of this clause, telecommunications companies shall include cable television, internet service, telephone service, data service and any other telecommunications service providers.

Modification of Film Credit - 1

SECTION 14. Subsection (l) of section 6 of chapter 62 of the General Laws, as amended by sections 1 to 4 of chapter 63 of the acts of 2007, is hereby further amended by adding the following paragraph:-

(8) Notwithstanding any other provision of this section, aggregate salary and compensation amounts including all per diems, housing and other allowances, paid to, or for the services of, an individual shall not qualify for the credit under subsection (l) of section 6 of chapter 62 or for the credit under section 38X of chapter 63 to the extent that such amounts exceed \$2,000,000.

Meals Tax- 1 (Revised from House 101)

SECTION 15. Section 16 of chapter 62C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 62, the words "sixty-four H or sixty-four I" and inserting in place thereof the following words:- 64H, 64I or 64L.

Meals Tax- 2 (House 101, Section 26)

SECTION 16. Subsection (b) of section 21 of chapter 62C of the General Laws, as amended by section 8 of chapter 205 of the acts of 2007, is hereby amended by adding the following clause:-

(24) the disclosure of information necessary for administration of the local option excises imposed by section 3A of chapter 64G and by chapter 64L.

Meals Tax- 3(Revised from House 101)

SECTION 17. Section 31A of chapter 62C, as so appearing, is hereby amended by striking out, in line 5, the words "or section 17 of chapter 64I" and inserting in place thereof the following words:- section 17 of chapter 64I or section 6 of chapter 64L.

Modification of Film Credit – 2

SECTION 18. Section 38X of chapter 63 of the General Laws, inserted by section 82 of chapter 173 of the acts of 2008, is hereby amended by adding the following subsection:-

(g) Notwithstanding any other provision of this section, aggregate salary and compensation amounts including all per diems, housing and other allowances, paid to, or for the services of, an individual shall not qualify for the credit under this section or for the credit under subsection (l) of section 6 of chapter 62 to the extent that such amounts exceed \$2,000,000.

Hotel/Motel Tax- 1 (House 101, Section 27)

SECTION 19. Section 3 of chapter 64G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 4, the word “five” and inserting in place thereof the following figure:- 6.

Hotel/Motel Tax- 2 (House 101, Section 28)

SECTION 20. Said section 3 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word “equivalent.”, in line 6, the following sentence:- Before applying section 35J of chapter 10 or any other general or special law to the revenues generated by this section, 1 percentage point of the excise shall be deposited in the General Fund.

Hotel/Motel Tax- 3 (House 101, Section 29)

SECTION 21. Section 3A of said chapter 64G of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word “four” and inserting in place thereof the following number:- 5

Hotel/Motel Tax- 4 (House 101, Section 30)

SECTION 22. Said section 3A of said chapter 64G of the General Laws, as so appearing, is hereby further amended by striking out, in line 10, the number “4.5” and inserting in place thereof the following number:- 5.5.

Elimination of Sales Tax Exemptions for Candy, Soft Drinks and Alcoholic Beverages - 1 (House 101, Section 32)

SECTION 23. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by adding the following definitions:

“Candy”, a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration.

“Soft drinks”, non-alcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.

Elimination of Sales Tax Exemptions for Candy, Soft Drinks and Alcoholic Beverages – 2 (House 101, Section 33)

SECTION 24. Section 6 of said chapter 64H, as so appearing, is hereby amended by striking out, in line 72, the words “and one hundred and thirty-eight.”

Elimination of Sales Tax Exemptions for Candy, Soft Drinks and Alcoholic Beverages – 3 (House 101, Section 34)

SECTION 25. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking out, in line 77, the words “soft drinks,” and by striking out, in line 78, the words “, candy and confectionary” and by inserting, after the word “include”, in line 80, the following words:- soft drinks and candy, as defined in section 1,.

Elimination of Sales Tax Exemptions for Candy, Soft Drinks and Alcoholic Beverages – 4 (House 101, Section 35)

SECTION 26. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking out, in lines 115 to 116, the words “in the instance in which it sells only snacks and candy with a sales price of less than \$3.50” and inserting in place thereof the following words:- to the extent that it sells food products with a sales price of less than \$3.50; provided further that candy and soft drinks as defined in section 1 are subject to tax regardless of whether the vending machine from which they are sold is considered an eating establishment or not.

Elimination of Sales Tax Exemptions for Candy, Soft Drinks and Alcoholic Beverages – 5 (House 101, Section 36)

SECTION 27. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word “Beverages”, in line 127, the following words:- ,except soft drinks,.

Meals Tax- 4 (revised from H. 101)

SECTION 28. The General Laws are hereby amended by inserting after chapter 64K the following chapter:-

CHAPTER 64L.

