

Senate, No. 2070, printed as amended

[Senate, June 4, 2009 –Amended Text (Ways and Means) to the House Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4125)]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

1 SECTION 1. To provide for supplementing certain items in the general appropriation act
2 and other appropriation acts for fiscal year 2009, the sums set forth in section 2 are hereby
3 appropriated from the General Fund unless specifically designated otherwise in this act or in
4 those appropriation acts, for the several purposes and subject to the conditions specified in this act
5 or in those appropriation acts and subject to the laws regulating the disbursement of public funds
6 for the fiscal year ending June 30, 2009. These sums shall be in addition to any amounts
7 previously appropriated and made available for the purposes of those items.

8 SECTION 2.

JUDICIARY

Committee for Public Counsel Services

11 0321-1510 \$9,384,188
12 0321-1520 \$2,075,987

SECRETARY OF THE COMMONWEALTH

Office of the Secretary of the Commonwealth

15 0521-0000 \$44,684

OFFICE OF THE STATE COMPTROLLER

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Office of the State Comptroller

1599-3384 \$4,090,226

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Human Resources Division

1750-0100 \$250,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Office of the Secretary of Health and Human Services

4000-0500 \$21,419,707

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Highway Department

6010-0002 \$579,894

6030-7201 \$4,490,922

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1599-1031 For a reserve to meet the costs identified by the department of public health associated with responding to an outbreak of the H1N1 virus; provided, that funds may be expended on staffing costs within the state laboratory, dissemination of public information, antiviral medication for the treatment or prevention of the H1N1 virus and the purchase of laboratory equipment

43 specific for the testing for the H1N1 virus; provided further, that funds from
 44 this item shall not be expended on salaries or contracts for personnel hired by
 45 the department of public health on or after April 15, 2009; provided further,
 46 that the secretary of health and human services shall submit a spending plan
 47 to the executive office for administration and finance and the house and
 48 senate committees on ways and means before the disbursement of funds from
 49 this reserve; and provided further, that the department of public health and
 50 the executive office of health and human services shall seek federal
 51 reimbursement for any eligible expenditures from this
 52 reserve.....\$2,845,216.

53 1599-1701 For a reserve for the state share of costs to certain municipalities and
 54 municipal lighting plants as identified by the Federal Emergency
 55 Management Agency for Emergency Declaration 3296 relating to the
 56 December 2008 severe winter storm, for the counties of Berkshire, Bristol,
 57 Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk and Worcester;
 58 provided, that not less than \$150,000 shall be expended for an emergency
 59 assistance safety grant as appearing in item 7007-0900 of section 2 of chapter
 60 182 of the acts of 2008; and provided further, that not less than \$150,000
 61 shall be expended to the town of Spencer for the reimbursements of costs
 62 associated with the drinking water emergency in April 2007..... \$6,300,000

63 SECTION 3. Chapter 7A of the General Laws is hereby amended by striking out
 64 section 12, as appearing in the 2006 Official Edition, and inserting in place thereof the
 65 following section:-

66 Section 12. (a)(1) All reports published under this section shall be filed with the
 67 governor, the secretary of administration and finance, the house and senate committees
 68 on ways and means and the clerks of the house and senate and any other parties specified
 69 in general or special law.

70 (2) The comptroller shall prepare an annual statutory basis financial report
71 based on the final closing of the accounting records. The report shall be
72 published annually not later than October 31.

73 (3) The statutory basis financial report shall present fairly the aggregated
74 financial statements for the budgeted governmental funds and tables of beginning
75 and ending balances, revenues, sources, expenditures and uses for the non-
76 budgeted governmental funds and the capital project governmental funds. These
77 statements shall be reviewed in accordance with professional standards
78 established by the American Institute of Certified Public Accountants. The
79 reports shall be prepared in accordance with the accounting system established by
80 the comptroller under section 7, as cash outflows, including expenditures made
81 under section 13 of chapter 29 and cash inflows including receipts of federal
82 grants and subsidies from other governmental entities for reimbursement of such
83 expenditures.

