

HOUSE No. 4022

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 14, 2007.

The committee on Ways and Means, to whom was referred the message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2007 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4020), reports recommending that the accompanying bill (House, No. 4022) ought to pass.

[Total Appropriation: \$88,438,711.00].

For the committee,

ROBERT A. DeLEO.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2007 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purposes, which is forthwith to make supplemental
3 appropriations for fiscal year 2007 and to make certain changes in
4 law, each of which is immediately necessary to carry out those
5 appropriations or to accomplish other important public purposes,
6 therefore it is hereby declared to be an emergency law, necessary
7 for the immediate preservation of the public convenience.

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

1 SECTION 1. To provide for supplementing certain items in the
2 general appropriation act and other appropriation acts for fiscal
3 year 2007, the sums set forth in section 2 are hereby appropriated
4 from the General Fund unless specifically designated otherwise in
5 this act or in those appropriation acts, for the several purposes and
6 subject to the conditions specified in this act or in those appropri-
7 ation acts, and subject to the laws regulating the disbursement of
8 public funds for the fiscal year ending June 30, 2007. These sums
9 shall be in addition to any amounts previously appropriated and
10 made available for the purposes of those items.

1 SECTION 2.

JUDICIARY.

Committee for Public Counsel Service.

0321-1520 4,133,657

Trial Court.

0330-0102 500,307

0330-3200 3,600,000

SECRETARY OF THE COMMONWEALTH.

0521-0000 815,624

SHERIFFS.*Franklin Sheriff's Department.*

8910-0108 546,303

Essex Sheriff's Department.

8910-0619 752,012

OFFICE OF THE STATE COMPTROLLER*Office of the State Comptroller.*

1599-3384 3,620,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.*Bureau of State Office Buildings*

1102-3302 1,314,303

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.*Department of Conservation and Recreation.*

2820-9005 581,000

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS.*Highway Department.*

6030-7201 8,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.*Department of Public Health.*

4590-0915 1,799,000

Department of Social Services.

4800-0038 7,007,359

4800-0041 8,547,306

Department of Mental Retardation.

5930-1000 1,593,525

Department of Veterans' Services.

1410-0400 1,054,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY.*County Corrections.*

8910-0000 17,000,000

Department of State Police

8100-0000 211,000

Department of Fire Services.

8324-0000 267,000

Department of Correction.

8900-0001 4,923,877

1 SECTION 2A. To provide for certain unanticipated obligations
 2 of the commonwealth, to provide for an alteration of purpose for
 3 current appropriations, and to meet certain requirements of law,
 4 the sums set forth in this section are hereby appropriated from the
 5 General Fund unless specifically designated otherwise in this
 6 section, for the several purposes and subject to the conditions
 7 specified in this section, and subject to the laws regulating the
 8 disbursement of public funds for the fiscal year ending June 30,
 9 2007. These sums shall be in addition to any amounts previously
 10 appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Secretary.

1599-1001	For a reserve to provide grants to dairy farmers based upon a distribution formula developed by the department of agricultural resources; provided, that the department of agricultural resources shall file the distribution plan with the executive office for administration and finance and the house and senate committees on ways and means by July 31, 2007.....	3,600,000
1599-1005	For a reserve to support the emergency needs of an emergency shelter with a twenty-eight bed capacity contracted with the department of transitional assistance	100,000
1599-4229	For a reserve to meet the fiscal year 2007 and 2008 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Berkshire sheriff and the Berkshire County Sheriff's Office Employees' Association, and to meet the fiscal year 2007 and 2008 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2007 and 2008 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	454,350
1599-4230	For a reserve to meet the fiscal year 2007 and 2008 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Berkshire sheriff and the Berkshire County Sheriff's Office Communications Center, and to meet the fiscal year 2007	

and 2008 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2007 and 2008 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means 18,088

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY.

Office of the Secretary.