Section 1. As used in this chapter, the following words shall have the meaning assigned to them in paragraph (h) of section 6 of chapter 64H: "honor snack tray", "meals", and "restaurant".

“Sale”, shall mean a sale of meals by a restaurant for any purpose other than resale in the regular course of business.

“Vendor”, shall have the meaning assigned to it in section 1 of chapter 64H.

Section 2. (a) A local excise tax upon the sale of meals by a restaurant within a city or town by any vendor at a rate of 1 per cent of the gross receipts of the vendor from the sale of restaurant meals is hereby imposed. The excise imposed by this paragraph shall only be used to provide additional local aid to cities and towns.

(b) Any city or town may, in addition to the excise provided in paragraph (a), impose a local excise tax upon the sale of meals by a restaurant within the city or town by any vendor at a rate of an additional 1 per cent of the gross receipts of the vendor from the sale of restaurant meals. Any city or town exercising the local option provided by this paragraph must notify the commissioner of revenue in writing not later than 30 days after such action. This paragraph shall take effect only in a city or town that accepts it as provided in section 4 of chapter 4. This paragraph shall take effect on the first day of the calendar quarter following 30 days after this acceptance and written notification, or on the first day of a later calendar quarter that the city or town may designate, provided that the excise under this paragraph shall not apply to any sales before September 1, 2009. A city or town may not revoke or exercise the option provided by this paragraph more often than once in any 12 month period.

(c) No excise shall be imposed by this chapter on sales from vending machines or if the sale is otherwise exempt under section 6 of chapter 64H. The excise imposed by this chapter shall be paid by the vendor to the commissioner in the same manner as the excise imposed under chapter 64H and at the time provided for filing the return required by section 16 of chapter 62C.

Section 3. Except as provided herein, a sale of a meal by a restaurant is sourced to the business location of the vendor if (1) the meal is received by the purchaser at the business location of the vendor or (2) if the meal is delivered by the vendor to a customer, regardless of the location of the customer. A vendor with multiple business locations in the commonwealth must separately report sales sourced to each location in a manner prescribed by the commissioner. Restaurant meal delivery companies that purchase meals for resale must source their sales to the delivery location indicated by instructions for delivery to the purchaser and shall separately report sales by municipality in a manner prescribed by the commissioner. The commissioner may also adopt by rule or regulation destination sourcing and reporting rules for caterers or other vendors with a high volume of delivered meals, as the commissioner may determine, in order to mitigate any anti-competitive impact of the local meals tax.

Section 4. Reimbursement for the tax imposed by this chapter shall be paid by the purchaser to the vendor, and each vendor in the commonwealth shall add to the sales price and shall collect from the purchaser the full amount of the tax imposed by this chapter; and such tax shall be a debt from the purchaser to the vendor, when so added to the sales price, and shall be recoverable at law in the same manner as other debts.

Section 5. Upon each sale of a meal by a restaurant taxable under this chapter, the amount of tax collected by the vendor from the purchaser shall be stated and charged separately from the sales price and shown separately on any record thereof at the time the sale is made, or on any evidence of sale issued or used by the vendor, but in the instance of the sale of alcoholic beverages for on premise consumption, the tax collected need not be stated separately.

Section 6. Every person who fails to pay to the commissioner any sums required by this chapter shall be personally and individually liable therefor to the commonwealth. The term "person", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as an officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

Section 7. The sums received by the commissioner under paragraph (b) of section 2 as tax, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer, upon certification of the commissioner to each city or town that has accepted paragraph (b) of section 2, in proportion to the amount of the sums received from the sales of meals by restaurants sourced to that city or town. Any city or town wishing to dispute the commissioner's calculation of its distribution under this chapter, must so notify the commissioner, in writing, not later than 1 year from the date the tax was distributed by the commissioner to the city or town.

Section 8. The commissioner may make available to cities and towns any information necessary for administration of the excise imposed by this chapter, including but not limited to a report of the amount of local excise tax on restaurant meals collected in the preceding fiscal year in each city or town, with identification of each individual vendor, notwithstanding any provisions in section 21 of chapter 62C to the contrary. A city or town adopting the local excise under paragraph (b) of section 2 shall identify to the commissioner, in such manner as the commissioner may prescribe, all restaurants selling meals within the city or town and such additional information as the commissioner may require for purposes of administering the excise.

SBA - 1 (Senate Section 33)

SECTION 29. Section 10 of chapter 70B of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "less than 40 per cent nor".