84 (4) The comptroller shall include, supplemental to the aggregated
85 financial statements in the statutory basis financial report, a statement of the
86 consolidated net surplus in the budgetary funds for the preceding fiscal year,
87 under section 5C of chapter 29 and the amount by which such surplus exceeds the
88 maximum allowable amount under section 2H of chapter 29.

89 (5) Accompanying the statutory basis financial statements, the
90 comptroller shall include financial statements for the budgeted funds that compare
91 the budgeted amounts to final operations for each fund subject to appropriation.

92 (6) The comptroller may include narratives, statistical tables and other
93 disclosures and reference material in the statutory basis financial report that the
94 comptroller considers, in his professional judgment, appropriate.

95 (b) The comptroller shall prepare an annual federal funds report based on the
96 final closing of the accounting records which shall be published not later than the second
97 Wednesday in January and shall present fairly all federal funds received by each agency
98 and department during the fiscal year. The report shall include for each program of
99 federal financial participation the opening balances, revenues and other sources, expenses

100 and other uses and ending balances for the fiscal year. The final federal funds report shall
101 be audited in conjunction with the state single audit and the report of the auditor shall be
102 included.

103 (c) The comptroller shall prepare a comprehensive annual financial report in
104 conformity to generally-accepted accounting principles for governments which shall be
105 published not later than the second Wednesday in January. The report shall be audited in
106 accordance with generally-accepted auditing standards and generally-accepted
107 governmental auditing standards and the report of the auditor shall be included.

108 SECTION 4. Chapter 21A of the General Laws is hereby amended by inserting
109 after section 2 the following section:-

110 Section 2A. The secretary shall be the state natural resource trustee and may
111 compromise or settle any claim for damages for injury and for destruction or loss of
112 natural resources, including the costs of assessing and evaluating the injury, destruction
113 or loss, incurred or suffered as a result of a release or threat of release, under section 5 of
114 chapter 21E, 42 U.S.C. §9607(f) 33 U.S.C. §2706 and other applicable law in accordance
115 with this section. If any such claim, including the costs of assessment, is valued at less
116 than \$100,000, or at a higher amount determined in writing by the attorney general, the
117 secretary may settle and compromise the claim if the secretary has given written notice
118 and all pertinent information regarding the settlement to the attorney general or his
119 designee at least 30 days before execution of the settlement. The secretary may settle and
120 compromise claims valued at greater than \$100,000, or at a higher amount determined in
121 writing by the attorney general, only with the prior written approval of the attorney
122 general or his designee.

123 SECTION 5. Section 4 of chapter 29D of the General Laws, as appearing in the
124 2006 Official Edition, is hereby amended by striking out subsection (d) and inserting in
125 place thereof the following subsection:-

126 (d) The board of trustees shall consist of 7 trustees, including the secretary of
127 administration and finance or a designee, the executive director of the group insurance
128 commission or a designee, the executive director of the public employee retirement
129 administration commission or a designee, the state treasurer or a designee, the

130 comptroller or a designee and 2 additional trustees, 1 of whom shall be appointed by the
131 governor and 1 of whom shall be appointed by the state treasurer. The appointed trustees
132 shall serve for terms of 5 years and shall be experienced in the field of investment,
133 financial management, law and public management. Trustees shall be eligible for
134 reappointment.

135 SECTION 6. Section 24 of chapter 32A of the General Laws, inserted by section
136 8 of chapter 61 of the acts of 2007, is hereby amended by striking out subsection (a) and
137 inserting in place thereof the following subsection:-

138 (a) There shall be established and set up on the books of the commonwealth a
139 fund to be known as the State Retiree Benefits Trust Fund. The Health Care Security
140 Trust board of trustees established by section 4 of chapter 29D shall be the trustee of and
141 shall administer the fund in accordance with that section. The fund shall be an
142 expendable trust not subject to appropriation.