- 8000-0054 For municipal police officer grants administered by the secretary of public safety and security to be expended for, but not limited to, targeted police hiring, training and related costs 4,000,000
- 8100-0111 For a grant program to be known as the “Senator Charles E. Shannon, Jr. Community Safety Initiative”, to be administered by the executive office of public safety and security, to support regional, multi-disciplinary approaches to combat gang violence through coordinated programs for prevention and intervention, coordinated law enforcement, including regional gang task forces and regional crime mapping strategies, focused prosecutions, and reintegration strategies for ex-convicts; provided, that the secretary of public safety and security shall distribute grant funds through a competitive grant program that gives preference to applications that: (1) demonstrate high levels of youth violence, gang problems and substance abuse in a region; (2) demonstrate a commitment to regional, multi-jurisdictional strategies to deal with those community safety issues including, written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (3) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (4) make a written commitment to match grant funds with a 25 per cent match provided either by municipal or private contributions; and (5) identify a local governmental unit to serve as fiscal agent; provided further, that clusters of municipalities, in partnership with nonprofit organizations and other agencies, including district attorney’s offices, shall be eligible to apply for these funds; provided further, that those funds shall be considered one-time and grants awarded to public agencies shall not annualize into fiscal year 2008 and beyond; provided further, that admin-

istrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grants shall be awarded to the department of state police; provided further, that no grant funds shall be expended on food or beverages; provided further, that the executive office of public safety and security shall publish guidelines and an application for the competitive portion of the grant program not later than August 15, 2007 and that awards shall be made to applicants not later than December 15, 2007; and provided further, that the executive office of public safety and security may expend not more than \$100,000 of the sum appropriated in this item for its costs in administering this program..... 11,000,000

1 SECTION 2B. To provide for supplementing certain intra-
 2 governmental chargeback authorizations in the general appropria-
 3 tion act and other appropriation acts for fiscal year 2007, to pro-
 4 vide for certain unanticipated intragovernmental chargeback
 5 authorizations, to provide for an alteration of purpose for current
 6 intragovernmental chargeback authorizations, and to meet certain
 7 requirements of law, the sums set forth in this section are hereby
 8 authorized from the Intragovernmental Service Fund for the sev-
 9 eral purposes specified in this section or in the appropriation acts,
 10 and subject to the provisions of law regulating the disbursement of
 11 public funds for the fiscal year ending June 30, 2007. These sums
 12 shall be in addition to any amounts previously authorized and
 13 made available for the purposes of those items.

OFFICE OF THE STATE COMPTROLLER.

Office of the State Comptroller.

1599-2040 3,000,000

1 SECTION 2C.I. For the purpose of making available in fiscal
 2 year 2008 balances of appropriations which otherwise would
 3 revert on June 30, 2007, the unexpended balances of the mainte-
 4 nance appropriations listed below, not to exceed the amount speci-
 5 fied below for each item, are hereby re-appropriated for the
 6 purposes of and subject to the conditions stated for the corre-
 7 sponding item in section 2 of the general appropriation act for
 8 fiscal year 2007. However, for items which do not appear in
 9 section 2 of the general appropriation act, the amounts in this
 10 section are re-appropriated for the purposes of and subject to the
 11 conditions stated for the corresponding item in section 2 or 2A of

12 this act or in prior appropriation acts. Amounts in this section are
 13 re-appropriated from the fund or funds designated for the corre-
 14 sponding item in section 2 of the general appropriation act; but for
 15 items which do not appear in section 2 of the general appropria-
 16 tion act, the amounts in this section are re-appropriated from the
 17 fund or funds designated for the corresponding item in section 2
 18 or 2A of this act or in prior appropriation acts. The sums re-
 19 appropriated in this section shall be in addition to any amounts
 20 available for these purposes.

SECRETARY OF THE COMMONWEALTH.		
0521-0000	.....	815,624
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE. <i>Executive Office for Administration and Finance.</i>		
1599-1001	.....	3,600,000
1599-4229	.....	454,350
1599-4230	.....	18,088
EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT. <i>Department of Workforce Development.</i>		
7002-0012	.....	4,400,000
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY. <i>Executive Office of Public Safety and Security.</i>		
8000-0054	.....	4,000,000
8100-0111	.....	11,000,000

1 SECTION 3. Section 18H½ of chapter 6A of the General
 2 Laws, as appearing in the 2004 Official Edition, is hereby
 3 amended by striking out, in line 4, the words “December 31,
 4 2007” and inserting in place thereof the following words:— June
 5 30, 2008

1 SECTION 4. Chapter 118E of the General Laws is hereby
 2 amended by striking out section 23, as amended by section 28 of
 3 chapter 58 of the acts of 2006, and inserting in place thereof the
 4 following section:—
 5 Section 23. As used in this section, health care insurer, health
 6 insurer and health insurance shall include, but not be limited to,
 7 any health insurance company, health maintenance organization,
 8 group or non-group health plan, self-insured plan, service benefit

9 plan, managed care organization, pharmacy benefit manager, or
10 other public or private third party that is, by statute, contract,
11 agreement, or arrangement legally responsible for payment of a
12 claim for health care benefits.