SBA - 2 (Senate Section 34)

SECTION 30. Subsection (a) of said section 10 of said chapter 70B of the General Laws is hereby further amended by striking out paragraph (C) and inserting in place thereof the following paragraph:-

(C) Incentive percentage points may be awarded by the authority. Incentive percentage points granted, if any, shall be in the sole discretion of the authority. The authority may issue regulations delineating the type and amounts of any such incentive percentage points; provided, however, that no individual category of incentive points shall exceed 6 additional points. Such incentive points may be awarded for a district's use of efficient construction delivery methods; regionalization with other districts; superior maintenance practices of a district; energy efficient and sustainable design and construction; major renovation rather than building new construction; the use of model schools as adopted by the authority; and other incentives as determined by the board of the authority in order to encourage the most cost-effective and quality construction.

Fee for appealing civil motor vehicle infraction – 1

SECTION 31. The first paragraph of paragraph (4) of subsection (A) of section 3 of chapter 90C of the General Laws, as so appearing, is hereby amended by adding the following sentence:- If a violator requests a noncriminal hearing, he shall pay a fee of \$25 to the court prior to the commencement of the hearing before the clerk magistrate.

Fee for appealing civil motor vehicle infraction – 2

SECTION 32. Said section 3 of said chapter 90C, as so appearing, is hereby further amended by striking out, in line 56, the figure “\$20” and inserting in place thereof the following figure:- \$50.

Early Intervention Insurance Cap - 1 (Senate Section 52)

SECTION 33. The third paragraph of section 47C of chapter 175 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or third party.

Early Intervention Insurance Cap - 2 (Senate Section 53)

SECTION 34. The third paragraph of section 8B of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or third party.

Early Intervention Insurance Cap – 3 (Senate Section 54)

SECTION 35. The third paragraph of section 4C of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party.

Early Intervention Insurance Cap – 4 (Senate Section 55)

SECTION 36. The second paragraph of section 4 of chapter 176G of the General Laws, as so appearing, is hereby amended by striking the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party.

Probate and Family Court Fees (Senate Section 61)

SECTION 37. Chapter 262 of the General Laws is hereby amended by striking out section 40, as so appearing, and inserting in place thereof the following section:-

Section 40. The fees of registers of the probate and family court department of the trial court shall be as follows:

for the entry of a complaint for divorce or for affirming or annulling marriage, except as provided hereinafter for an action in equity, \$200;

for the entry of an action for separate support, \$100;

for the issuance of a contempt summons, \$5;

for the entry of a petition for the probate of a will, for administration of the estate of a person deceased intestate, for administration of goods not already administered, with the will annexed or otherwise, of a petition under section 35 or 36 of chapter 209 by a husband or wife for authority to convey land as if sole, for change of name, for leave to carry on the business of the deceased and for the appointment of a special administrator, trustee, receiver of the estate of an absentee, or conservator except when the conservator petition is filed concurrently with a petition for removal, resignation, or termination of a conservator, \$150;

for the entry of a petition to partition, \$255;

for filing a representation of insolvency, \$150;

for the entry of a petition: for leave to lease real estate; for specific performance; for leave to mortgage real estate; for release of dower or courtesy; for letters to a foreign guardian; petition for leave to compromise; and for leave to pay debts, except when the petitioner or accountant certifies that the estate does not exceed \$1,000 in value, \$75;

for filing of a complaint in equity, except such as relates to separate support, adoption, or the custody or support of minors, \$240;

for filing of a complaint in equity related to separate support or the custody or support of minors, \$100;

for the entry of a general petition except such as relates to adoption or custody or support of minors, \$150;

for the entry of a petition for removal of a fiduciary, \$100;

for the amendment of record except such as relates to separate support, adoption or the custody or support of minors, for discharge of surety, for care of burial lot and for erection of a monument, \$60 each;

for new bond and for new inventory, \$75 each;

for filing a statement of voluntary administration, \$100;

for the petition or application for allowance of an account where the gross value accounted for in Schedule A of the account is \$1,000 or less, no fee; where the gross value is more than \$1,000 but not more than \$10,000, \$75 a year; provided, however, that the fees shall not exceed \$170 regardless of the time covered by the account; where the gross value is \$10,000 or more than \$10,000 but not more than \$100,000, \$100 for each year or major fraction thereof covered by the account; where the gross value is more than \$100,000 but not more than \$500,000, \$150 for each year or major fraction thereof covered by the account; where the gross value is more than \$500,000 but not more than \$1,000,000, \$200 for each year or major fraction thereof covered by the account; where the gross value is more than \$1,000,000, \$400 for each year or major fraction thereof covered by the account;

for the petition or application for sale of real or personal estate where the gross value accounted for is \$100,000 or less, \$100; where the gross value is more than

