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# **ACTS AND RESOLVES**

PASSED BY THE  
**General Court of Massachusetts**  
IN THE YEAR

# **1991**

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PUBLISHED BY  
**Michael Joseph Connolly**  
SECRETARY OF STATE

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**The General Court, which was chosen November 6, 1990 assembled on Wednesday, the second day of January, 1991 for the first session.**

**His Excellency William F. Weld and his Honor Argeo Paul Cellucci served as Governor and Lieutenant Governor respectively for the political year of 1991.**



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**Chapter 1.****AN ACT AUTHORIZING TEMPORARY LICENSES FOR WINE AUCTIONS BY HOLDERS OF CERTAIN LIQUOR LICENSES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize temporary licenses for wine auctions by holders of certain liquor licenses, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 138 of the General Laws is hereby amended by inserting after section 15B, inserted by section 1 of chapter 69 of the acts of 1990, the following section:-

Section 15C. The local licensing authority in any city or town which votes to authorize the granting of licenses for the sale of any alcoholic beverage may, with the approval of the alcoholic beverages control commission, grant temporary licenses for the sale of wines at auction, not to be drunk on the premises to applicants which are licensees under section fifteen. Each such temporary license shall describe the premises to which it applies, and may be granted only for premises which are either the principal place of business or headquarters of the applicant and legally zoned to allow such sales, or the premises of a licensee under section twelve or fifteen. No such temporary license shall be for a duration of more than ten consecutive calendar days, and no holder of any such temporary license shall be granted more than two such temporary licenses in any calendar year. The amount of the license fee shall not exceed the minimum fee provided for in this chapter for holders of licenses to sell wine. Any holder of a temporary license for the sale of wines at auction shall be permitted to conduct such auctions on any day and at any time permitted under section fifteen. The application procedures under section fifteen A shall not apply to temporary licenses for the sale of wines at auction, but applications may be granted by the local licensing authority according to the local procedure for granting licenses under section fourteen. Local licensing authorities may impose conditions as to hours of duration of such auctions, and such other terms and conditions deemed to be necessary and reasonable.

**SECTION 2.** Section fifteen C of said chapter one hundred and thirty-eight is hereby repealed.

**SECTION 3.** Section two of this act shall take effect on July first, nineteen hundred and ninety-two.

Approved February 21, 1991.

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**Chapter 2.****AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in a manner set forth under said section thirty-nine, the solemnization of a marriage by Susan Linda Shoesmith in the town of Westport on March seventh, nineteen hundred and ninety-one between Diane Marie Watts and Marc Henry Levasseur, both of the town of Harwich, and the state secretary shall issue to said Susan Linda Shoesmith a certificate of such authorization.

Approved February 22, 1991.

**Chapter 3.****AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Andrea Francesco Nuciforo as he is the presiding justice of Berkshire county division of the probate and family court department of the trial court in the city of Pittsfield on March tenth, nineteen hundred and ninety-one between Lori Ann Burkholder and Chad Henry Wojtkowski both of said city of Pittsfield, and the state secretary shall issue to said Andrea Francesco Nuciforo in his capacity as aforesaid a

certificate of such authorization.

Approved March 7, 1991.

**Chapter 4. AN ACT REPEALING THE IMPLEMENTATION OF THE SALES AND USE TAXES ON SERVICES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The definition of "Sale" and "Selling" in section 1 of chapter 64H of the General Laws, as appearing in section 42 of chapter 121 of the acts of 1990, is hereby amended by inserting after the word "persons", in line 17, the words:-, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons, and excluding the services of advertising or other agents, or other persons acting in a representative capacity, and information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news.

**SECTION 2.** The definition of "Sale at retail" or "retail sale" in said section 1 of said chapter 64H, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The term "sale at retail" or "retail sale" shall not include (a) sales of tickets for admissions to places of amusement and sports; (b) sales of transportation services; (c) professional, insurance, or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made; or (d) any sale in which the only transaction in the commonwealth is the mere execution of the contract of sale and in which the tangible personal property sold is not in the commonwealth at the time of such execution; provided, however, that nothing contained in this definition shall be construed to be an exemption from the tax imposed under chapter sixty-four I.

**SECTION 3.** Said section 1 of said chapter 64H is hereby further amended by striking out the definition of "Sales price", as so appearing, and inserting in place thereof the following definition:-

"Sales price", the total amount paid by a purchaser to a vendor as consideration for a retail sale, valued in money or otherwise. In determining the sales price, the following shall apply: (a) no deduction shall be taken on account of (i) the cost of property sold; (ii) the cost of materials used, labor or service cost, interest charges, losses or other expenses; (iii) the cost of transportation of the property prior to its sale at retail; (b) there shall be included (i) any amount paid for any services that are a part of the sale; and (ii) any amount for which credit is given to the purchaser by the vendor; and (c) there shall be excluded (i) cash discounts

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allowed and taken on sales; (ii) the amount charged for property returned by purchasers to vendors upon rescission of contracts of sale when the entire amounts charged therefor, less the vendors' established handling fees, if any, for such return of property, are refunded either in cash or credit, and when the property is returned within ninety days from the date of sale, and the entire sales tax paid is returned to the purchaser; provided, however, that where a motor vehicle is returned pursuant to a rescission of contract such motor vehicle must be returned within one hundred and eighty days of the date of sale; (iii) the amount charged for labor or services rendered in installing or applying the property sold; (iv) the amount of reimbursement of tax paid by the purchaser to the vendor under this chapter; (v) transportation charges separately stated, if the transportation occurs after the sale of the property is made; and (vi) the amount of the manufacturers' excise tax levied upon motor vehicles under section 4061(a) of the Internal Revenue Code of 1954 of the United States, as amended.

**SECTION 4.** Said section 1 of said chapter 64H is hereby further amended by striking out the definition of "Costs of Performance".

**SECTION 5.** Said section 1 of said chapter 64H is hereby further amended by striking out the definition of "Services", as most recently amended by section 358 of chapter 150 of the acts of 1990, and inserting in place thereof the following definition:-

"Services", a commodity consisting of activities engaged in by a person for another person for a consideration; provided, however, that the term "services" shall not include activities performed by a person who is not in a regular trade or business offering his services to the public, and shall not include services rendered to a member of an affiliated group, as defined by section 1504 of the Internal Revenue Code, by another member of the same affiliated group that does not sell to the public the type of service provided to its affiliate; and provided, further, that the term services shall be limited to the following item: telecommunications services. Nothing herein shall exempt from tax sales of tangible personal property subject to tax under this chapter.

**SECTION 6.** Said section 1 of said chapter 64H is hereby further amended by striking out the definition of "Sic".

**SECTION 7.** Section two A of said chapter sixty-four H is hereby repealed.

**SECTION 7A.** Paragraph (a) of section 3 of said chapter 64H, as appearing in the 1988 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "paragraphs (b) and (c) of this section" and inserting in place thereof the word:- paragraph (c).

**SECTION 8.** Said section 3 of said chapter 64H is hereby further amended by striking out paragraph (b), as most recently amended by section 45 of chapter 121 of the acts of 1990.

**SECTION 9.** Section 6 of said chapter 64H, as most recently amended by

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section 363 of chapter 150 of the acts of 1990, is hereby further amended by striking out paragraphs (mm), (nn) and (oo).

**SECTION 10.** Paragraph (qq) of said section 6 of said chapter 64H, inserted by section 352 of said chapter 150, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Sales of gas, steam, electricity or heating fuel to any business which has five or fewer employees.

**SECTION 11.** Section 8 of said chapter 64H, as amended by section 53 of chapter 121 of the acts of 1990, is hereby further amended by striking out paragraphs (f), (g), (h) and (i) and inserting in place thereof the following four paragraphs:-

(f) The exempt use certificate shall relieve the vendor from the burden of proof only if taken in good faith for the purchase of property from a person who is engaged in an activity described in paragraph (r) or (s) of section six, and who, at the time of purchasing the tangible personal property, intends to use the property in an exempt manner or is unable to ascertain at the time of purchase whether the property will be used in an exempt manner or will be used for some other purpose, and such certificate is received and made available to the commissioner not later than sixty days from the date of notice from the commissioner to produce such certificate. Where a certificate is received within the foregoing time limit but is deficient in some material manner, and where such deficiency is thereafter removed, also within the sixty day limit, the receipt of such certificate shall be deemed to have satisfied the foregoing time requirement.

(g) The exempt use certificate shall be signed by and bear the name and address of the purchaser and the number of his registration, if any, give a description of the property being purchased, certify the exempt use to which the property will be applied and be in such form as the commissioner may prescribe.

(h) If a purchaser who gives an exempt use certificate makes any use of the property other than the one therein certified, the use shall be deemed a retail sale by the purchaser as of the time the property is first so used and the cost of the property to him shall be deemed the gross receipts from such retail sale.

(i) The commissioner may promulgate regulations determining which services shall be deemed purchased for resale under this section, containing provisions for the issuance of certificates to the effect that services are purchased for resale.

**SECTION 12.** Said chapter 64H is hereby further amended by inserting after section 27 the following section:-

Section 27A. Where a trade-in of a boat is received by a dealer in boats holding a valid vendor's registration, upon the sale of another boat to a consumer or user, the tax shall be imposed only on the difference between the sale price of the boat purchased and the amount allowed on the boat traded in on such purchase. When any such boat traded in is subsequently sold to a consumer or user, the tax provided for in this section shall apply.

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Where a trade-in of an airplane is received by a dealer in airplanes, who has registered his federal dealer's aircraft registration, upon the sale of another airplane to a consumer or user, the tax shall be imposed only on the difference between the sales price of the airplane purchased and the amount allowed on the airplane traded in on such purchase. When any airplane traded in is subsequently sold to a consumer or user, the tax provided for in this section shall apply.

**SECTION 13.** Section two A of chapter sixty-four I of the General Laws is hereby repealed.

**SECTION 14.** Section 8 of said chapter 64I, as amended by section 64 of chapter 121 of the acts of 1990, is hereby further amended by striking out paragraphs (a) and (b) and inserting in place thereof the following paragraph:-

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax imposed hereunder, it shall be presumed that tangible personal property or services sold by any person for delivery in the commonwealth is sold for storage, use or other consumption in the commonwealth until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the service or property is purchased for resale and such certificate is received and made available to the commissioner not later than sixty days from the date of notice from the commissioner to produce such certificate. Where a certificate is deficient in some material manner and where such deficiency is thereafter removed, also within said sixty day period, the receipt of such certificate shall be deemed to have satisfied the foregoing time limit.

**SECTION 15.** Said section 8 of said chapter 64I, as amended by said section 64 of said chapter 121, is hereby further amended by striking out paragraphs (h), (i), (j) and (k) and inserting in place thereof the following four paragraphs:-

(h) The exempt use certificate shall relieve the vendor from the burden of proof only if taken in good faith for the purchase of property from a person who is engaged in an activity described in paragraph (r) or (s) of section six of chapter sixty-four H, and who, at the time of purchasing the tangible personal property, intends to use the property in an exempt manner or is unable to ascertain at the time of purchase whether the property will be used in an exempt manner or will be used for some other purpose and such certificate is received and made available to the commissioner not later than sixty days from the date of notice from the commissioner to produce such certificate. Where a certificate is received within the foregoing time limit, but is deficient in some material manner and where such deficiency is thereafter removed, also within said sixty day limit the receipt of such certificate shall be deemed to have satisfied the foregoing time requirement.

(i) The exempt use certificate shall be signed by and bear the name and address of the purchaser and the number of his registration, give a description of the property being purchased, certify the exempt use to which the property will be

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applied and be in such form as the commissioner may prescribe.