143 SECTION 7. Said section 24 of said chapter 32A, as so inserted, is hereby further
144 amended by adding the following 3 subsections:-

145 (f) The trustees shall adopt an annual budget for the fund and supplemental
146 budgets that the trustees consider necessary, subject to the approval of the general court.
147 Funding for the budget shall be from the investment return of the fund. If the general
148 court takes no final action to disapprove a budget within 60 days after its filing with the
149 clerk of the house of representatives and the clerk of the senate, the budget shall be
150 considered to be approved. If the general court disapproves a budget within 60 days after
151 it has been filed, the trustees shall operate under the annualized budgetary level most
152 recently approved pending the filing and subsequent approval of any other annual or
153 supplemental budget request.

154 (g) The trustees shall engage actuaries experienced in retiree health care costs
155 to perform annual actuarial calculations in accordance with Government Accounting
156 Standards Board Statements 43 and 45, using data as needed from the group insurance
157 commission, the public employee retirement administration commission, the state
158 treasurer and the comptroller and prepare funding schedules to be filed in accordance
159 with section 25.

160 (h) The trustees shall engage an independent auditor to perform an annual audit of
161 the State Retiree Benefits Trust Fund’s assets, liabilities, net assets, investments and
162 operations on an annual basis in accordance with government auditing standards and
163 policies established by the comptroller. The annual audit report shall be made available
164 to all participating subdivisions, authorities, boards or instrumentalities not later than
165 September 15.

166 SECTION 8. Section 2 of chapter 38 of the General Laws, as appearing in the
167 2006 Official Edition, is hereby amended by striking out, in line 6, the words “in Forensic
168 Pathology” and inserting in place thereof the following words:- with certification in
169 anatomic pathology and subspecialty certification in forensic pathology.

170 SECTION 9. Said section 2 of said chapter 38, as so appearing, is hereby further
171 amended by striking out, in lines 7 and 8, the words “, a diplomat of the American Board
172 of Anatomic and Forensic Pathology”.

173 SECTION 10. Section 1 of chapter 62 of the General Laws, as so appearing, is
174 hereby amended by inserting after the figure “72”, in line 8, the following figure:- ,
175 139C.

176 SECTION 11. Paragraph (1) of subsection (d) of section 2 of said chapter 62, as
177 amended by section 15 of chapter 173 of the acts of 2008, is hereby further amended by
178 adding the following subparagraph:-

179 (P) The deduction described in section 163(e)(5) of the Code to the extent
180 increased by amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by
181 section 1232 of the American Recovery and Reinvestment Act of 2009.

182 SECTION 12. The definition of “gross income” in section 1 of chapter 63 of the
183 General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding
184 the following words:- ; provided, however, that gross income shall be determined without
185 regard to section 108(i) of the Code.

186 SECTION 13. The definition of “net income” in said section 1 of said chapter 63,
187 as so appearing, is hereby amended by adding the following clause:-

188 (f) the deduction described in section 163(e)(5) of the Code to the extent
189 increased by amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by
190 section 1232 of the American Recovery and Reinvestment Act of 2009.

191 SECTION 14. Paragraph 3 of section 30 of said chapter 63, as so appearing, is
192 hereby amended by adding the following sentence:- Gross income shall be determined
193 without regard to section 108(i) of the Code.

194 SECTION 15. Paragraph 4 of said section 30 of said chapter 63, as so appearing,
195 is hereby amended by adding the following clause:-

196 (vii) the deduction described in section 163(e)(5) of the Code to the extent increased by
197 amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the
198 American Recovery and Reinvestment Act of 2009.

199 SECTION 16. Section 52A of said chapter 63, as so appearing, is hereby
200 amended by inserting after the word “exclusion”, in lines 27 and 28, the following
201 words:- and without regard to section 108(i) of the Code.