13 Notwithstanding any general or special law, rule or regulation
14 to the contrary, the division shall be subrogated to the rights of
15 any recipient of medical assistance pursuant to this chapter and
16 may take any and all actions available to such recipient to secure
17 benefits under any policy issued by any health care insurer that is
18 or may be liable to pay for health care benefits obtained by a
19 recipient of medical assistance to the extent of any health care
20 benefits provided by the division on behalf of said recipient or
21 said recipient's dependents. A health care insurer shall reimburse
22 the division for any health care benefits provided by the division
23 on behalf of a recipient of medical assistance, and shall not reduce
24 the amount of the total reimbursement by any division payment,
25 provided that any part of the total that is a reimbursement for a
26 division payment shall not exceed the amount actually paid by the
27 division.

28 No health care insurer shall require written authorization from
29 the recipient before honoring the division's rights pursuant to this
30 section. A health care insurer shall respond to any inquiry by the
31 division about a claim for payment for any health care benefits
32 and may not deny any claim for payment for any health care bene-
33 fits solely on the basis of the date of submission of the claim, the
34 type of format for the claim form, or a failure to present proper
35 documentation at the point of sale that is the basis of the claim, if
36 the claim is submitted by the division within a 3-year period
37 beginning on the date on which the service was furnished, and if
38 any action by the division to enforce its rights with respect to a
39 claim is filed within 6 years after the submission of the claim to
40 the health insurer.

41 A recipient of medical assistance or any person legally oblig-
42 ated to support and have actual or legal custody of a recipient of
43 medical assistance shall inform the division of any health insur-
44 ance available to such recipient upon initial application and rede-
45 termination for eligibility for assistance and shall make known the
46 nature and extent of any health insurance coverage to any person
47 or institution that provides medical benefits to the recipient or his
48 or her dependent.

49 A health care insurer shall not take into account that an indi-
50 vidual is eligible for or is receiving benefits from the division
51 when enrolling an individual or issuing a policy or agreement
52 covering the individual, or administering or renewing a policy or
53 agreement, or when making any payment for health care benefits
54 to the individual or on behalf of the individual; nor shall any
55 policy or agreement issued, administered, or renewed by a health
56 care insurer contain any provision denying or reducing health care
57 benefits to an individual who is eligible for or is receiving bene-
58 fits from the division.

59 A provider of medical assistance pursuant to this chapter shall
60 determine whether any recipient for whom it provides medical
61 care or services which are or may be eligible for reimbursement
62 pursuant to this chapter is a subscriber or beneficiary of a health
63 insurance plan. The division shall be the payor of last resort and a
64 provider shall request payment for medical care or services it pro-
65 vides from a health insurer which is or may be liable for the med-
66 ical care or services so provided prior to requesting payment from
67 the division.

68 Payment by the division pursuant to the medical assistance
69 programs established pursuant to this chapter shall constitute
70 payment in full; subsequent to any such payment a provider may
71 not recover from any health insurer an amount greater than the
72 amount so paid by the division for any service for which the
73 division is to be the payor of last resort.

74 Notwithstanding any general or special law or rule or regula-
75 tion to the contrary, all holders of health insurance information,
76 including, but not limited to, health insurers doing business in the
77 commonwealth, all private and public entities who employ indi-
78 viduals in the commonwealth, and all agencies of the common-
79 wealth, shall provide sufficient information to the division, or in
80 the case of those agencies, shall make other arrangements mutu-
81 ally satisfactory to both agencies, to enable the division: (a) to
82 identify whether any of the following persons are or could be ben-
83 efiiciaries under any policy of insurance in the commonwealth:
84 (i) persons applying for or receiving medical assistance or benefits
85 pursuant to this chapter or health services through an agency
86 under the executive office of health and human services, and
87 (ii) persons for whom hospitals and community health centers

88 claim reimbursement payments from the Health Safety Net Fund,
89 established pursuant to section 35 of chapter 118G; and (b) to
90 determine the nature of the coverage that is or was provided,
91 including cost, scope, terms, periods of coverage, and any identi-
92 fying name, address or number of the policy of insurance. All
93 public and private entities who employ individuals in the com-
94 monwealth shall provide, when requested by any employee
95 applying for or receiving benefits provided by the division,
96 written information to the employee describing the availability of
97 health insurance, if any, provided by or through the employer. The
98 failure of an employer to provide an employee with the informa-
99 tion shall not be grounds for denial of benefits by the division.