(j) If a purchaser who gives an exempt use certificate stores or makes any use of the property other than the one therein certified, the storage or use shall be deemed a retail sale by the purchaser as of the time the property is first so stored or used and the cost of the property to him shall be deemed the gross receipts from such retail sale.

(k) The commissioner may promulgate regulations determining which services shall be deemed purchased for resale under this section, containing provisions for the issuance of certificates to the effect that services are purchased for resale.

**SECTION 16.** The provisions of chapters sixty-four H and sixty-four I of the General Laws, as amended by the provisions of this act shall apply to the sale, use, storage or other consumption of tangible personal property and services in the commonwealth made or occurring on or after March sixth, nineteen hundred and ninety-one. Any vendor who collects any sales or use taxes upon transactions heretofore taxable and now exempt under this act shall make reasonable efforts to return such sales or use taxes to any purchasers of such services.

*Emergency Letter: March 8, 1991 @ 10:41A.M.*

Approved March 8, 1991.

## **Chapter 5. AN ACT AUTHORIZING CERTAIN EMERGENCY FISCAL MEASURES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 24 of chapter 275 of the acts of 1989 is hereby amended by striking out, in lines 11 and 12 the words "October first, nineteen hundred and eighty-eight" and inserting in place thereof the following words:- September twenty-fourth, nineteen hundred and seventy-nine.

**SECTION 2.** Section 2C of chapter 208 of the acts of 1988, as amended by section 8 of chapter 151 of the acts of 1990, is hereby further amended by striking out item 1599-7882 and inserting in place thereof the following item:-

1599-7882 For a reserve for the payment of certain court judgments, settlements and legal fees, in compliance with regulations promulgated by the comptroller, in certain actions pertaining to the taking of land, filed with the house and senate committees on ways and means, which were ordered to be paid in fiscal year nineteen hundred and ninety-one or a prior fiscal year and which derive from causes of action initiated in said fiscal year or a prior fiscal year; provided that the comptroller is hereby authorized to charge such payments to this item. \$33,200,000

**SECTION 3.** Section 18 of said chapter 208, as amended most recently by

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section 9 of said chapter 151, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- To meet the expenditures necessary in carrying out the provisions of section two C of this act the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of thirty-eight million eight hundred twenty-two thousand two hundred dollars.

**SECTION 4.** (1) Notwithstanding the provisions of subdivision (2) the state treasurer and receiver general of the commonwealth shall not exercise the authority to issue bonds or to substitute any such bonds for any appropriation pursuant to said subdivision (2) unless said treasurer determines that the exercise of such authority shall not threaten the commonwealth's pension plans as qualified plans pursuant to section four hundred and one of the Internal Revenue Code of the United States, and that the exercise of such authority is deemed to be the only feasible remaining course of action available to ensure that the amount of expenditures for the fiscal year ending June thirtieth, nineteen hundred and ninety-one shall not exceed the amount of total available revenues for said fiscal year as determined by the commissioner of administration pursuant to section five B of chapter twenty-nine of the General Laws. Prior to making such determination, said treasurer shall request from said commissioner of administration, and said commissioner shall within five days of said request, prepare and submit to said treasurer and to the house and senate committees on ways and means, a report setting forth the amount of total expenditure reductions made to date in such fiscal year pursuant to section nine C of said chapter twenty-nine and any other law authorizing the governor to reduce the expenditures of the commonwealth, and stating that no further reductions would be in the best interest of the people of the commonwealth. Such determination by said treasurer made pursuant to this subdivision shall include a decision, made with the advice of the finance advisory board established by section ninety-seven of chapter six of the General Laws, that any other borrowing mechanism, including, but not limited to, the issuance of deficit reduction bonds, would be more expensive to the commonwealth than the issuance of bonds in accordance with the provisions of said subdivision (2) of this section. Said treasurer shall submit a detailed report of such determination made pursuant to this subdivision to the members of the pension reserves investment management board, to the state employees' and teachers' retirement boards, to the house and senate committees on ways and means, and to the joint committee on public service prior to exercising the authority to issue bonds pursuant to the provisions of said subdivision (2).

(2) To meet a portion of the liability of the commonwealth to the Commonwealth's Pension Liability Fund for the fiscal year ending June thirtieth, nineteen hundred and ninety-one pursuant to the requirements of section twenty-two C of chapter



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thirty-two of the General Laws and the provisions of item 0612-1010 of section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety, the state treasurer and receiver general shall, upon the request of the governor, issue and deliver bonds of the commonwealth to said Commonwealth's Pension Liability Fund, in an amount to be specified by the governor, but not exceeding in the aggregate the sum of one hundred and thirty-four million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face Pension Funding Bond, Act of 1991 and shall be issued for such maximum term of years, not exceeding three years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, nineteen hundred and ninety-four. All interest and payments on account of principal of such obligations shall be payable from the budgetary funds of the commonwealth in the allocations specified in said item 0612-1010 of said section two of said chapter one hundred and fifty of the acts of nineteen hundred and ninety. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

Notwithstanding the provisions of any general or special law to the contrary, the treasurer shall negotiate with the members of the pension reserves investment management board the rate of interest to be paid by the commonwealth on bonds issued pursuant to this subdivision and the schedule of payment of principal and interest on any such bonds; provided, however, that the effective yield on such bonds shall be no less than the actuarial assumption of the rate of investment return in the most recent three-year valuation for the state employees' and teachers' retirement systems prepared pursuant to section twenty-one of said chapter thirty-two; and provided, further, that nothing in this section shall be deemed to relieve the members of said pension reserves investment management board from the fiduciary standards set forth by the provisions of subdivision (3) of section twenty-three of said chapter thirty-two.

Notwithstanding the provisions of any general or special law to the contrary, bonds issued under the authority of this section shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section sixty A of chapter twenty-nine of the General Laws, nor shall debt service with respect to such bonds be included in any computation of the limit imposed by section sixty B of said chapter twenty-nine.

Notwithstanding the provisions of any general or special law to the contrary, the appropriation for payments to the Commonwealth's Pension Liability Fund authorized by item 0612-1010 of section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety pursuant to the requirements of section twenty-two C of chapter thirty-two of the General Laws shall be reduced by an amount equal to the principal amounts of all bonds issued pursuant to this section,

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and the delivery of said bonds shall be substituted for the payment of said portion of the appropriation for purposes of satisfying the commonwealth's obligations to said Commonwealth's Pension Liability Fund.

**SECTION 5.** Notwithstanding any provision to the contrary of section fifty-three A of chapter twenty-nine of the General Laws, the state treasurer is hereby authorized, upon the request of the governor, to issue and sell refunding bonds of the commonwealth pursuant to said section fifty-three A of said chapter twenty-nine in an amount up to five hundred million dollars without a finding by the state treasurer that such refunding will result in present value savings to the commonwealth; provided, however, that such refunding shall occur not later than June thirtieth, nineteen hundred and ninety-two; provided, further, that such refunding shall be accomplished in a manner cost efficient to the commonwealth to the extent reasonably possible; provided, further, that a report containing statements of (1) the net present cost or savings of such refunding, (2) the costs of issuance incurred by the commonwealth pursuant to such refunding, including, but not limited to costs for legal counsel, payments, discounts and other incentives provided to investment bankers, underwriters and others, and costs related to credit or liquidity enhancements, and (3) projected principal and interest debt service costs, shall be filed within fifteen days of such refunding sale with the finance advisory board and the house and senate committees on ways and means; provided, further, that the finance advisory board shall hold a public hearing relative to the refunding authorized by this section no later than forty-five days after the issuance of such refunding bonds; provided, further, that such public hearing shall in no way affect the validity of such bond sale and shall in no way impair the rights of any purchasers of such refunding bonds. Such costs of issuance shall be, if appropriate, paid out of the proceeds of the refunding; and, provided, further, that the governor shall identify the portion of the debt service attributable to such costs of issuance of the refunding as part of any request for an appropriation for debt service payments resulting from such refunding issue. Any refunding bonds issued pursuant to this section shall not be counted as part of "issued indebtedness" for the purposes of the debt ceiling calculation.

**SECTION 6.** In anticipation of the proceeds from the sale or other disposition of specifically identified real property of the commonwealth, the state treasurer shall, upon the request of the governor, issue and sell notes or bonds of the commonwealth, in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the sum of ninety million dollars. All bonds or notes issued by the commonwealth, as aforesaid, shall be designated on their face Asset Disposition Anticipation Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds or

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notes shall be payable not later than June thirtieth, nineteen hundred and ninety-six. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon and notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

No bonds or notes shall be issued pursuant to this section unless the secretary of administration and finance has identified specific real properties of the commonwealth and has certified to the treasurer that said properties are under agreement for sale or other disposition on or before June thirtieth, nineteen hundred and ninety-two. The total amount of bonds and notes outstanding pursuant to this section shall at no time exceed the appraised value, as certified by said secretary, of the properties so identified by said secretary.

Notwithstanding the provisions of any general or special law to the contrary, bonds issued under the authority of this section shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section sixty A of chapter twenty-nine of the General Laws, nor shall debt service with respect to such bonds or notes be included in any computation of the limit imposed by section sixty B of said chapter twenty-nine.

The operation of this section shall be in full compliance with the provisions of the Constitution of the United States, the Constitution of the Commonwealth of Massachusetts, and the articles of amendment thereof and, the opinions of any court and the opinion of the attorney general, 1973 Op.Atty.Gen. 139, interpreting the provisions thereof.

**SECTION 7.** Notwithstanding the provisions of the sixth paragraph of section forty F of chapter seven of the General Laws to the contrary, beginning with the effective date of this section and ending on June thirtieth, nineteen hundred and ninety-two, any transfers made pursuant to said paragraph shall be deemed to have received legislative approval and shall take effect if, within ninety calendar days after the commissioner of capital planning and operations, with the written approval of the secretary of administration and finance, has filed a request in the form of legislation by filing such request with the clerks of the house and the senate, with copies to the house and senate committees on ways and means, and the general court neither approves nor disapproves such request. No such request for transfer by the commissioner of capital planning and operations or any other person, office or board may be made to the general court when the general court has prorogued and, if a request has been made prior to prorogation, said ninety day period shall be tolled during prorogation. The ninety day time period allowed for approval or disapproval of such requests shall not commence until the clerks have assigned said requests to the committee of the general court having jurisdiction over such matter. No such transfer shall be made under the provisions of this act in contravention of Article XCVII of the Amendments or any other

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provisions of the Constitution of the Commonwealth. No transfer as provided for by this section shall take place until the commissioner of capital planning and operations has complied fully with the provisions of chapter seven of the General Laws and the commissioner certifies to said full compliance and said certification shall be deemed sufficient to convey clear and marketable title.

**SECTION 8.** Notwithstanding the provisions of the fourteenth paragraph of section forty F of chapter seven of the General Laws to the contrary, for the period beginning with the effective date of this section and ending June thirtieth, nineteen hundred and ninety-two, any request for authorizations made pursuant to said paragraph shall take effect as if approved if, within ninety calendar days after the commissioner of capital planning has filed such request in the form of legislation with the clerks of the house and senate, with copies to the house and senate committees on ways and means, the general court has neither approved nor disapproved such request; provided, however, that the commissioner may, with the approval of the secretary of administration and finance, dispose of any such property without legislative approval if such surplus property is less than five acres in size and comprises under twenty-five thousand square feet of gross building area and possesses a market value under five hundred thousand dollars at highest and best use, based on two independent appraisals, and a review appraisal if determined to be necessary by said commissioner. No dispositions shall be made pursuant to this section of lands governed by Article XCVII of the Amendments or any other provisions of the Constitution of the Commonwealth, chapters ninety-one, ninety-two, section forty of chapter one hundred and thirty-one or chapter one hundred and thirty-two A of the General Laws. No request for authorization nor any other disposition by said commissioner of capital planning and operations or any other person, office or board may be made or transmitted to the general court when the general court has prorogued and if such authorization is made prior to prorogation, said ninety day time period shall be tolled during prorogation. The ninety day time period allowed for such requests filed with the clerks of the general court shall not begin until said clerks have assigned said request to the committee of the general court having jurisdiction over such matter. No disposition provided for in this section shall take place until the commissioner of capital planning and operations has complied fully with the provisions of chapter seven of the General Laws and the commissioner certifies to said full compliance and said certification shall be deemed sufficient to convey clear and marketable title.