\$100,000 but not more than \$250,000, \$250; where the gross value is more than \$250,000 but not more than \$500,000, \$500; where the gross value is more than \$500,000 but not more than \$1,000,000, \$750; where said gross value is over \$1,000,000, \$1000;

for filing a motion for change of name, \$100;

for filing a motion for the framing of jury issues, \$140;

for filing a will for safekeeping, \$75; provided, that no additional fee shall be charged for filing a will in substitution for a will previously filed and withdrawn;

for filing a bond, \$50;

for issuance of an injunction, \$150;

for issuance of a temporary restraining order, \$100;

for entry of an action for the modification of a judgment relative to all non-child related issues, \$150;

for entry of an action for modification relative to child support, custody, and visitation, except for those actions filed by the IV-D agency for which there is no filing fee, \$50;

for filing a complaint to modify a foreign custody or support decree pursuant to section 29 of chapter 208, except for those complaints filed by the IV-D agency for which there is no filing fee, \$100;

for application of leave to deposit certain funds pursuant to section 27 of chapter 206, \$200; and

for filing a complaint to establish paternity or for custody-support-visitiation, except for those actions filed by the IV-D agency for which there is no filing fee, \$100;

Notwithstanding this section, no fee shall be charged for the issuance of a temporary restraining order against a spouse related to a complaint for divorce or separate support.

Administrative Probation Fee

SECTION 38. Section 87A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the figure "\$20" and inserting in place thereof the following figure:- \$60 and by striking out, in line 56, the figure "\$1" and inserting in place thereof the following figure: \$5.

Civil Infractions

SECTION 39. Chapter 277 of the General Laws is hereby amended by inserting after section 70C the following section:-

Section 70D. (a) At the initial court appearance of a person on a complaint charging operation of a motor vehicle without a valid operator's license in violation of section 10 of chapter 90, operation of a motor vehicle after suspension or revocation of an operator's license in violation of section 23 of chapter 90, where such suspension or revocation is unrelated to having been found an habitual traffic offender or having been convicted of any offense involving operating under the influence of drugs or alcohol, operation of a motor vehicle without a valid liability policy in violation of section 34J of chapter 90, shoplifting in violation of section 30A of chapter 266, larceny by check in violation of section 37 of chapter 266, trespass in violation of section 120 of chapter 266, disturbing a school assembly in violation of section 40 of chapter 272 or being a disorderly person or disturbing the peace in violation of section 53 of chapter 272, the court shall determine whether the person has previously been found responsible, convicted, or adjudicated delinquent for the same offense. If the person has not previously been found responsible, convicted, or adjudicated delinquent for the same offense, and the complaint does not charge a violation of any other criminal offense, then the court shall not appoint counsel, or if counsel has already been appointed, the court shall revoke the appointment, and the complaint shall thereafter be treated as a civil infraction as set forth in paragraph (b). In the case of a violation of section 10, 23 or 34J of chapter 90, the complaint shall be treated as a civil motor vehicle infraction.

(b) A person complained of for such civil infraction, if found responsible by the court, shall not be sentenced to any term of incarceration, but the court may impose a civil assessment in an amount otherwise authorized as a fine for the applicable offense. An adjudication of responsibility may not be the basis for the revocation of parole or for a probation surrender. An adjudication of responsibility under this section may include an order of restitution.

If the person is found responsible but fails to pay such civil assessment or restitution, the court may revoke the disposition as a civil infraction, reinstate it as a criminal charge, and issue a summons or warrant as necessary to bring the defendant before the court.

Transfer of certain trust fund balances

SECTION 40. Notwithstanding any general or special law to the contrary, the comptroller, at the direction of the secretary of administration and finance, shall transfer to the General Fund not more than \$19 million from the balances in various trust funds which shall include but not be limited to the Massachusetts Alternative and Clean Energy Investment Trust Fund, established in section 35FF of chapter 10 of the General Laws; the Workforce Competitiveness Trust Fund, established in section 2WWW of chapter 29 of the General Laws; the County Registers Technological Fund, established in section 2KKK of chapter 29 of the General Laws; from the Massachusetts Science, Technology Engineering, and Mathematics Grant Fund established in section 2MMM of chapter 29; and the Commonwealth Covenant Fund established in section 35EE of chapter 10 of the General Laws. Transfers under this section shall be made not later than June 30, 2010.

Reduce transfer to life sciences fund (Substitute for House 1, sec. 42)

SECTION 41. Notwithstanding any general or special law to the contrary, the comptroller, in consultation with the secretary of administration and finance, shall transfer \$10,000,000 from the General Fund to the Massachusetts Life Sciences

Investment Fund, established by section 6 of chapter 23I of the General Laws, no later than June 30, 2010.

FY09 consolidated surplus transfer of \$10M

SECTION 42. (a) Notwithstanding any general or special law to the contrary, after complying with clause (a) of section 5C of chapter 29 of the General Laws, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2009 as follows: (i) the comptroller shall transfer \$10,000,000 from the General Fund to the Massachusetts Life Sciences Investment Fund established in section 6 of chapter 23I of the General Laws; and (ii) the remaining balance shall be transferred from the General Fund to the Stabilization Fund.