202 SECTION 17. Paragraph (b) of subsection (1) of said section 52A of said chapter
203 63, as so appearing, is hereby amended by adding the following clause:-

204 (vi) the deduction described in section 163(e)(5) of the Code to the extent
205 increased by amendments to section 163(e)(5)(F) and section 163(i)(1), inserted by
206 section 1232 of the American Recovery and Reinvestment Act of 2009.

207 SECTION 18. Section 132 of chapter 58 of the acts of 2006 is hereby amended by
208 striking out, in line 11, the word “thereafter” and inserting in place thereof the following
209 words:- for 2 years after the effective date of this section and then bi-annually.

210 SECTION 19. Chapter 139 of the acts of 2006 is hereby amended by striking out
211 section 96 and inserting in place thereof the following section:-

212 Section 96. Notwithstanding any general or special law to the contrary, the
213 formula for application of funds provided in section 35J of chapter 10 of the General
214 Laws shall not apply in fiscal year 2007.

215 SECTION 20. Chapter 61 of the acts of 2007 is hereby amended by striking out
216 section 49 and inserting in place thereof the following section:-

217 Section 49. Notwithstanding any general or special law to the contrary, the
218 formula for application of funds provided in section 35J of chapter 10 of the General
219 Laws shall not apply in fiscal year 2008.

220 SECTION 21. Item 7004-0032 of section 2 of chapter 119 of the acts of 2008 is
221 hereby amended by striking out the words “and provided further, that not less than
222 \$10,000,000 shall be expended” and inserting in place thereof the following words:-
223 provided further, that not less than \$14,000,000 shall be expended to develop affordable
224 housing units which are deemed necessary by the department of housing and community
225 development as part of a redevelopment plan, and

226 SECTION 22. Section 12 of chapter 135 of the acts of 2008 is hereby repealed.

227 SECTION 23. Item 0610-2000 of section 2 of chapter 182 of the acts of 2008 is
228 hereby amended by striking out the words”; and provided further, that funds available in
229 fiscal year 2008 shall be available for expenditure until June 30, 2009”.

230 SECTION 24. Said section 2 of said chapter 182 is hereby further amended by
231 striking out the item number “2800-0500” and inserting in place thereof the following
232 item number:- 2800-0501.

233 SECTION 25. Said section 2 of said chapter 182 is hereby further amended by
234 striking out the item number “2810-2040” and inserting in place thereof the following
235 item number:- 2810-2041.

236 SECTION 26. Item 4000-0320 of said section 2 of said chapter 182 is hereby
237 amended adding the following words:- ; and provided further, that for the purpose of
238 accommodating discrepancies between the receipt of retained revenues and related
239 expenditures, the department may incur expenses and the comptroller may certify for
240 payment amounts not to exceed the lower of this authorization or the most recent revenue
241 estimate as reported in the state accounting system.

242 SECTION 27. Said section 2 of said chapter 182 is hereby further amended by
243 striking out the item number “4401-1100” and inserting in place thereof the following
244 item number:- 4401-1101.

245 SECTION 28. Item 7035-0002 of said section 2 of said chapter 182 is hereby
246 amended by striking out the words “; provided further, that funds shall only be expended
247 in the CC, HH, PP, and UU object classes”.

248 SECTION 29. Item 8000-0202 of said section 2 of said chapter 182 is hereby
249 amended by striking out the words “, that no funds shall be expended in the AA object
250 class; and provided further”.

251 SECTION 30. Said chapter 182 is hereby further amended by striking out section
252 81 and inserting in place thereof the following section:-

253 Section 81. Notwithstanding any general or special law to the contrary, the
254 formula for application of funds provided in section 35J of chapter 10 of the General
255 Laws shall not apply in fiscal year 2009.

256 SECTION 31. Section 86 of said chapter 182 is hereby amended by striking out
257 the figure “\$372,000,000” and inserting in place thereof the following figure:-
258 \$352,000,000.