**SECTION 9.** Notwithstanding the provisions of subparagraph (c) of section one of chapter seven B of the General Laws to the contrary, for the period beginning with the effective date of this section and ending on June thirtieth, nineteen hundred and ninety-two, the asset management board shall have the authority to sell or permanently dispose of assets, if, in the case of real property, such assets have been declared surplus to the current and foreseeable needs of any state

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agency pursuant to the provisions of section forty F 1/2 of chapter seven of the General Laws. No dispositions shall be made pursuant to this section of lands governed by Article XCVII of the Amendments or any other provisions of the Constitution of the Commonwealth, chapters ninety-one, ninety-two, section forty of chapter one hundred and thirty-one, or chapter one hundred and thirty-two A of the General Laws. Any disposition made pursuant to this section shall be presented to the general court in the form of legislation which shall be filed with the clerks of the house and the senate, with copies to the house and senate committees on ways and means, and to the representatives and senators representing the district wherein such property lies. Such disposition shall take effect within forty-five days, unless disapproved by a vote of both branches of the legislature; provided, however, that the forty-five day time period shall not commence until the clerks have assigned said requests to the committee of the general court having jurisdiction over such matter. No such request for disposition by the asset management board may be made to the general court when the general court has prorogued and if such request for disposition is made prior to prorogation, said forty-five day time period shall be tolled during prorogation. The division of capital planning and operations shall provide the board with technical support and advice in the disposition of such assets.

**SECTION 10.** Notwithstanding the provisions of section eight of chapter seven B of the General Laws, for the period beginning with the effective date of this section and ending June thirtieth, nineteen hundred and ninety-two, any asset management trust may be established to receive not more than fifty percent of the proceeds accruing to an agency as a result of revenues produced by one or more approved asset management projects.

**SECTION 11.** Section four shall take effect on June first, nineteen hundred and ninety-one. Except as otherwise provided herein, the provisions of this act shall take effect upon its passage.

\*Section 9 disapproved, the remainder Approved March 22, 1991.

**Chapter 6. AN ACT ESTABLISHING EMERGENCY FISCAL CONTROLS FOR FISCAL YEAR NINETEEN HUNDRED AND NINETY-ONE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items and the sum set forth in section two C are hereby appropriated from the Intragovernmental Service Fund, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and fifty of the acts of nineteen hundred and ninety, for the fiscal year ending June thirtieth, nineteen hundred and ninety-one or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.**

Item

**JUDICIARY.**

*Supreme Judicial Court.*

0321-1500	For the committee for public counsel services as authorized by chapter two hundred and eleven D of the General Laws, including prior years' expenses, including not more than two hundred twenty-seven positions	\$5,500,000
	General Fund	25.0%
	Local Aid Fund	75.0%

**DISTRICT ATTORNEYS.**

0340-0900	Bristol, including not more than sixty positions	\$200,000
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**EXECUTIVE.**

*Governor.*

0411-1000	For the salaries and expenses of the governor and officers and employees in the governor's office.	
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Item

### **TREASURER AND RECEIVER-GENERAL.**

#### *Debt Service.*

0699-0090	For the payment of interest on bonds issued pursuant to chapter one hundred and fifty-one of the acts of nineteen hundred and ninety		\$67,837,000
	Commonwealth Fiscal Recovery Fund	100.0%	
0699-9100	For the payment of interest on issuance costs of bond and revenue anticipation notes and other notes pursuant to sections forty-seven and forty-nine B of chapter twenty-nine of the General Laws.		

### **EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

#### *Office of the Commissioner.*

1100-1100	For the office of the commissioner and the administration of tort claims; provided, that forecasts generated by the state economic model and the governor's revenue advisory board be filed quarterly with the house and senate committees on ways and means, including not more than twenty-five positions		\$192,000
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#### *Miscellaneous.*

1599-0013	For a reserve for the cities' and towns' unemployment health insurance contributions due under section fourteen G of chapter one hundred and fifty-one A of the General Laws; provided, however, that the commissioner of the department of employment and training shall provide to the secretary of administration and finance quarterly estimates of said contributions due; provided further, that upon approval of the secretary of administration and finance the treasurer shall transfer funds from this account to the medical security trust fund established in chapter one hundred and eighteen F of the General Laws		\$3,800,000
1599-2200	For an emergency reserve to fund grants to counties which would otherwise be unable to continue operation of jails and courthouses; provided, that no grant shall be awarded from this item to any county unless and until the commissioner of revenue has made a determination that said county's inability to continue operation of its jail and courthouse is directly attributable to lack of sufficient state appropriation to make adequate payments pursuant to section four of chapter twenty-nine A of the General Laws; and provided further, that no grant shall be made from this item without the prior approval of the secretary of administration and finance		\$3,042,000
	General Fund	25.0%	
	Local Aid Fund	75.0%	
1599-3315	For the transportation of prisoners to and from the several departments of the trial court by the sheriffs of the various counties, including the cost of personal services and the purchase of vehicles and other equipment for said purposes; provided, that the commissioner of administration is hereby authorized to advance to the county treasurer of each		

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	county the sums set forth below for each respective county: Barnstable, two hundred seventy-three thousand six hundred and seventy-six dollars; Berkshire, one hundred ninety-four thousand seven hundred and seventy-four dollars; Bristol, two hundred ninety-three thousand nine hundred and fifty dollars; Dukes, sixty-four thousand six hundred and forty-two dollars; Essex, four hundred nineteen thousand seven hundred and forty-three dollars; Franklin, one hundred sixty-seven thousand eight hundred and one dollars; Hampden, three hundred ninety-six thousand five hundred and fifty-one dollars; Hampshire, one hundred seventy-five thousand two hundred and seventy dollars; Middlesex, six hundred twenty-three thousand seven hundred and sixty-five dollars; Nantucket, twenty thousand dollars; Norfolk, four hundred twelve thousand five hundred and thirty-one dollars; Plymouth, four hundred thirty-two thousand nine hundred and sixty-two dollars; Suffolk, three hundred ninety-nine thousand three hundred and twenty-eight dollars; Worcester, three hundred seventy-four thousand and fifty-four dollars; provided further, that the commissioner of administration, upon agreement of the respective sheriffs, may adjust such amounts as appropriated herein in such a fashion as is necessary to meet the actual cost of said transportation; provided further, that each such treasurer shall deposit said amounts into a fund to be expended solely for the purpose of this item; and provided further, that any interest earned by said fund shall be deposited to said fund and made available for expenditure for the purpose of this item in addition to the amounts appropriated herein and that any unexpended balance of such fund as of June thirtieth, nineteen hundred and ninety, shall be returned to the commonwealth	\$559,253
	Local Aid Fund	100.0%
1599-3383 For	the payment of a certain court judgment entered in Suffolk superior court, civil action number 65306	\$57,556
1599-3600 For	a reserve to fund state and county correctional programs; provided, that funds may be used for new beds opened in fiscal year nineteen hundred and ninety and nineteen hundred and ninety-one including related institutional parole requirements at MCI Norfolk Pre-Release Center, NCCI Gardner, MCI Walpole, Bay State, MCI Framingham, MCI Shirley, Boston Correctional Center, Bristol County jails and houses of correction at Dartmouth and New Bedford, Essex County house of correction and Worcester County house of correction; provided further, that funds may be used to support current operating costs of the department of correction and the parole board; provided further, that funds from this item may be transferred to other items of appropriation within the department of correction and to item 4380-0001; provided further, that the department of correction, the county government finance review board, the parole board, the Massachusetts Sheriffs' Association, and the division of capital planning and operations shall submit a joint plan to the secretary of administration and finance and to the house and senate committees on ways and means regarding the use of expansion reserve funds, which plan shall include facility opening dates, staffing requirements, number of beds, the annualized cost of the facilities, and an agreement on the number of state inmates to be housed in county facilities; provided further, that no expenditure shall be made from this item without prior approval of the house and senate committees on ways and means	\$6,900,000
1599-3675 For	a reserve for payments to Middlesex County on account of the rental of court facilities in the current and prior fiscal years	\$3,614,285
1599-3725 For	a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective	



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	<p>bargaining agreement between the commonwealth of Massachusetts and the Coalition of Public Safety (Unit 5); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and ninety-one such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year and for prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided further, that no transfers shall be made from this item without prior notice provided to the house and senate committees on ways and means</p>	\$2,096,000
1599-3726 For	<p>a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth of Massachusetts and State Police Association of Massachusetts (Unit 5A); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and ninety-one such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year and for prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided further, that no transfers shall be made from this item without prior notice provided to the house and senate committees on ways and means</p>	\$3,702,000

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1599-3727	For	a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth of Massachusetts and the Metropolitan Police Patrolmen's Union (Unit 5B); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and ninety-one such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year and for prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided further, that no transfers shall be made from this item without prior notice provided to the house and senate committees on ways and means		
2200-0103	The	department of environmental protection may expend an amount not to exceed six million eight hundred thousand dollars for the implementation and administration of the department's permitting, compliance, enforcement, and regulatory programs from revenues collected from license and registration fees, permit fees, and inspection and compliance fees issued or undertaken by said department, excluding any fines, penalties, or fees credited to the environmental challenge fund, or collected pursuant to paragraph seven of section seven of chapter twenty-one C of the General Laws; provided, that fees collected herein may be expended on personnel		\$1,980,000
		Environmental Permitting and Compliance Assurance Fund	100.0%	
2260-9000	For	the implementation and administration of the underground storage tank program as established in chapter five hundred and twenty-four of the acts of nineteen hundred and ninety; provided, that the amount appropriated herein may be used to reimburse items 2200-0100 and 2260-8870 for expenses incurred for the implementation and administration of said program during fiscal year nineteen hundred and ninety-one, including the costs of personnel		\$10,000
		Underground Storage Tank Petroleum Product Cleanup Fund	100.0%	
<b>EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.</b>				
3722-9024	For	payments to housing authorities and non-profit organizations operating family housing for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons pursuant to sections thirty-two and forty of chapter one hundred and twenty-one B of the General Laws; provided, that the executive		

office of communities and development may expend the funds appropriated herein for any deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that of the funds appropriated herein, the sums set forth below shall be deposited in individual allocation accounts for the purpose of each respective housing subsidy program: seventeen million nine hundred sixty-five thousand two hundred and ninety-two dollars for veterans and relocated persons; ten million three hundred thirty thousand and forty-two dollars for the elderly; one hundred four thousand seven hundred and ninety-eight dollars for the handicapped; and provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve and capital reserve included in the budget of the housing authorities. And, for a program of rental assistance for families and elderly of low-income; provided, that notwithstanding any provision of law to the contrary, first preference for admission shall be granted to the eligible elderly; provided further, that of the funds appropriated herein, one hundred nine million two hundred eighty-eight thousand eight hundred and fifty-six dollars shall be deposited in an individual allocation account for the purpose of said rental assistance program; provided further, that the secretary of the executive office of communities and development shall take all steps necessary to ensure that no funds shall be expended for chapter seven hundred and seven certificates whose use is discontinued by eligible families and individuals, except for those such certificates as are in use for occupied units as of February 15, 1991; provided further, that not more than ten percent of the amount expended for said rental assistance program may be used for the administration of said program; provided further, that the secretary of the executive office of communities and development shall submit quarterly reports to the house and senate committees on ways and means detailing expenditures, the number of certificates awarded and the number of new and existing units leased; provided further, that the house and senate committees on ways and means shall be notified within fifteen days of any transfer of funds between allocation accounts as set forth in this item; and provided further, that the secretary of communities and development shall conduct or contract for, no less than semi-annually, rent surveys for the purpose of determining the maximum allowable rent available under the rental assistance program. And, for a program of housing assistance consistent with the program requirements established by the federal government for the program authorized by Public Law 98-181, Section 207, to be administered through local non-profit agencies notwithstanding the provisions to the contrary in section forty-three of chapter one hundred and twenty-one B of the General Laws; provided, that of the funds appropriated herein, eleven million seventy-eight thousand five hundred and ninety-six dollars shall be allocated for the purpose of providing housing vouchers, so-called, currently being utilized by eligible households; provided further, that funding for said vouchers made available for the purpose of providing chapter 707 certificates, so-called, as the use of said vouchers by said households is discontinued; provided further, that in the case of any rental assistance provided in conjunction with any federal housing program, tenants shall pay such portion of their income for rent as may be required by said federal program and such assistance shall be administered in accordance with applicable federal laws and regulations; and provided further, that payments for rental assistance may be provided in advance, including not more than five positions.