(b) All transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances; provided, however, that no such transfer shall cause a deficit in any of the funds.

Cash Flow Management Tool

SECTION 43. Notwithstanding any general or special law to the contrary, in fiscal year 2010, the comptroller, in consultation with the secretary of administration and finance and the state treasurer, may transfer more funds from the Commonwealth Stabilization Fund to the General Fund than the amount authorized in section 50 of this act for the purposes of increasing the non-segregated cash available for state expenditures and related purposes. Transfers in an amount above that authorized in section 50 of this act shall be considered to be a temporary loan from the Commonwealth Stabilization Fund to the General Fund and shall be repaid in full plus interest calculated and charged by the state treasurer at the Massachusetts Municipal Depository Trust rate on or before June 30, 2010.

Healthcare Contribution Program

SECTION 44. (a) (1) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement shall establish and implement a retirement for public employees, in this section called the healthcare contribution program. In order to be considered eligible by the board for the benefit established under this program, an employee: (i) shall be an employee of the commonwealth on the effective date of this section; (ii) shall be a member in active service of the state retirement system on the effective date of this section; (iii) shall be eligible to receive a superannuation retirement under subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in the employee's written application for retirement with the board; (iv) shall have received pay advices via the commonwealth's human resources compensation management system or the University of Massachusetts' human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, under chapter 29 of the General Laws; and (v) shall have filed a written application with the board in accordance with subsection (b).

(2) Words used in this section shall have the same meaning assigned to them in chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance

with this section shall be considered to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

(3) Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the healthcare contribution program.

(b) An eligible employee shall file an application for retirement with the state board of retirement after the effective date of this section and not later than October 1, 2009. The retirement date requested shall be not later than January 31, 2010. The application filed for retirement under this section may be delivered in person or by mail to the state board of retirement.

(c) Notwithstanding chapter 32 or 32A of the General Laws or any other general or special law to the contrary, the commonwealth's share of the group insurance premium for any state employee who files an application for retirement after the effective date of this section and before October 1, 2009 for a retirement date not later than January 31, 2010 shall be 85 per cent. The commonwealth's share of the group insurance premium for any state employee who files an application for retirement after October 1, 2009 shall be 80 per cent until a different contribution rate is established under section 8 of chapter 32A of the General Laws. The revised contribution rate shall take effect no earlier than the first day of the first month that begins at least 90 days after the effective date of this act.

(d) An executive branch position vacated as a result of an employee's participation in the healthcare contribution program may only be filled if the secretary of administration and finance determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the executive branch shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the executive branch under the healthcare contribution program had those positions not been vacated, and the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the executive branch shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the executive branch under this program had those positions not been vacated.

(e) The refilling of positions vacated by employees from federal and trust accounts under the healthcare contribution program shall not be subject to the limitations set forth in subsection (d), but agencies with positions vacated from federal and trust accounts shall first fill these positions with qualified persons currently employed by the commonwealth and paid with state funds. If no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to fill those positions vacated from federal and trust accounts.

(f) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee participating in the healthcare contribution

program under this section unless the chief justice for administration and management determines that the position is critical and essential to the operations of or services provided by the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the trial court shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the trial court under this program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the trial court shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the trial court under this program had those positions not been vacated.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee participating in the healthcare contribution program under this section unless the secretary of education determines that the position is critical and essential to the operations of or services provided by the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the state and community colleges shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the state and community colleges under this program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the state and community colleges shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the state and community colleges under this program had those positions not been vacated.

(h) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee participating in the healthcare contribution program under this section unless the secretary of education determines that the position is critical and essential to the operations of or services provided by the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the University of Massachusetts shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the University of Massachusetts under this program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the University of Massachusetts shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the University of Massachusetts under this program had those positions not been vacated.

(i) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred

in this section, an employee who elects to retire under this section and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/4 of such payment on January 31, 2010, 1/4 of such payment on July 1, 2010, 1/4 of such payment on July 1, 2011, and 1/4 of such payment on July 1, 2012. Each such employee shall sign a statement that he has agreed to receive 1/4 of such payment on October 1, 2009, 1/4 of such payment on July 1, 2010, 1/4 of such payment on July 1, 2011, and 1/4 of such payment on July 1, 2012 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and participation in the healthcare contribution program established under this section. The state board of retirement shall deny an application for participation in this program by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with the board and with the secretary of administration and finance a statement waiving any inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this section.