259 SECTION 32. Subsection (b) of section 88 of said chapter 182 is hereby
260 amended by striking out the second sentence and inserting in place thereof the following
261 sentence:- Not less than \$1,102,561,456 shall be transferred from the General Fund to
262 the Commonwealth Care Trust Fund and not less than \$47,996,382 shall be transferred
263 from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund.

264 SECTION 33. Section 2C of chapter 302 of the acts of 2008 is hereby amended
265 by striking out the item number “7010-0016” and inserting in place thereof the following
266 item number:- 7010-0216.

267 SECTION 34. Section 61 of said chapter 302 is hereby repealed.

268 SECTION 35. Section 2A of chapter 303 of the acts of 2008 is hereby amended
269 by striking out the item number “6033-0817” and inserting in place thereof the following
270 item number:- 6035-0817.

271 SECTION 36. Said section 2A of said chapter 303 is hereby further amended by
272 striking out the item number “6033-0837” and inserting in place thereof the following
273 item number:- 6035-0837.

274 SECTION 37. Section 2B of said chapter 303 is hereby amended by striking out
275 the item number “6033-0867” and inserting in place thereof the following item number:-
276 6035-0867.

277 SECTION 38. Said section 2B of said chapter 303 is hereby amended by striking
278 out the item number “6033-0877” and inserting in place thereof the following item
279 number:- 6035-0877.

280 SECTION 39. Said section 2B of said chapter 303 is hereby amended by striking
281 out the item number “6033-0887” and inserting in place thereof the following item
282 number:- 6035-0887.

283 SECTION 40. Section 2C of said chapter 303 is hereby amended by striking out
284 the item number “6001-0801” and inserting in place thereof the following item number:-
285 6001-0881.

286 SECTION 41. Said section 2C of said chapter 303 is hereby further amended by
287 striking out the item number “6001-0802” and inserting in place thereof the following
288 item number:- 6001-0882.

289 SECTION 42. Said section 2C of said chapter 303 is hereby further amended by
290 striking out the item number “6001-0804” and inserting in place thereof the following
291 item number:- 6001-0884.

292 SECTION 43. Said section 2C of said chapter 303 is hereby further amended by
293 striking out the item number “6001-0805” and inserting in place thereof the following
294 item number:- 6001-0885.

295 SECTION 44. Section 2E of said chapter 303 is hereby amended by striking out
296 the item number “6001-0813” and inserting in place thereof the following item number:-
297 6001-0820.

298 SECTION 45. Section 2C of chapter 304 of the acts of 2008 is hereby amended
299 by striking out the item number “0640-0300” and inserting in place thereof the following
300 item number:- 0640-0301.

301 SECTION 46. Section 2D of said chapter 304 is hereby amended by striking out
302 the item number “0330-9999” and inserting in place thereof the following item number:-
303 0330-9997.

304 SECTION 47. Section 2A of chapter 312 of the acts of 2008 is hereby amended
305 by striking out the item number “0526-2010” and inserting in place thereof the following
306 item number:- 0526-2012.

307 SECTION 48. Subsection (b) of section 7 of chapter 377 of the acts of 2008 is
308 hereby amended by striking out the word "middlesex" and inserting in place thereof the
309 following word:- middle.

310 SECTION 49. Section 13 of chapter 5 of the acts of 2009 is hereby amended by
311 striking out the words “chapter 188” and inserting in place thereof the following words:-
312 section 88 of said chapter 182.

313 SECTION 50. Notwithstanding any general or special law to the contrary, for
314 fiscal years 2009 and 2010, net recoveries generated by a contract entered into by the
315 comptroller under section 29E of chapter 29 of the General Laws for accounts receivable
316 cost recovery services shall be deposited as unrestricted revenue in the General Fund;
317 provided, however, that federal funds shall be returned to the federal government and any
318 amounts to be financed through the sale of bonds shall be used to reduce the amount
319 financed.