**EXECUTIVE OFFICE OF HUMAN SERVICES.***Soldiers' Home in Massachusetts.*

- 4180-1100 The soldiers' home in Massachusetts, located in the city of Chelsea, may expend all revenues generated by the home, up to a maximum of four million one hundred fifteen thousand eight hundred dollars for facility maintenance, and patient care, including personnel costs.

*Soldiers' Home in Holyoke.*

- 4190-1100 The soldiers' home in Holyoke may expend all revenues generated by the home, up to a maximum of three million one hundred sixty thousand dollars for facility maintenance and patient care, including personnel costs.

**DEPARTMENT OF CORRECTION.**

- 4349-0008 For county and state overcrowding relief, including the modular program, so-called; provided, that the commissioner is hereby authorized to enter into agreements with the sheriffs in all counties for the operation of additional housing units, and for a day reporting center and a correctional alcohol treatment facility in Hampden County; provided further, that the commissioner is hereby authorized to make quarterly advances to the treasurers of the counties pursuant to said agreements; provided further, that said treasurers shall deposit said advances into a fund to be expended solely for the purpose of said agreements; provided further, that any interest earned by said funds shall be deposited to said funds and that any unexpended balances including interest remaining in said fund as of June thirtieth, nineteen hundred and ninety-one shall be returned to the commonwealth; provided further, that all persons employed by said sheriffs pursuant to said agreements shall be considered county employees; provided further, that funds advanced to the county treasurers pursuant to these agreements may be spent for any services or items of supply or equipment which the sheriffs require to carry out the purpose of said agreements; such expenditures may include but are not limited to salaries, travel, uniform allowance, purchase and maintenance of equipment, and selecting contractual and professional services; and provided further, that no permission will be required for the sheriffs to transfer funds among codes or subcodes at the county level

\$273,894

**DEPARTMENT OF PUBLIC WELFARE.**

- 4406-2000 For a program of general relief, including a program of emergency relief; provided that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided further, that a nonrecurring clothing allowance in the amount of one hundred and fifteen dollars be provided to each recipient of the program eligible in September, nineteen hundred and ninety; provided further, that a thirty-five dollar per month rent allowance shall be paid to all households not residing in public housing or subsidized housing; and provided further, that no funds from this account shall be expended for homeless shelters without the prior approval of the house and senate committees on ways and means
- 4406-5000 For a program of medical services for general relief recipients; provided, that notwithstanding the provisions of any general or special law to the contrary, certain medical services shall be provided to general relief recipients, including

\$5,461,540

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physician services, laboratory services, durable medical equipment, eye care, home health care, pharmacy services, transportation for medical care, emergency and basic restorative dental services, rehabilitative services, family planning, psychological testing, and private duty nursing; provided further, that the department through said program may contract with competitively selected hospitals and community-based agencies for the purpose of providing coordinated health care services to certain general relief recipients; and provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother

\$7,904,000

**DEPARTMENT OF PUBLIC HEALTH.**

4510-0712 The department of public health is hereby authorized to expend revenues in an amount not to exceed one million four hundred and fifteen thousand dollars from fees collected pursuant to state licensure of health care facilities and from federal reimbursements for the survey and certification of health care facilities as mandated by the federal Nursing Home Reform Act under the Omnibus Budget and Reconciliation Act of 1987; provided, that revenues collected may be used for all program costs and for the compensation of employees; provided further, that this account shall be assessed the full value of fringe and indirect costs for any such employees

\$1,299,050

4513-1005 For the program of medical care and assistance administered by the department pursuant to section twenty-four D of chapter one hundred and eleven, for pregnant women and infants residing in the commonwealth; provided further, that pursuant to an interagency agreement established with the department of public welfare, the department of public health shall determine the eligibility for low income pregnant women for Title XIX and women eligible for services under section one A of chapter one hundred and eighteen E of the General Laws; provided further, that the department shall submit a report, on a quarterly basis, to the house and senate committees on ways and means which shall include, but not be limited to, the number of women served during that quarter, categories of age, types of services provided, and expenditures made, including not more than twenty-four positions

\$217,909

4540-0400 For the maintenance of and for certain improvements at Tewksbury Hospital, including not more than eight hundred and fifty positions

\$600,000

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

*Massachusetts Aeronautics Commission.*

6006-0002 The Massachusetts aeronautics commission may expend revenues in an amount not to exceed two hundred eighty-five thousand five hundred seventy-three dollars generated from receipts from aviation fuel taxes as authorized by chapter sixty-four A of the General Laws, as amended by chapter one hundred and twenty-one of the acts of nineteen hundred and ninety, for airport development projects as authorized by section thirteen of said chapter sixty-four A of the General Laws, as amended by section forty of said chapter one hundred and twenty-one; provided, that any receipts received in excess of the amount specified herein shall be deposited in the General Fund

\$285,573

**DEPARTMENT OF PUBLIC WORKS.***Maintenance and Operation of State Highways and Bridges.*

6030-7201	For the expenses of snow and ice control, including the cost of sand, salt, and other control chemicals; provided, that three hundred thousand dollars be allocated to line-item 2444-9002 for snow and ice control materials to be used on the metropolitan district commission roadways; provided further, that any surplus after April fifteenth, nineteen hundred and ninety-one may be expended for bridge and highway maintenance and repairs	\$6,000,000
	Highway Fund	100.0%
6030-7701	The department of public works is hereby authorized and directed to install a traffic light in the town of Spencer at the intersection of Route 9 and South Spencer Road.	
	Highway Fund	100.0%

**EXECUTIVE OFFICE OF PUBLIC SAFETY.***Department of Public Safety.*

8000-0108	For the administration of the statewide emergency telecommunications board, as authorized by chapter two hundred and ninety-one of the acts of nineteen hundred and ninety; provided, that the costs of said board, including fringe benefits and indirect costs, shall be assessed on telephone companies, as defined in chapter one hundred and fifty-nine of the General Laws, providing local telephone exchange service in the commonwealth, as authorized by said chapter two hundred and ninety-one	\$75,000
8312-6001	The division of state police is hereby authorized to expend revenues collected up to a maximum of seven hundred thousand dollars from reimbursements received from the motor carrier safety assistance program, including the costs of personnel.	
8312-6050	For the administration and operation of a drug enforcement administration task force; provided, that reimbursements from the federal government for costs incurred in fiscal year nineteen hundred and ninety-one be credited to the same fiscal year	\$40,000
	<i>Division of Fire Prevention and Regulation.</i>	
8314-1100	For the implementation and administration of the underground storage tank program established in chapter five hundred and twenty-four of the acts of nineteen hundred and ninety; provided, that the amount appropriated herein may be used to reimburse item 8314-1000 for expenses incurred for the implementation and administration of said program during fiscal year nineteen hundred and ninety-one, including the costs of personnel	\$30,000
	Underground Storage Tank Petroleum Product Cleanup Fund	100.0%

*Division of Inspection and Regulation.*

8315-1001	The division of inspection is hereby authorized to expend revenues collected up to a maximum of two million two hundred and five thousand dollars from fees charged for elevator inspections, including inspections performed during overtime hours; provided, that all expenditures be made pursuant to item 8315-1000; including the costs of	
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personnel; provided further, that fees for inspections performed during overtime hours be determined by the commissioner of administration; and provided further, that the fee for inspections performed during overtime hours be not less than one hundred dollars.

*Registry of Motor Vehicles.*

- 8400-0003 For the administration of the certificate of title law; provided, however, that all employees of the title division perform only those duties that are directly related to the administration of the certificate of title law, including not more than one hundred and twenty-eight positions

\$99,700

Highway Fund

100.0%

*Civil Defense Agency.*

- 8800-0010 The Massachusetts civil defense agency is hereby authorized to expend an amount not to exceed two hundred and fifty thousand dollars pursuant to section two hundred and ninety-six of chapter one hundred and fifty of the acts of nineteen hundred and ninety; provided, that amounts appropriated herein shall be transferred to item 8800-0200 of this section and expended in accordance with the provisions of said item.

- 8800-0200 The Massachusetts civil defense agency is hereby authorized to expend an amount not to exceed two hundred and fifty thousand dollars pursuant to section one hundred and forty-six of chapter one hundred and fifty of the acts of nineteen hundred and ninety.

**EXECUTIVE OFFICE OF ELDER AFFAIRS.**

*Notwithstanding the provisions of section nine C chapter twenty-nine of the General Laws, items 9110-1630 and 9110-1633, of section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety as reduced by section one A of said chapter shall stand notwithstanding any reduction by His Excellency the Governor.*

**EXECUTIVE OFFICE OF CONSUMER AFFAIRS.**

- 9200-0160 The secretary of consumer affairs is hereby authorized to expend an amount not to exceed one hundred thousand dollars for the expenses of the automobile insurance public education program from funds collected pursuant to section sixty-four of chapter two hundred and seventy-three of the acts of nineteen hundred and eighty-eight.

**SECTION 2C.**

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- 1101-4055 The commissioner of administration is authorized to expend five hundred thousand dollars generated from reimbursements received pursuant to this item for the purpose of conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communication lines, equipment, and services used by the commonwealth; provided, that all state departments and agencies shall participate or assist in such audits and surveys as directed

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by the commissioner. For the purpose of conducting such audits and surveys, the commissioner may enter into agreements with one or more private persons, companies, associations, or corporations; provided, that no such agreement shall be entered into unless proposals for the same have been invited by public notice; provided further, that all such proposals shall be open to the public; provided, that any such agreement shall put forth the manner in which the compensation for such services shall be paid, including payment of a portion of, and only upon receipt of reimbursements from providers of communication services and equipment as a result of savings identified pursuant to this item; and provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item

\$500,000

1599-3100 Notwithstanding the provisions of any general or special law to the contrary, the office of the comptroller is authorized to perform the collection, accounting and payment of the commonwealth's employer contributions to the unemployment compensation fund and medical security trust fund; provided, that in executing these responsibilities the comptroller is authorized to charge against individual appropriation accounts and certain nonappropriated funds amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense, or related charges; provided further, that the comptroller may implement a system of chargebacks and payments that operate with adequate timeliness to encourage administrative efficiency and satisfy all requirements of the law

\$1,260,000



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**SECTION 3.** Section 32B of said chapter 6A, as most recently amended by section 210 of chapter 150 of the acts of 1990, is hereby further amended by adding the following paragraph:-

(g) Notwithstanding any provision of this section or any other provision of law to the contrary, the percentage of charges to be paid to each hospital for Title XIX services, as established for hospital fiscal year nineteen hundred and ninety-one in accordance with paragraphs (b) and (c), shall be further adjusted so that fiscal year nineteen hundred and ninety-one Title XIX payments to acute care hospitals exclude the effect of the hospital fiscal year nineteen hundred and ninety-one inflation allowance to charges provided for in sections seventy-eight to one hundred, inclusive; provided, however, that an acute care hospital may apply to the commission for an increase in Title XIX reimbursement if, during hospital fiscal year nineteen hundred and ninety-one, said hospital has incurred an increase in necessary patient-related expenses which are beyond its reasonable control, that such expenses are not otherwise reflected in the rate established under this section and that any such increases granted by the commission shall not exceed the amount necessary to bring the resulting rate up to the minimum level required for the petitioning hospital to operate in an efficient and economical manner in conformity with applicable state and federal laws, regulations and quality and safety standards established by section thirty-two. The commission shall promulgate regulations implementing this section which shall include a description of the petition process to be followed by qualifying acute care hospitals and criteria by which the petition for relief shall be judged. This paragraph shall not apply to any disproportionate share hospital as defined in section thirty-one.