(j) A state authority, as defined in section 1 of chapter 29 of the General Laws, whose employees are not members of the state retirement system may elect to allow its employees to participate in the healthcare contribution program by a majority vote of its board of directors. If the authority makes this election, the program shall be administered by its retirement system. Eligibility for the healthcare contribution program shall not exceed that provided in subsection (a) of this section as applied to the circumstances at the particular authority. Employees of each authority that elects to participate in this program shall only be eligible if they file for retirement as provided in subsection (b), and the contribution ratio received by a retiree shall be the same as that provided in subsection (c).

(k) On or before March 15, 2010, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the number of employees participating in the healthcare contribution program, the estimated salary savings in fiscal years 2010 and 2011 as a result of those employees' participation, the number of positions vacated or expected to be vacated as a result of those employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2010 and 2011 on account of the refilled positions.

Commonwealth Care Trust Fund and Medical Assistance Trust Fund Transfers (Substitute for H.1 Section 40)

SECTION 45. (a) Notwithstanding any general or special law to the contrary, on or before October 1, 2009 and without further appropriation, the comptroller shall transfer from the General Fund to the Health Safety Net Trust Fund, established under section 36 of chapter 118G of the General Laws and in this subsection referred to as the fund, the greater of \$45 million or one-twelfth of the total expenditures to hospitals and community health centers required pursuant to subsection (b), for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2009. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the fund. The

comptroller shall transfer from the fund to the General Fund not later than June 30, 2010, the amount of the transfer authorized by this subsection and any allocation thereof as certified by the director of the health safety net office.

(b) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the state treasurer, the secretary of administration and finance and the secretary of health and human services, develop a schedule for transferring funds among the General Fund, the Commonwealth Care Trust Fund established pursuant to section 2000 of chapter 29 of the General Laws, and the Health Safety Net Trust Fund established pursuant to section 36 of chapter 118G of the General Laws. An amount up to \$707,671,170 shall be transferred from the General Fund to the Commonwealth Care Trust Fund. The hospital fiscal year 2010 payment amount to each hospital shall be funded by the Health Safety Net Trust Fund. Payments may be made either as safety net care payments under the Commonwealth's 1115 waiver, or as an adjustment to Title XIX service rate payments, or a combination thereof. The executive office of health and human services and the health safety net office may use other federally permissible funding mechanisms available for public service hospitals, as defined in 114.1 CMR 36.02, to reimburse up to \$70,000,000 of uncompensated care at the hospitals using sources distinct from the funding made available to the Health Safety Net Trust Fund. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of these funds. The transfers shall not begin before July 1, 2009 and shall be completed on or before June 30, 2010. The secretary of administration and finance, in consultation with the secretary of health and human services and the executive director of the commonwealth health insurance connector, shall on a quarterly basis evaluate the revenue needs of the health safety net program funded by the Health Safety Net Trust Fund and the Commonwealth Care subsidized health insurance program funded from the Commonwealth Care Trust Fund, and if necessary, transfer monies between these funds for the purpose of ensuring that sufficient revenues are available to support projected program expenditures. The secretary of health and human services in consultation with the secretary of administration and finance and the executive director of the commonwealth health insurance connector shall submit a quarterly report to the house and senate committees on ways and means and joint committee on healthcare financing which shall include, but not be limited to, the projected and actual expenditures and revenues for the Commonwealth Care Trust Fund and any transfers made between the Health Safety Net Trust Fund and the Commonwealth Care Trust Fund. Notwithstanding any general or special law to the contrary, if the secretary of administration and finance determines that amounts transferred from the General Fund to the Commonwealth Care Trust Fund under this subsection are not needed to support programs funded through the Commonwealth Care Trust Fund, the secretary of administration and finance shall notify the comptroller of this determination and the comptroller shall transfer such amounts from the Commonwealth Care Trust Fund to the General Fund.

(c) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office of administration and finance and the executive office of health and human services, develop a schedule and make a series of transfers not to exceed \$399,000,000 from the General Fund to the MassHealth provider payment account in the Medical Assistance Trust Fund, established pursuant to section 2QQQ of chapter 29 of the General Laws, if the comptroller has determined that General Fund revenues are sufficient to accommodate the schedule of transfers. These funds may be expended only for services provided