100 The division may, after notice and opportunity for hearing,
101 garnish the wages, salary, or other employment income of, and
102 shall, with the assistance of the department of revenue pursuant to
103 section 3 of chapter 62D, withhold amounts from state tax refunds
104 to, any person who: (a) is required by court or administrative
105 order to provide coverage of the costs of health services to a child
106 who is eligible for medical assistance pursuant to this chapter;
107 (b) has received payment from a third party for the costs of those
108 services to the child; but (c) has not used the payments to reim-
109 burse either the other parent or guardian of the child or the
110 provider of the services, to the extent necessary to reimburse the
111 division for expenditures for those costs.

1 SECTION 5. Subsection (b) of section 31 of chapter 118G of
2 the General Laws, inserted by section 1 of chapter 268 of the acts
3 of 2006, is hereby amended by striking out the third, fourth and
4 fifth sentences and inserting in place thereof the following 4
5 sentences:— In addition, personal care attendants shall be treated
6 as state employees solely for the purposes of sections 17A and
7 17G of chapter 180. Personal care attendants shall not be consid-
8 ered public employees or state employees for any purpose other
9 than those set forth in this paragraph. The PCA quality home care
10 workforce council is the employer, as defined by and solely for
11 the purposes of, chapter 150E and sections 17A, 17G and 17J of
12 chapter 180 and deductions under sections 17A, 17G and 17J may
13 be made by any entity authorized by the commonwealth to com-
14 pensate personal care attendants through the MassHealth personal

15 care attendant program. Personal care attendants shall not be eli-
16 gible for benefits through the group insurance commission, the
17 state board of retirement or the state employee workers' compen-
18 sation program.

1 SECTION 6. Subsection (d) of section 32 of chapter 118G, as
2 so inserted, is hereby amended by striking out the words "The
3 council" and inserting in place thereof the following words:—
4 Subject to appropriation, the chairperson of the council with the
5 council's approval.

1 SECTION 7. The definition of "Employer" in section 1 of
2 chapter 150E of the General Laws, as appearing in the 2004
3 Official Edition, is hereby amended by adding the following sen-
4 tence:— In the case of personal care attendants as defined in
5 section 28 of chapter 118G, the employer shall mean the personal
6 care attendant quality home care workforce council or its
7 designee.

1 SECTION 8. Section 7 of chapter 150E, as so appearing, is
2 hereby amended by inserting after the word "sheriff", in line 8 and
3 line 23, the following words:— , the personal care attendant
4 quality home care workforce council.

1 SECTION 9. Section 9 of chapter 61 of the acts of 2002 is
2 hereby amended by striking out the figure "2007." and inserting in
3 place thereof the following figure:— 2008.

1 SECTION 10. Section 2A of chapter 58 of the acts of 2006 is
2 hereby amended by striking out item 4000-0301 and inserting in
3 place thereof the following item:—

4000-0301	For the costs of MassHealth provider and member audit and utilization review activities including, but not limited to, eligibility verification, disability evaluations, provider financial and clinical audits and other initiatives intended to enhance program integrity; provided, that \$150,000 shall be expended for MassHealth auditing within the office of the state auditor	1,350,000
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1 SECTION 11. Item 0321-1510 of section 2 of chapter 139 of
2 the acts of 2006 is hereby amended by striking out the words
3 “provided, that not more than \$1,000,000 of the sum appropriated
4 in this item may be expended for services rendered before fiscal
5 year 2007” and inserting in place thereof the following words:—
6 provided, that not more than \$2,500,000 of the sum appropriated
7 in this item may be expended for services rendered before fiscal
8 year 2007.

1 SECTION 12. Item 0321-1520 of section 2 of chapter 139 of
2 the acts of 2006 is hereby amended by striking out the words
3 “provided, that not more than \$500,000 of the sum appropriated in
4 this item may be expended for services rendered before fiscal year
5 2007” and inserting in place thereof the following words:— pro-
6 vided, that not more than \$1,068,670 of the sum appropriated in
7 this item may be expended for services rendered before fiscal year
8 2007.

1 SECTION 13. Item 0810-0021 of section 2 of chapter 139 of
2 the acts of 2006 is hereby amended by striking out the figure
3 “\$2,656,033” and inserting in place thereof the following
4 figure:— \$2,806,033.