**SECTION 4.** Section 3B of chapter 7 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following:-

Notwithstanding any other general or special law to the contrary, for the period beginning March first, nineteen hundred and ninety-one and ending June thirtieth, nineteen hundred and ninety-two, the secretary of administration (1) shall determine the amount to be charged by the commonwealth for each service of any kind performed by any state personnel or agency which is primarily for the benefit of any individual person or corporation, other than services for patients in hospitals, clinics and other health facilities and services rendered by institutions of correction for inmates therein; (2) shall determine the charge to be made by the commonwealth for each use for private purposes or gain of state-owned buildings, houses, facilities, and equipment; (3) shall determine the charge to be made by the commonwealth for all meals served in state institutions or facilities to employees thereof; and, (4) shall determine the amount to be charged for any other service, registration, regulation, license, fee, permit or other public function; provided, however, that said secretary shall not determine the rates of tuition at state

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institutions of higher education or any fees or charges relative to the administration and operation of the trial court, appeals court, supreme judicial court or any other department of the judiciary of the commonwealth. Sixty days prior to the increase or decrease of any fee or the setting of any new fee, the secretary of administration and finance shall submit information relative to the purpose for the fee increase or decrease or new fee, and an estimate of the revenues to be raised or reduced thereby, to the senate and house committees on ways and means and the clerks of the house and the senate. Not less than thirty days prior to increasing or decreasing any fee, or setting any new fees, the secretary shall provide public notice of such fee changes and conduct a public hearing thereon, and shall consider any written comments received. Any fee or charge existing as of March first, nineteen hundred and ninety-one, and any new fee or charge established or increased in accordance with the provisions of this section shall continue to be valid after June thirtieth, nineteen hundred and ninety-two.

For the period beginning July first, nineteen hundred and ninety-two, in addition to the above requirements, said secretary shall not increase any existing fee or charge or establish any new fee or charge unless notice of said increase or new fee is filed with the clerks of the house and senate while the general court is in session and the general court has passed a resolve approving said proposed increase or new fee.

**SECTION 5.** The first paragraph of section 4G of said chapter 7 of the General Laws, as most recently amended by section 7 of chapter 260 of the acts of 1990, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The following agencies are hereby declared to be within the executive office for administration and finance: the civil service commission; the municipal personnel advisory board; the Massachusetts commission against discrimination; the Massachusetts office on disability; the finance advisory board; the retirement law commission; the teachers' retirement board established by section sixteen of chapter fifteen; the board of economic advisors; the group insurance commission; the low-level radioactive waste management board, and the office of dispute resolution.

**SECTION 6.** Section 42C of chapter 7 is hereby amended by striking out the second paragraph inserted by chapter 517 of the acts of 1989.

**SECTION 7.** Chapter 16 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out section 1 and inserting in place thereof the following:-

Section 1. There shall be a department of public works, in this chapter called the department, which shall be under the supervision and control of a public works commission, in this chapter called the commission. Said commission shall consist of five members, not more than three of whom shall be of the same political party, who shall be appointed by the governor, with the advice and consent of the

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council. Upon the expiration of the term of each member, his successor shall be appointed by the governor for a term coterminous with that of the governor. One member shall be a person with expert knowledge of and skill in the field of business management, one shall be a person with expert knowledge of and skill in the field of finance, one shall be a person with expert knowledge of and skill in engineering. The governor shall from time to time designate a member of the commission as the commissioner of public works, in this chapter called the commissioner, and the other four members shall be associate commissioners. The commissioner shall be the chairman of the commission. The position of commissioner shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty and he shall devote his full time during business hours to the duties of his office. The commissioner shall give the state treasurer a bond for the faithful performance of this official duties in such penal sum and with such sureties as may be approved by the governor. Each associate commissioner shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. The commissioner shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of this chapter relative to the department and to each division thereof under his control and supervision.

**SECTION 8.** Section 2 of said chapter 16 is hereby further amended by striking out the fourth sentence.

**SECTION 9.** Subsection (B) of section 2 of chapter 18 of the General Laws is hereby amended by adding the following clause:-

(i) if permitted by federal law and determined by the commissioner to be cost-effective, and subject to any other provision of law regarding fees, charge a reasonable fee for any identification card it issues as a replacement for an identification card that has been lost, mutilated, stolen, or destroyed, except if such loss or destruction occurs during the mailing of an original identification card to a recipient or if the department issues replacement cards on its own initiative to classes of recipients; and charge a reasonable fee to providers of services for reviewing and processing incorrect claims.

**SECTION 10.** Section 2 of chapter 21I of the General Laws is hereby amended by striking out the definition of "toxics user", as appearing in section 3 of chapter 265 of the acts of 1989, and inserting in place thereof the following definition:-

"Toxics user", any person who owns or operates any facility that manufactures, processes or otherwise uses any toxic or hazardous substance that is classified in SIC Codes ten through fourteen, inclusive, twenty through forty, inclusive, forty-four through fifty-one, inclusive, seventy-two, seventy-three, seventy-five, or seventy-six.

**SECTION 11.** The definition of "toxic or hazardous substance" of said section 2 of said chapter 21I, as so appearing, is hereby amended by striking out clause

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(4) and inserting in place thereof the following clause:- (4) present in foods, drugs, cosmetics or other personal items used by employees or other persons at a facility;.

**SECTION 12.** Section 19 of said chapter 21I is hereby amended by striking out paragraph (C) and inserting in place thereof the following paragraph:-

(C) The toxics use fee shall be initially determined as set forth in this paragraph. The base fee for each facility shall be five hundred dollars for facilities at which the full-time equivalent of ten or more, but fewer than fifty, individuals are employed; seven hundred and fifty dollars for facilities at which the full-time equivalent of fifty, or more, but fewer than one hundred, individuals are employed; one thousand two hundred and fifty dollars for facilities at which the full-time equivalent of one hundred or more, but fewer than five hundred, individuals are employed; and two thousand five hundred dollars for facilities at which the full-time equivalent of five hundred or more individuals are employed. The base fee shall be increased by three hundred dollars for each toxic or hazardous substance for which the toxics user is required to file a report pursuant to section nine; provided, however, that the maximum fee shall be one thousand five hundred dollars for facilities at which the full-time equivalent of ten or more, but fewer than fifty, individuals are employed; two thousand dollars for facilities at which the full-time equivalent of fifty or more, but fewer than one hundred, individuals are employed; four thousand dollars for facilities at which the full-time equivalent of one hundred or more, but fewer than five hundred, individuals are employed, and eight thousand five hundred dollars for facilities at which the full-time equivalent of five hundred or more individuals are employed.

**SECTION 13.** Paragraph (G) of said section 19 of said chapter 21I, as so appearing, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The secretary shall notify the department of such application.

**SECTION 14.** Section 9P of chapter 22 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the words "section six" in lines 15, 18, and 27 in each instance the words:- or section nine A.

**SECTION 15.** Chapter 23 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by adding the following section:-

Section 13A. The department may accept any gifts or grants of money or property, whether real or personal, from any source, whether public or private, including but not limited to the United States of America or its agencies, for the purpose of assisting the department in the discharge of its duties.

**SECTION 16.** Chapter 29 of the General Laws, as amended by section thirty of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine, is hereby amended by striking out section 5D and inserting in place thereof the following section:-

Section 5D. At the close of each fiscal year, the comptroller shall determine the

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amount expended during the fiscal year from each state fund or accounts comprising such funds, other than the General Fund, for the compensation of state personnel. On the basis of said determination, the comptroller shall charge each such fund or accounts therein an amount for fringe benefit costs attributable to compensation paid from said other funds, based on a fringe benefit rate to be set annually by the commissioner of administration. The amount so charged shall be credited to the General Fund.

The comptroller shall make charges to recover the commonwealth's cost of fringe benefits provided to or on behalf of any person paid compensation by any state agency, state authority, or public institution of higher education, or by any entity otherwise directly or indirectly receiving state funds, from any source other than a direct expenditure of an appropriation charged to a state fund subject to the provisions of the preceding paragraph. The comptroller may establish such systems of periodic charges or billings as he deems necessary and appropriate to ensure the recovery of said costs. Any bill rendered for the purpose of recovery of said costs shall be payable to the comptroller within thirty days of receipt of said bill, provided that all amounts so paid shall be credited to the General Fund.

**SECTION 17.** Section five E of said chapter twenty-nine of the General Laws, as inserted by section forty-five of chapter two hundred and eighty-seven of the acts of nineteen hundred and eighty-nine, is hereby repealed.

**SECTION 18.** Section 29E of chapter 29 of the General Laws, inserted by section 33 of chapter 653 of the acts of 1989, is hereby amended by striking out said section and inserting in place thereof the following section:-

Section 29E. The comptroller is hereby authorized to enter into contracts for the purpose of projects to identify and pursue maximum reimbursement opportunities for certain federally assisted and other programs of the commonwealth and to enter into interagency service agreements with state agencies, as applicable, for the purpose of ensuring maximum reimbursement for the costs of said projects; provided, however, that payments on account of said projects shall be made from, and only upon receipt of, reimbursement for such cost; provided, further, that the comptroller shall establish accounts and procedures within the affected departments as he deems appropriate and necessary to accomplish the purposes of this section. The comptroller shall report on said projects as a part of his annual report under section twelve of chapter seven A.

**SECTION 19.** Subsection (11) of section 22D of chapter 32 of the General Laws, as amended by section 14 of chapter 341 of the acts of 1989, is hereby further amended by inserting at the end thereof the following:- ; provided, further, that annual pension assistance grants shall be payable only to systems which received their first annual pension assistance grants prior to July first, nineteen hundred and ninety-one.

**SECTION 20.** Paragraph (f) of section 21C of chapter 59 of the General Laws,

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as appearing in the 1988 Official Edition, is hereby amended by striking out all of said paragraph following the words "during such fiscal year," in line 94 and inserting in place thereof the following:- or which has had an increase in its assessed valuation over the prior year's valuation unless such increased assessed valuation is due to revaluation of the entire city or town.

**SECTION 21.** The second paragraph of section 4 of chapter 64I of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by adding the following two sentences:- For purposes of such determination, the sales price of any motor vehicle, except a motor vehicle purchased from a vendor registered under this chapter who is regularly engaged in the business of making sales at retail of such motor vehicles, shall be the actual amount paid by the purchaser to the vendor for said motor vehicle or the average value of said motor vehicle, whichever is greater. "Average value" for a motor vehicle shall mean the average trade-in value listed in the National Automobile Dealers Association used car guide.