320 SECTION 51. For purposes of chapters 62 and 63 of the General Laws, the rules
321 of section 382 of the Internal Revenue Code shall be applied without regard to the
322 treatment of a change in ownership of a bank or other corporation provided in Internal
323 Revenue Service Notice 2008-83 or in any federal statutory or administrative
324 codification, supplement or implementation of such Notice. For purposes of said chapters
325 62 and 63, Internal Revenue Service Notice 2008-83 and any such codification,
326 supplement or implementation shall have no force or effect in any taxable year.

327 SECTION 52. For purposes of chapters 62 and 63 of the General Laws, section
328 382(n) of the Internal Revenue Code, inserted by the American Recovery and
329 Reinvestment Act of 2009, shall have no force or effect in any taxable year.

330 SECTION 53. Notwithstanding any general or special law to the contrary, the
331 comptroller shall, in consultation with the secretary of administration and finance,
332 transfer not more than \$2,681,250 from the General Fund to the Department of Energy
333 Resources Credit Trust Fund, established in subsection (b) of section 13 of chapter 25A
334 of the General Laws.

335 SECTION 54. Notwithstanding any general or special law to the contrary, the
336 comptroller shall reduce the final local aid payment under chapter 70 of the General Laws
337 for fiscal year 2009 to be made in June 2009 by \$412,000,000 if the secretary of
338 administration and finance certifies in writing to the comptroller and has provided 10
339 days written notice to the house and senate committees on ways and means, that federal
340 grant funds in the amount of \$412,000,000 have been obligated or expended so that all
341 school districts will receive the full amount appropriated in section 3 of chapter 182 of
342 the acts of 2008.

343 SECTION 55. Notwithstanding subsection (c) of section 10 of chapter 152 of the
344 acts of 1997, not later than June 30, 2009, \$65,000,000 of the balance in the Convention
345 Center Fund, which the state treasurer and the secretary of administration and finance
346 have determined to exceed the amount necessary to satisfy the requirement of sufficiency
347 under said subsection (c) of said section 10 of said chapter 152, shall be transferred to the
348 General Fund.

349 SECTION 56. Notwithstanding any general or special law to the contrary, federal
350 grant funds in items 7061-0004 and 7061-0005 distributed to school districts in fiscal years
351 2009 and 2010 through the State Fiscal Stabilization Fund under Title XIV of the American
352 Reinvestment and Recovery Act of 2009 shall not be subject to indirect charges under section
353 32A of chapter 35 of the General Laws and section 5D of chapter 40 of the General Laws.
354 Subsection (f) of section 6B of chapter 29 of the General Laws shall not apply to these
355 funds. School districts shall continue to provide for and make contributions to
356 appropriate pension funds, as required by paragraph (c) of subdivision (7) of section 22

357 of chapter 32 of the General Laws, for employees whose salaries are paid from these
358 federal funds in the same manner as contributions are made when receiving state
359 education aid under chapter 70 of the General Laws.

360 SECTION 57. Notwithstanding any general or special law to the contrary, the
361 secretary of administration and finance shall pursue opportunities for the sponsorship or
362 naming of state assets and facilities for compensation that the secretary deems
363 appropriate unless otherwise prohibited by law. To this end the secretary shall issue
364 request for proposals not later than September 1, 2009, and as often as the secretary
365 deems necessary thereafter. Not later than January 1, 2010, the secretary shall file reports
366 with the house and senate committees on ways and means detailing proceeds generated
367 through sponsorships or naming rights and the details of any contracts entered into for
368 such purposes.

369 SECTION 58. Section 10 shall be effective for taxable years ending on or after
370 January 1, 2009.

371 SECTION 59. Sections 11, 13, 15 and 17 shall apply to obligations issued after
372 August 31, 2008 in taxable years ending after that date.

373 SECTION 60. Sections 12, 14 and 16 shall be effective for discharges in taxable
374 years ending after December 31, 2008.

375 SECTION 61. Section 49 shall take effect as of March 19, 2009.