during state or federal fiscal year 2010, and no amounts previously or subsequently transferred into the Medical Assistance Trust Fund may be expended on payments described in the 1115 demonstration waiver for services provided during state fiscal year 2010 or payments described in the state plan for services provided during federal fiscal year 2010. All payments from the Medical Assistance Trust Fund shall be subject to the availability of federal financial participation, shall be made only in accordance with federally-approved payment methods, shall be consistent with federal funding requirements and all federal payment limits as determined by the secretary of health and human services, and shall be subject to the terms and conditions of an agreement with the executive office of health and human services. Any increase in payment made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year 2010 shall be made only after the secretary of health and human services certifies that any increase in payments from the trust fund shall not exceed the negotiated limit for section 1115 waiver spending. The secretary of health and human services shall notify, in writing, the house and senate committees on ways and means and the house and the joint committee on healthcare financing for any increases in payments within 15 days. The secretary of the executive office of health and human services shall make a payment of up to \$265,000,000 from the Medical Assistance Trust Fund to the Cambridge public health commission's hospital network for dates of service in state and federal fiscal year 2010 only after the Cambridge public health commission transfers up to \$106,000,000 of its funds to the Medical Assistance Trust Fund, using a federally permissible source of funds which shall fully satisfy the non-federal share of such payment. Notwithstanding any general or special law to the contrary, if the secretary of administration and finance determines that amounts transferred from the General Fund to the Medical Assistance Trust Fund under this subsection are not needed to support payments made in compliance with the terms and conditions specified in this subsection, the secretary of administration and finance shall notify the comptroller of this determination and the comptroller shall transfer such amounts from the Medical Assistance Trust Fund to the General Fund.

Reducing Transfer to the State Retiree Benefits Trust Fund (Substitute for House 1, Section 9(F))

SECTION 46. Notwithstanding any general or special law to the contrary, during fiscal year 2010, the comptroller shall, according to a schedule developed in consultation with the state treasurer and the secretary of administration and finance, transfer up to \$364,320,000 from the General Fund to the State Retiree Benefits Trust Fund. Notwithstanding any general or special law to the contrary, if the secretary of administration and finance determines that amounts transferred from the General Fund to the State Retiree Benefits Trust Fund under this subsection are not needed to support programs funded through the State Retiree Benefits Trust Fund, the secretary of administration and finance shall notify the comptroller of this determination and the comptroller shall transfer such amounts from the State Retiree Benefits Trust Fund to the General Fund.

Assessment on Insurers for Cost of Universal Immunization (Based on SWM language in 4580-1000)

SECTION 47. Notwithstanding any general or special law to the contrary, each health insurance carrier, as defined in chapter 1760 of the General Laws, that conducts business in the commonwealth shall contribute to the total amount determined by the

department of public health to be sufficient to cover the costs of purchasing and distributing childhood vaccines for children in item 4580-1000 of section 2 of this act. The division of health care finance and policy, in consultation with the department, shall specify by regulation the method of calculating a proportional contribution and procedures for payment of the contribution to the General Fund.

MassHealth Transferability

SECTION 48. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may authorize transfers between 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990, 4000-1400 and 4000-1405 of section 2 of chapter 182 of the acts of 2008 for the purpose of reducing any deficiency in any of the above line items, but any such transfer shall take place not later than August 31, 2010.

Transfer to the CA/T Fund

SECTION 49. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the secretary of administration and finance, transfer \$9,306,000 from the Central Artery and Statewide Road and Bridge Infrastructure Fund, established under section 63 of chapter 10 of the General Laws, to the General Fund, not later than June 30, 2010

Stabilization Fund Transfer (Substitute for House 1, Section 33)

SECTION 50. (a) Notwithstanding any general or special law to the contrary, the comptroller shall, on or before June 30, 2010, transfer \$225,000,000 to the General Fund from the Commonwealth Stabilization Fund, but the comptroller shall instead transfer a lesser amount if the secretary of administration and finance so requests in writing. The comptroller, in consultation with the secretary of administration and finance, may take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

(b) Notwithstanding any general or special law to the contrary, during fiscal year 2010 the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in the preceding fiscal year to the Commonwealth Stabilization Fund, as otherwise required pursuant to clause (a) of section 5C of chapter 29 of the General Laws.

Reduce certain spending by unspent balances

SECTION 51. Notwithstanding any general or special law to the contrary, any unspent balances in section 2 of this act within line items 0411-1000, 0411-1001, 0411-1003, 9500-0000, 9600-0000, 9700-0000, 9700-0010, 9700-0100, 9700-0100, 9700-0200, and 9700-0701 as of June 30, 2009 shall be made available in fiscal year 2010. Any amounts appropriated in these line items shall be reduced by any unspent balances as of June 30, 2009. This section shall take effect on June 30, 2009.

Reduce c. 70 General Fund payment by \$230M and use ARRA funds to make whole

SECTION 52. Notwithstanding any general or special law to the contrary, the comptroller shall reduce the chapter 70 portion of the fiscal year 2010 local aid payments by \$230,000,000 if the secretary of administration and finance certifies in writing to the comptroller, and has provided prior written notice to the house and senate committees on ways and means, that federal grant funds in the amount of \$230,000,000 have been obligated or expended so that all school districts will receive the full amount appropriated in section 3 of this act. The secretary of education, in collaboration with the secretary of administration and finance and the comptroller, shall determine when the quarterly payments shall be reduced, based on the commonwealth's cash flow needs.