**SECTION 22.** Section 16B of chapter 71 of the General Laws, as most recently amended by chapter 356 of the acts of 1990, is hereby further amended by inserting after the sixth paragraph the following paragraph:-

A member municipality of a regional school district having three or more members need not hold a meeting of its local appropriating authority to act upon the appropriation of amounts reapportioned and recertified to it if it has previously voted to appropriate for the regional school district an amount equal to or greater than the amount so recertified to it, notwithstanding the provisions of the fifth paragraph of this section. A municipality that does not hold such a meeting prior to expiration of forty-five days from the date on which an amended budget was adopted by the regional school district committee shall be deemed to have voted to appropriate the amounts reapportioned and recertified to it.

**SECTION 23.** Section 12B of chapter 76 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of section twelve, or any other general or special law to the contrary, any child may attend the public school of a city or town where he does not reside upon such terms as the school committee of such city or town where he does not reside shall fix, if it chooses to admit nonresident students; provided, that said school committee shall set and be paid by the commonwealth a tuition rate which shall not exceed the average expense per student for such school, for such type of education as is required by such nonresident student, for the period the child shall attend; and provided, further, that in the case of a regional district school, the sum set by the school committee as such tuition rate shall require the acceptance of the member of the regional district school committee who represents the town in which such school is located. The commonwealth shall pay tuition to the host community. The community in

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which the child resides cannot claim that child as attending its school and the receiving community cannot claim that child as residing in that community. No school committee shall discriminate in the admission of any child, on the basis of race, color, religious creed, national origin, sex, age, ancestry, athletic performance, physical handicap, special need or academic performance, or proficiency in the English language; provided that the Massachusetts commission against discrimination, established by section fifty-six of chapter one hundred and fifty-one B, shall have jurisdiction to enforce the provisions of this sentence. Two school committees may agree to exchange students under a mutual arrangement at no cost to either.

**SECTION 24.** The General Laws are hereby amended by inserting after chapter 92, the following new chapter:-

#### **CHAPTER 92A.**

Commonwealth Zoological Corporation.

Section 1. The following terms as used in this chapter shall have the following meanings except where the context clearly indicates otherwise:

"Board," the Board of Directors of the Commonwealth Zoological Corporation.

"Commission," the Metropolitan District Commission.

"Commissioner," the Chairman of the Metropolitan District Commission.

"Corporation," the Commonwealth Zoological Corporation.

"Member," a member of the Board of Directors of the Commonwealth Zoological Corporation.

"Society," Boston Zoological Society.

"Zoos," Franklin Park Zoo and Walter D. Stone Memorial Zoo.

Section 2. There is hereby created a nonprofit body to be known as the commonwealth zoological corporation. The corporation is hereby placed in the commission, but shall not be subject to the supervision of the commission, nor any office, board, bureau, department, or other agency of the commonwealth, except as specifically provided in this chapter. This shall not preclude the commissioner or his agents from inspecting the books, records, files or premises of the corporation at any time.

The corporation may receive, subject to appropriation, an annual operating subsidy from the commonwealth through a line item in the budget of the commission.

Pursuant to section three of chapter twenty-nine, the corporation may submit a request for such annual operating subsidy to the commission. The commonwealth may also fund, from time to time, major capital improvements and expansion subject to the provisions of section nine of this chapter.

The corporation shall be governed and its corporate powers exercised by the board, which shall consist of eleven members appointed by the governor in the

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following manner: one member chosen from a list of three names submitted by the board of directors of the society; two chosen from a list of nine names, three names submitted by the franklin park advisory committee, three names submitted by the grove hall board of trade, and three names submitted by the franklin park coalition; two chosen from a list of nine names, three names submitted by the middlesex fells zoological society, three names submitted by the stone zoo advisory committee, and three names submitted by the Stoneham board of selectmen; and five other members representing the commonwealth's business, corporate, philanthropic and educational communities. The foregoing members shall be appointed for terms of not less than one year and not more than four years as determined by the governor. Upon expiration of the initial appointment, the governor shall appoint members to four year terms. The commissioner, or his designee, shall serve ex-officio, and shall have full voting privileges.

All members of the board shall exercise full and equal voting privileges. Any person appointed to fill a vacancy shall serve for the remainder of the term. Members shall be eligible for reappointment. Any member may be removed by the governor for just cause.

Seven board members shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote shall be necessary for any action to be taken by the board. The members shall serve without compensation, but each member shall be entitled to reimbursement for necessary expenses incurred in the performance of official duties of the corporation. Said expenses and duties shall be specified in the board's by-laws. Disbursements for these expenses shall be detailed and available for review in the account books of the corporation. The board shall meet at least once a month and shall have authority over the activities of the corporation.

The governor shall appoint a chairperson of the board who shall serve at the governor's pleasure. The board shall also designate a secretary who shall not be a member of the board. The secretary shall keep a record of proceedings of the corporation and detailed minutes of each meeting, and shall be custodian of all books, documents, and papers of the corporation, and its official seal. The secretary shall retain copies of all minutes and other records and documents of the corporation and shall certify such copies' authenticity. The board shall also appoint a treasurer who shall have charge of the books and records of account and accounting records of the corporation and shall be responsible, under the supervision of the president, for financial control of the corporation.

The corporation shall establish procedures by which all meetings of the corporation and the board are open to the public.

The provisions of chapter two hundred and sixty-eight A and chapter two hundred and sixty-eight B shall apply to all members, officers and employees of the corporation; provided, that such members, officers and employees shall be



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authorized to conduct fund-raising activities on behalf of the corporation following notice to the state ethics commission.

Section 3. The board shall select a qualified individual to act as president and chief executive officer. The president shall present to the board for its approval an annual budget, a staffing plan, and an operating plan. The president shall, subject to the approval of the board, supervise the employees of the corporation and of the zoos, and shall have the power to hire and terminate.

Section 4. The corporation shall have the authority to develop a flexible professional personnel system as necessary to attract and hire qualified professional employees to enhance the zoos. The corporation shall establish said professional personnel system, in consultation with the department of personnel administration. The corporation shall set, in consultation with said department, salary scales and establish job classifications for its employees which shall not be subject to the provisions of section forty-six of chapter thirty. The corporation shall possess the management flexibility to establish employment qualifications and to remove and or discipline its employees. The corporation shall establish professional standards of performance and conduct for its employees. All corporation employees shall have the authority to solicit and collect both private and public donations, grants, bequests and devises, conditional or otherwise, of money, real and personal property, services or other things of value on the corporation's behalf and for the corporation's benefit, consistent with the provisions of section four chapter two hundred and sixty-eight A. Neither the corporation nor any of its officers, members, agents, employees, consultants or advisors shall be subject to the provisions of section three B and sections fifteen through twenty-nine inclusive, of chapter seven; sections nine A, forty-five, forty-six C through H, and fifty-two, of chapter thirty; and chapter thirty-one; provided, that in purchasing products or services, the corporation shall at all times follow generally accepted business practices.

The corporation shall be an equal opportunity employer and shall not discriminate in employment practices on the basis of race, creed, color, sex, national origin or physical handicap. The corporation shall establish an affirmative action plan intended to recruit qualified minorities and women into all job levels at the zoos. In making hiring decisions, the corporation shall give preference to persons residing in the municipalities in which the zoos are geographically located.

The corporation shall be subject to section one and chapter one hundred and fifty-one B, shall be deemed to be an agency of the commonwealth for purposes of section two, and shall be subject to the enforcement jurisdiction of the commission against discrimination under said chapter one hundred and fifty-one B. The corporation shall develop policies and programs for affirmative action in employment, procurement and contracting in accordance with law and consistent with general policies and programs of the commonwealth.

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Section 5. The corporation shall have the following powers:

(a) to make, amend, and repeal bylaws, rules and regulations for the management of its affairs;

(b) to adopt an official seal;

(c) to make contracts and execute all instruments necessary or convenient for the carrying on of its business;

(d) to acquire, own, hold, and encumber personal property of any nature or any interest therein in the exercise of its powers and performance of its duties under this chapter; provided, however, that the disposal of any property shall be subject to the approval of the commissioner;

(e) to enter into agreements or transactions with any federal, state or municipal agency or other public institution or with any private individual, partnership, firm, corporation or other entity;

(f) to appear on its own behalf before boards, commissions, departments, or other agencies of federal, state or municipal governments;

(g) to appoint officers in addition to the members;

(h) to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the commonwealth pursuant to section thirty-eight A of chapter twenty-nine;

(i) to accept, hold, use, apply and dispose of any and all donations, grants, bequests and devises, received by the corporation, conditional or otherwise, of money, real and personal property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm or corporation, public or private, such donations, grants, bequests and devises to be held, used, applied, or disposed of for any or all of the purposes specified in this chapter and in accordance with the terms and conditions of any such grant; and provided, that notwithstanding the provisions of section thirty-four A of chapter ninety-two, the corporation shall have full control over the funds of MetroZoos Zoological Trust Fund; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the corporation shall have full control over the funds of the Franklin Park Trust Fund. Receipt of each such donation or grant shall be detailed in the annual report of the corporation; such annual report shall include the identity of the donor or lender, unless anonymity is a condition of the gift, the nature of the transaction and any conditions attached thereto and the account in which the deposited funds are located;

(j) to develop zoological membership programs;

(k) to fix, revise, charge and collect rents, fees and charges for the use of either zoo or its appurtenances by any user;

(l) to prepare, publish, distribute, with or without charge as the corporation may

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determine, such newsletters, reports, bulletins and other materials regarding the zoos and their activities as it deems appropriate;

(m) to charge and retain admissions to each zoo; provided, that the zoos be open to all Massachusetts primary and secondary school groups at no admission charge on a scheduled basis;

(n) to prepare and approve master plans for either zoo or modifications thereto; provided, that such approvals shall have the written concurrence of the commissioner;

(o) to expend monies for the benefit of the activities described herein; provided, that programs, purchases or projects with aggregate annual expenditures in excess of two hundred and fifty thousand dollars, exclusive of staff salaries, routine maintenance, utilities, and animal care costs, shall require the written concurrence of the commissioner;

(p) to retain qualified personnel among its employees to provide security within the zoos; provided, that those employees shall not exercise any police powers; provided further, that full police jurisdiction shall remain with the metropolitan police at the zoos and for all property under the care, custody and control of the corporation; provided further, that the metropolitan police and the corporation shall enter into a memorandum of understanding that the police shall maintain an average level of service at each zoo which shall not be less than the average level of service previously provided during the month of July, nineteen hundred and ninety; and provided further, that the corporation shall be permitted to retain said police on a paid detail basis, as requested, beyond said normal police coverage as specified in the memorandum of understanding;

(q) The board of directors through its by-laws may create a board of trustees. The board of trustees will consist of the number of persons the board of directors deems appropriate. Trustees shall be elected by majority vote of the board of directors pursuant to a nomination process established by the board of directors through its by-laws; provided, that the trustees shall serve without compensation. Eligibility for trusteeship shall be established by the board of directors utilizing its sound discretion to broadly include individuals who through volunteer efforts donate time, expertise, knowledge, financial resources, or other things of value which enrich the zoos as valuable community, educational, cultural, recreational and environmental institutions.

(r) Notwithstanding the provisions of any special or general law, the corporation is empowered to establish grant programs, subject to explicit state appropriation for that purpose, to assist publicly owned zoos within the commonwealth including, but not limited to, the Buttonwood Park Zoo in New Bedford and the Forest Park Children's Zoo in Springfield. The corporation shall administer the program in accordance with such procedures, terms and conditions and criteria which the board deems appropriate for the fair and impartial review of applications

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from qualified public entities.

Section 6. The corporation shall have the following duties and obligations:

(a) The corporation is hereby directed to maintain repair, enhance and otherwise improve the zoos and their collections.