1 SECTION 14. Item 4000-0320 of section 2 of chapter 139 of
2 the acts of 2006 is hereby amended by inserting, after the words
3 “rendered in the current fiscal year”, the following words:— ; pro-
4 vided further, that for the purpose of accommodating discrepan-
5 cies between the receipt of retained revenues and related
6 expenditures, the department may incur expenses and the comp-
7 troller may certify for payment amounts not to exceed the lower
8 of this authorization or the most recent revenue estimate as
9 reported in the state accounting system.

1 SECTION 15. Notwithstanding any general or special law to
2 the contrary, the chief justice for administration and management
3 may transfer funds from items 0330-0101, 0330-0102, 0330-0103,
4 0330-0104, 0330-0105, 0330-0106 and 0330-0107 to items 0330-
5 0101, 0330-0102, 0330-0103, 0330-0104, 0330-0105, 0330-0106
6 and 0330-0107. The chief justice shall provide written notifica-

7 tion to the house and senate committees on ways and means of
8 any such transfers of funds within 30 days of the transfer.

1 SECTION 16. Notwithstanding any general or special law to
2 the contrary, the executive office of health and human services
3 may release the names and home addresses of personal care atten-
4 dants to the American Arbitration Association for the purposes of
5 section 31 of chapter 118G and chapter 150E of the General Laws.

1 SECTION 17. Notwithstanding any general or special law to
2 the contrary, there shall be established a dairy farm revitalization
3 task force which shall consist of the following members:
4 1 farming representative who shall be appointed by the governor;
5 1 member from the milk processing community who shall be
6 appointed by the governor; 1 representative of the Massachusetts
7 Dairy Farmers Association who shall be appointed by the gov-
8 ernor from a list of 6 names submitted by the Massachusetts Dairy
9 Farmer Association; 1 representative of the Massachusetts Coop-
10 erative Milk Producers Federation, Inc, who shall be appointed by
11 the Governor from a list of 6 names submitted by the Massachu-
12 setts Cooperative Milk Producers Federation, Inc; the secretary of
13 the executive office of energy and environmental affairs, or his
14 designee; 2 members who shall be appointed by the secretary of
15 the executive office of energy and environmental affairs; the com-
16 missioner of the department of agricultural resources, or his
17 designee; 1 member who shall be appointed by the commissioner
18 of the department of agricultural resources; the commissioner of
19 the division of energy resources, or his designee; the commis-
20 sioner of the department of public health, or his designee; 3 mem-
21 bers of the house of representatives, 2 of whom shall be appointed
22 by the speaker of the house of representatives and 1 of whom shall
23 be appointed by the minority leader of the house of representa-
24 tives; 3 members of the senate, 2 of whom shall be appointed by
25 the president of the senate and 1 of whom shall be appointed by
26 the minority leader of the senate. The task force shall be chaired
27 jointly the secretary of the executive office of energy and environ-
28 mental affairs and by the commissioner of the department of agri-
29 cultural resources, or their designees.

30 The task force shall investigate short long term solutions to pre-
31 serving and strengthening the dairy farm industry in the Common-
32 wealth. Said investigation shall include methods to promote the
33 innovation in, and the revitalization of, the Massachusetts dairy
34 farming community, including without limitation, investigating
35 the impact of increased fixed costs borne by the dairy farming
36 community including, but not limited to, fuel prices, healthcare
37 and insurance; promoting locally produced milk; and promoting
38 alternative and renewable energy uses for farmers. The task force
39 shall report its findings together with legislation, if any, to the
40 clerks of the senate and house of representatives, to the chairs of
41 the joint committee on environment, natural resources and agri-
42 culture, and the senate and house committees on ways and means
43 no later than October 1, 2007.

1 SECTION 18. Notwithstanding any general or special law to
2 the contrary, the secretary of health and human services may
3 authorize transfers from items 4000-0430, 4000-0600, 4000-0620,
4 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-
5 0890, 4000-0891, 4000-0895, 4000-0990, 4000-1400, and 4000-
6 1405 of section 2 of chapter 139 of the acts of 2006 to item
7 4000-0500 of section 2 of chapter 139 for the purposes of
8 reducing any deficiency in item 4000-0500, but the sum of these
9 transfers shall not exceed \$230,000,000, and any such transfer
10 shall take place not later than June 30, 2007.