SBA -3 (Senate Section 89)

SECTION 53. Notwithstanding any general or special law to the contrary, the commonwealth hereby designates the Massachusetts School Building Authority, established pursuant to section 1A of chapter 70B of the General Laws, to allocate to governmental issuers of bonds within the commonwealth, pursuant to section 54F(d)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, including to said authority, the limitation amount allocated to the commonwealth by the United States Department of the Treasury, but not including the amount allocated to large local educational agencies pursuant to section 54F(d)(2) of the Act except to the extent that any such large local educational agency reallocates amounts to the commonwealth pursuant to said section 54F(d)(2), in which case such reallocated amounts shall also be allocated by the authority. Notwithstanding section 89 of chapter 71 of the General Laws, or any other general or special law to the contrary, the Massachusetts School Building Authority may in its discretion distribute to charter schools proceeds from bonds authorized under section 54F(d)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 1115 or make a portion of the allocation available to other issuers on behalf of charter schools.

Exempt federal stimulus education funds from requirement to withhold "fringe" amounts

SECTION 54. Notwithstanding any general or special law to the contrary, federal grant funds in account numbers 7061-0004 and 7061-0005 distributed to school districts in fiscal year 2010 through the State Fiscal Stabilization Fund under Title XIV of the American Reinvestment and Recovery Act of 2009 shall not be subject to indirect charges under section 32A of chapter 35 and section 5D of chapter 40 of the General Laws. Subsection (f) of section 6B of chapter 29 of the General Laws shall not apply to these funds. School districts shall maintain employer contributions to appropriate pension funds, as required by paragraph (c) of subdivision (7) of section 22 of chapter 32 of the General Laws, for employees whose salaries are paid from these federal funds, in the same way that employers make contributions when receiving state education aid under chapter 70 of the General Laws.

Earmarks preventing agency from accomplishing core mission

SECTION 55. Notwithstanding any general or special law to the contrary, if the secretary of administration and finance transmits written notice to the house and senate

committees on ways and means that in her determination a condition or restriction directing funds to a particular vendor or municipality in any item of appropriation prevents an agency from accomplishing its core mission using the limited funds appropriated in that item, the agency may expend funds from that item without reference to that condition or restriction.

Allotment reductions to reflect surplus appropriations

SECTION 56. During fiscal year 2010, the secretary of administration and finance may reduce allotments under any item of appropriation to reflect surplus funds under that item as determined by the secretary on the fiscal year 2010 balance sheet published in the governor's budget for fiscal year 2011 or subsequent revisions of that balance sheet. The secretary shall promptly notify in writing the house and senate committees on ways and means of every such reduction.

Modification of Film Credit – 3

SECTION 57. Sections 14 and 18 shall take effect for motion picture production companies filing film credit applications received by the commissioner on or after January 1, 2009, provided that it shall not apply to motion picture production companies filing sales tax exemption applications, as provided under paragraph (ww) of section 6 of chapter 64H, that are received by the commissioner before June 1, 2009.

Meals Tax – Effective Date

SECTION 58. Sections 15, 16, 17 and 28 of this act shall take effect on September 1, 2009.

Telecom - Effective Dates -1

SECTION 59. Sections 10, 11 and 12 shall take effect on January 1, 2009. Notwithstanding any general or special law to the contrary, every telephone or telegraph company owning property first taxable under section 12 as of January 1, 2009 for fiscal year 2010 shall not later than one month after the date this act takes effect make a supplemental return of property to be valued by the commissioner of revenue under section 39 of chapter 59 for that year in the form and detail prescribed by the commissioner. The commissioner shall not later than two months after the date this act takes effect certify the valuation of the additional taxable property to the owner and board of assessors of each city or town where the property is subject to taxation as of January 1, 2009, and the owner and board may not later than 30 days after the date of that certification appeal the valuation to the appellate tax board, as provided by section 39 of said chapter 59.

Telecom - Effective Dates -2

SECTION 60. Section 13 of this act shall take effect as of January 1, 2009 and shall apply to property taxes assessed for fiscal years beginning on or after July 1, 2009. Notwithstanding any general or special law to the contrary, for fiscal year 2010, the assessors of any city or town may assess taxes for any personal property taxable under section 13 not included in the fiscal year 2010 annual tax assessment to its owner in the manner and within the time provided by section 75 or 76 of said chapter 59.

Elimination of Sales Tax Exemption – Effective Date

SECTION 61. Sections 23 through 27 of this act shall take effect on August 1, 2009.

Hotel/Motel Tax – Effective Date

SECTION 62. Sections 19 through 22 of this act shall take effect on August 1, 2009.