(b) The corporation shall develop within a reasonable time individual master plans for the operation and improvement of each zoo. The preparation and development of the plans may be undertaken in consultation with the franklin park zoo advisory committee and the middlesex fells zoological society and other interested citizens. The plans are to be used as a framework to revitalize each zoo and to ensure that the programs and collections of each zoo compliment one another.

(c) The corporation shall file with the secretary of the commonwealth to establish itself as a chartered nonprofit corporation within the commonwealth.

(d) The corporation shall file with the Internal Revenue Service to establish itself as a nonprofit corporation to ensure that contributions to the corporation are tax deductible.

(e) The corporation shall, to the best of its ability, raise funds and gifts of property or services or both from individuals, corporations, foundations and any other public or private entities for the purpose of enhancing, expanding and maintaining programs, exhibits, buildings, visitor services, and any other purpose consonant with the responsibilities outlined in this chapter. The corporation may establish gift shops, concessions, rentals, membership programs, publications, and other revenue raising devices to meet its obligations to raise funds for operating and capital purposes.

(f) The corporation shall maintain a detailed inventory of its personal property which it shall incorporate in its annual financial report.

(g) The corporation shall maintain detailed records of all expenditures, and may, if requested through the commission, continue to utilize the Massachusetts management, accounting, and reporting system.

The corporation is obligated to preserve and maintain the health, welfare, life quality and humane treatment of the animal populations of the zoos. In furtherance thereof, the corporation may consult with the members of the Boston chapter of the American Association of Zoo Keepers. The corporation may also consult with the Massachusetts Society for the Prevention of Cruelty to Animals, the United States Department of Agriculture, and the American Association of Zoological Parks and Aquariums, as well as local organizations having expertise in conservation, education and management issues relating to zoos, with regard to the animal collection.

Section 7. The corporation shall operate on the same fiscal year as the commonwealth and shall annually submit a detailed fiscal report of the corporation and the zoos' activities within 90 days after the end of each fiscal year to the

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commission and to the clerks of the house of representatives and the senate and the house and senate committee on ways and means.

Section 8. The books and records of the corporation shall be audited biennially by an independent source chosen by the commission, at the expense of the corporation. The commissioner may, at any time, request an audit to be done in addition to the biennial audit.

Section 9. The corporation may request financial assistance from the commonwealth for any capital projects undertaken at the zoos. Capital projects shall not include routine maintenance and minor repairs. The corporation shall consult with the division of capital planning and operations when undertaking any capital construction projects or major renovations costing in excess of twenty-five thousand dollars; provided, however, that the corporation shall not be subject to the provisions of sections thirty-nine A to forty N inclusive, of chapter seven and sections twenty-seven and twenty-seven A through G inclusive, and sections forty-four A to forty-four J inclusive, of chapter one hundred and forty-nine if funded from sources other than the commonwealth.

Section 10. The provisions of this chapter shall be construed to incorporate by reference any existing agreements between the commission and any other entity, public or private, except as otherwise provided in this chapter. The provisions of this chapter shall, to the extent permitted by law, be deemed to supersede any terms or conditions of any existing agreements which are in conflict with the provisions of this chapter.

Section 11. The zoos shall continue to be known as the Franklin Park Zoo and The Walter D. Stone Memorial Zoo, and referred to as the metropolitan parks zoos. The commonwealth shall at all times retain title to all real property and the appurtenances thereon; only the care, custody and control of the zoos shall be transferred to the corporation pursuant to this chapter. The zoos and all real property shall remain a part of the metropolitan parks system. In the event that, for any reason, the corporation dissolves, the commission shall assume responsibility for the zoos and their operation, and all funds, personal property, and animal collections shall revert to the commission.

Section 12. On or before January first, nineteen hundred and ninety-six, the corporation shall submit to the governor and the clerks of the house of representatives and the senate and the house and senate committees on ways and means, a report detailing the state of the zoos, their operation and management, and financial conditions. The report shall be studied with the purpose of determining whether the condition of the zoos has been improved by the corporation or whether the care, control and custody should return to the commonwealth, on behalf of the commission.

**SECTION 25.** Section 132 of chapter 112 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 4, the word

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"four" and inserting in place thereof the following word:- two.

**SECTION 26.** Section 1A of said chapter 117, as appearing in the 1988 Official Edition, is hereby amended by striking out, in lines 4 through 5, the words "inpatient and outpatient hospital services,".

**SECTION 27.** Section 2 of said chapter 117 of the General Laws, as so appearing, is hereby amended by inserting, in paragraph (d), the following:- ; or a person over the age of twenty regularly attending any secondary school.

**SECTION 28.** Section 10 of chapter 118E of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

Notwithstanding the first paragraph of this section, the department may require recipients of medical assistance to pay enrollment fees, premiums, deductibles, coinsurance, copayments or similar cost sharing charges as participants in managed care plans implemented by the department, provided that any waivers of Title XIX provisions regarding such recipient cost sharing are obtained from the secretary of health and human services in conjunction with any other federal approvals and waivers necessary to implement said managed care plans; provided further that, in the absence of such managed care plans, the department shall require, to the extent permitted by Title XIX, that recipients be liable for a copayment of not more than fifty cents toward the purchase of each pharmaceutical product, including prescription drugs and over-the-counter drugs which are available as an optional pharmacy benefit in the medical assistance program, and to require the copayment of three dollars for the use of emergency room services in acute care hospitals for the treatment of nonemergency conditions.

**SECTION 29.** Section 16 of said chapter 118E, as amended by section 297 of chapter 150 of the acts of 1990, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be no adjustment or recovery of medical assistance correctly paid except (a) from the estate of an individual who was an inpatient in a nursing facility or other medical institution when he received such assistance, or (b) from the estate of an individual who was sixty-five years of age or older when he received such assistance; provided however, that in the case of an individual under clause (a) or (b), the adjustment or recovery may be made only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age twenty-one or is blind or permanently and totally disabled. Recovery of assistance provided to individuals under age sixty-five in a nursing facility or other medical institution under clause (a) shall be limited to assistance provided on or after the effective date of this section.

**SECTION 30.** Said chapter 118E is hereby further amended by striking out section 16, as amended by section 298 of said chapter 150, and inserting in place thereof the following section:-

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Section 16. There shall be no adjustment or recovery of medical assistance correctly paid except (a) from the estate of an individual who was an inpatient in a nursing facility or other medical institution when he received such assistance, or (b) from the estate of an individual who was sixty-five years of age or older when he received such assistance; provided, however, that in the case of an individual under clause (a) or (b), the adjustment or recovery may be made only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age twenty-one or is blind or permanently and totally disabled.

**SECTION 31.** Section 16A of said chapter 118E, inserted by chapter 329 of the acts of 1989 and amended by section 299 of chapter 150 of the acts of 1990, is hereby amended by inserting before the first paragraph the following two paragraphs:-

(a) Notwithstanding any provision of law to the contrary, a petition for admission to probate of a decedent's will or for administration of a decedent's estate shall include a statement or be accompanied by an affidavit indicating whether the deceased received medical assistance under this chapter when such deceased was sixty-five years of age or older or while an inpatient in a nursing facility or other medical institution. A petitioner who files for admission of a decedent's will or for administration of a decedent's estate shall, simultaneous with the filing, send a copy of said petition to the department by certified mail if the deceased received medical assistance under this chapter when such deceased was sixty-five years of age or older or while an inpatient in a nursing facility or other medical institution.

In the event a petitioner fails to send such notice to the department and the deceased received such medical assistance when sixty-five years of age or older or while an inpatient in a nursing facility or other medical institution, any person who received a distribution of assets from the decedent's estate shall be liable to the department to the extent of such distribution.

**SECTION 32.** Paragraph (a) of section 16C of said chapter 118E, inserted by section 300 of chapter 150 of the acts of 1990, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding any general or special law to the contrary, upon the death of any individual who received medical assistance under this chapter while sixty-five years of age or older or while inpatient in a nursing facility or other medical institution, the department shall, to the extent it has paid such assistance to or on behalf of such individual, have a lien for the amount of said assistance on the real and personal property of the decedent to the extent includable in the Massachusetts probate estate of the decedent; provided, however, that such lien shall not apply to the extent that such estate has paid or will pay the following: (1) federal and Massachusetts estate taxes; (2) funeral expenses; (3) unpaid mortgages; and (4) expenses of administration.

**SECTION 33.** Paragraph (d) of said section 16C of said chapter 118E, as so inserted, is hereby amended by adding, in the first sentence after the word "older",

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the following:- or was an inpatient in a nursing facility or other institution,.

**SECTION 34.** Said section 16C of said chapter 118E is hereby further amended by inserting at the end thereof the following paragraph:-

(g) The provisions of this section shall only apply to estates of persons dying on or after July first, nineteen hundred and ninety-one.

**SECTION 35.** Said section 15 of said chapter 118F, as so appearing, is hereby further amended by striking out subdivision seven and by inserting in place thereof the following subdivision:-

(7) The department shall establish a managed care program for low income, uninsured individuals served by community health centers, to be funded from the Uncompensated Care Trust Fund.

**SECTION 36.** Section 19 of chapter 118F of the General Laws, as appearing in the 1988 Official Edition, is hereby amended in lines 59 to 70 by striking out subdivisions (7) to (9) and inserting in place thereof the following two subdivisions:-

(8) As of July first, nineteen hundred and ninety-one, the commonwealth shall complete the study of the phase-in initiatives as authorized in section ten.

(9) On January first, nineteen hundred and ninety-four, the program to provide health insurance to employed persons pursuant to section fourteen G of chapter one hundred and fifty-one A shall become effective. Health insurance benefits shall become available to eligible persons as of April first, nineteen hundred and ninety-four.

**SECTION 37.** Section 32 of chapter 121B of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Upon the completion or acquisition of a housing project by a housing authority, it shall be maintained and operated by such authority. It is hereby declared to be the policy of this commonwealth that each housing authority shall manage and operate decent, safe and sanitary dwelling accommodations at the lowest possible cost, and that no housing authority shall manage and operate any such project for profit. To this end an authority shall fix the rentals for dwelling units in its projects so that no tenant is required to pay a rental of more than twenty-seven percent of his income if heat, cooking fuel and electricity are provided by the authority or twenty-two percent of his income if said utilities are not so provided. Any deficiency in the budget of a housing authority caused by such reduced rental shall be paid by the commonwealth to the housing authority in an amount equal to the difference between the tenant's rent and the prorated cost of operating that unit. The commonwealth, acting through the department, may make payments in advance on account of such deficiency in such amounts and at such times as it deems proper. The prorated cost of operations shall be computed on the basis of the operating budget of the housing authority as approved by the department with



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provisions for a full operating reserve. Said rentals together with all other available moneys, revenues, income and receipts of the authority, from whatever sources derived, and together with the requisite annual contribution, will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority; (b) to meet the cost of insurance and the payments in lieu of taxes provided by section sixteen and to provide for maintaining, operating and using the projects and the administrative expenses of the authority; (c) to create, during not less than the twelve years immediately succeeding its issuance of any bonds, notes or other evidences of indebtedness, a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve; and (d) to provide such tenant services for residents of housing projects as the department may approve.

**SECTION 38.** Said section 32 of said chapter 121B of the General Laws, as amended by section 37 of this act, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Upon the completion or acquisition of a housing project by a housing authority, it shall be maintained and operated by such authority. It is hereby declared to be the policy of this commonwealth that each housing authority shall manage and operate decent, safe and sanitary dwelling accommodations at the lowest possible cost, and that no housing authority shall manage and operate any such project for profit. To this end an authority shall fix the rentals for dwelling units in its projects so that no tenant is required to pay a rental of more than thirty percent of his income if heat, cooking fuel and electricity are provided by the authority or twenty-five percent of his income if said utilities are not so provided. Any deficiency in the budget of a housing authority caused by such reduced rental shall be paid by the commonwealth to the housing authority in an amount equal to the difference between the tenant's rent and the prorated cost of operating that unit. The commonwealth, acting through the department, may make payments in advance on account of such deficiency in such amounts and at such times as it deems proper. The prorated cost of operations shall be computed on the basis of the operating budget of the housing authority as approved by the department with provisions for a full operating reserve. Said rentals together with all other available moneys, revenues, income and receipts of the authority, from whatever sources derived, and together with the requisite annual contribution, will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority; (b) to meet the cost of insurance and the payments in lieu of taxes provided by section sixteen and to provide for maintaining, operating and using the projects and the administrative expenses of the authority; (c) to create, during not less than the twelve years immediately succeeding its issuance of any bonds, notes or other evidences of indebtedness, a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and

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to maintain such reserve; and (d) to provide such tenant services for residents of housing projects as the department may approve.

**SECTION 39.** Paragraph (e) of section 40 of chapter 121B of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 44, the word "twenty" and inserting in place thereof the word:- twenty-two.

**SECTION 40.** Said paragraph (e) of said section 40 of said chapter 121B of the General Laws is hereby further amended by striking out the word "twenty-two", as inserted by section 39 of this act, and inserting in place thereof the word:- twenty-five.

**SECTION 41.** Paragraph (e) of said section 40 of said chapter 121B of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 45, the word "twenty-five" and inserting in place thereof the word:- twenty-seven.

**SECTION 42.** Said paragraph (e) of said section 40 of said chapter 121B of the General Laws is hereby further amended by striking out the word "twenty-seven", as inserted by section 41 of this act, and inserting in place thereof the word:- thirty.

**SECTION 43.** Section 44 of said chapter 121B of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 16, the word "twenty-five" and inserting in place thereof the word:- twenty-seven.

**SECTION 44.** Said section 44 of said chapter 121B of the General Laws is hereby further amended by striking out the word "twenty-seven", as inserted by section 43 of this act, and inserting in place thereof the word:- thirty.

**SECTION 45.** Section 44 of said chapter 121B of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 18, the word "twenty" and inserting in place thereof the word:- twenty-two.

**SECTION 46.** Said section 44 of said chapter 121B of the General Laws is hereby amended by striking out the word "twenty-two", as inserted by section 45 of this act, and inserting in place thereof the word:- twenty-five.

**SECTION 47.** Chapter 161 of the General Laws, as appearing in the 1988 Official Edition, as amended, is hereby amended by striking out the second sentence in section 152 and inserting the following language in place thereof:- The board of trustees of a transportation area shall have the power to at one time or from time to time issue bonds and notes for any one or more of the purposes for which a regional transit authority may issue bonds and notes under sections seven, ten and seventeen of chapter one hundred and sixty-one B of the General Laws. The power to issue such bonds and notes shall be subject to the terms set forth in sections seven, ten, eleven, thirteen, seventeen, eighteen, nineteen and twenty of chapter one hundred and sixty-one B of the General Laws. The board of trustees of a transportation area shall have the power to provide for the issue of interest bearing or discounted notes for the purposes and in the amounts that bonds may

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be issued in the same manner and subject to the same limitations as are applicable to regional transit authorities under section twenty-one of chapter one hundred and sixty-one B.

**SECTION 48.** Section 9 of chapter 197 of the General Laws, as amended by section 327 of chapter 150 of the acts of 1990, is hereby amended by striking out paragraph (d) and inserting in place thereof the following paragraph:-

(d) If a deceased received medical assistance under chapter one hundred and eighteen E when such deceased was sixty-five years of age or older or while an inpatient in a nursing facility or other medical institution, section sixteen A of chapter one hundred and eighteen E shall govern the notice to be given to the department of public welfare and such department's claim for recovery under the provisions of section sixteen of chapter one hundred and eighteen E if the department so chooses.

**SECTION 49.** Section 15 of chapter 218 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended in line 7 by striking out the word "daily".

**SECTION 50.** Section three of chapter six hundred and two of the acts of nineteen hundred and eighty-two is hereby repealed.

**SECTION 51.** Sections one and three of chapter seven hundred and fourteen of the acts of nineteen hundred and eighty-three are hereby repealed.

**SECTION 52.** Section seventy-seven A of chapter twenty-three of the acts of nineteen hundred and eighty-eight, as added by section three of chapter twenty-nine of the acts of nineteen hundred and eighty-eight, is hereby repealed.

**SECTION 53.** Section 79 of chapter 23 of the acts of 1988 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The provisions of subsections (b) and (c) of said section fourteen G shall apply to wages paid on or after January first, nineteen hundred and ninety-four.

**SECTION 54.** Section 43 of chapter 150 of the acts of 1990 is hereby amended by inserting at the end of the second sentence the following:- ; provided, further, that said division is hereby authorized to adjust rates of programs previously scheduled as "on-cycle" for the purpose of rate adjustments in fiscal year nineteen hundred and ninety-one, pursuant to said division's recommendations which specifically cite compliance and unanticipated cost issues, as set forth in the report authorized in section forty-four and filed with the house and senate committees on ways and means; and provided further, that said division is authorized to reduce the rate of reimbursement for any program pursuant to chapter seventy-one B of the General Laws to the rate for said program proposed by the rate setting commission for fiscal year nineteen hundred and ninety-one if the proposed nineteen hundred and ninety-one rate is lower than the fiscal year nineteen hundred and ninety rate.

**SECTION 55.** Section forty-five of chapter one hundred and fifty of the acts

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of nineteen hundred and ninety is hereby repealed.

**SECTION 56.** Section one hundred and thirty-three of said chapter one hundred and fifty is hereby repealed.

**SECTION 57.** Section 1 of chapter 150 of the acts of 1990 is hereby amended by adding the following sentence:- No department, board, commission or institution may expend any amount set forth in section two as an authorized expenditure of retained revenue, as defined by section one of chapter twenty-nine of the General Laws, for the compensation of employees unless said section two specifically provides otherwise.

**SECTION 58.** Notwithstanding the provisions of section twenty-four of this act or any other general or special law to the contrary, the rights of all employees of the metropolitan district commission, (the commission), employed at the Walter D. Stone Memorial Zoo and the Franklin Park Zoo, (the zoos), as of the effective date of this section, including permanent and temporary employees, secured by statute or collective bargaining agreements, shall be respected and the commission's management rights secured by statute or collective bargaining agreements shall also be preserved. For the purposes of chapter ninety-two A of the General Laws, all employees assigned to the Franklin Park Zoo and the Walter D. Stone Memorial Zoo as of the effective date of said section twenty-four or who are employees of the commission's metropolitan parks division as of said date shall be considered commission employees. The commonwealth zoological corporation, (the corporation), shall give priority in its hiring to present commission employees who wish to remain employed at the zoos.

In making hiring decisions, the corporation shall consider the importance of employment opportunities to the communities surrounding the zoos, of the continuity and a smooth transition to a well ordered management of the zoos and the welfare of the animal collection.

Notwithstanding the provisions of section twenty-four of this act or any other general or special law to the contrary, the rights of nonmanagement employees secured by statute or collective bargaining agreements in existence shall remain intact at the time of transfer of management responsibility from the commission to the corporation. Neither this section nor chapter ninety-two A of the General Laws shall be construed to diminish or demean the rights of nonmanagement personnel nor be construed as granting new rights which are not in existence at the time of the transfer of management responsibility from the commission to the corporation. Accordingly, each individual employee of the commission's metropolitan parks division presently assigned to the zoos as of the effective date of said section twenty-four, may freely choose whether he or she wishes to apply for employment with the corporation.

The commission and the corporation shall establish a transition period during which the corporation will compete its initial staffing of the zoos, ensuring

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uninterrupted services. By the conclusion of the agreed-upon transition period, all nonmanagement employees of the commission who have either elected to remain with the commission or who were not offered employment by the corporation shall be assigned to other metropolitan parks division responsibilities without impairment of seniority, retirement or other rights of employment and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reassignment. In making reassignments, the commission shall make every good faith effort to ensure that commission employees are reassigned to work locations geographically proximate to their current work location.

The corporation shall apply generally accepted recruitment techniques to recruit personnel, including present commission employees, for the purpose of obtaining employees who would contribute to the best interests of the zoos and help effectuate a smooth transition.

The commission shall establish a transition program which assures the health and well-being of the animal collection; the continuation of essential services at the zoos without interruption; a schedule for the disposition of personnel decisions which provides ample notice to the commission employees of their assignments in accordance with the provisions of this section and section four of chapter ninety-two A of the General Laws; the continued coordination with the division of capital planning and operations of the construction program at the Tropical Forest Pavilion and contiguous areas; a continuing public outreach effort to ensure that all interested parties are kept informed of all relevant developments; and that, within the bounds of public safety, the zoos remain open to the public during the transition period.

In accordance with the aforesaid, the commission shall be further required to establish a transition program which may include, but not be limited to, the following:

(a) The commission is hereby authorized to enter into an agreement with the corporation and the Boston zoological society for the purpose of affecting an orderly transition of management of the zoos from the commission and said society to the corporation. The commission shall ensure that the rights of said society are respected.

(b) The commission is hereby authorized to enter into an agreement with the corporation to transfer to the corporation the care, custody and control of the Franklin Park Zoo, including the areas described as Franklin Park Zoo, Peabody Circle, and the Sausage Glen Lane, and all animals thereof and appurtenances thereon. Franklin Park Zoo shall also include the area of the zoo known as the Children's Zoo and the Community Resource Center.

(c) The commission is hereby authorized to enter into an agreement with the corporation to transfer to the corporation, the care, custody and control of Walter

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D. Stone Memorial Zoo and its two parking lots.

(d) The commission is hereby authorized to enter into an agreement with the corporation to transfer to the corporation care, custody and control of real property, not previously referenced in this section, as long as such property shall be used for purposes specified by the commissioner and consistent with chapter ninety-two A of the General Laws.

**SECTION 59.** Notwithstanding the provisions of any general or special law to the contrary, the department of medical security, the department of public welfare and the rate setting commission are authorized and directed to take any appropriate action to obtain the maximum amount of federal financial participation available for amounts attributable to uncompensated care provided by hospitals including any such amounts paid or payable retroactive to October first, nineteen hundred and eighty-seven. Said appropriate action may include, but shall not be limited to, the assessment of hospitals for uncompensated care or the collection of amounts from hospitals for uncompensated care by the department of medical security or the department of public welfare, or both, or the adjustment of applicable rates or payment on account factors by the rate setting commission. Said appropriate action shall include the establishment of an interagency agreement between the department of public welfare and the department of medical security authorizing the department of public welfare to make deposits into and payments from a separate account established for the purposes of this section within the uncompensated care trust fund created in section seventeen of chapter one hundred and eighteen F of the General Laws. Amounts assessed upon and collected from hospitals pursuant to this section shall be deposited in said separate account within said uncompensated care trust fund, and, notwithstanding any provisions to the contrary of said section seventeen of chapter one hundred and eighteen F, or any other provision of law, regulation or procedure to the contrary, the department of public welfare may expend amounts in separate account within said fund without further appropriation; provided that such expenditures are made for uncompensated care provided by hospitals, and are made in a manner consistent with the requirements of Title XIX of the Social Security Act and the regulations of the health care financing administration concerning the availability of federal financial participation for the medical assistance program established by chapter one hundred and eighteen E of the General Laws. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. In no event shall any action taken pursuant to this section alter the amount owed to, or due from, hospitals pursuant to section fifteen of said chapter one hundred and eighteen F. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection, and expenditure of funds paid to the commonwealth by hospitals pursuant to this

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section.

**SECTION 60.** Notwithstanding the provisions of any general or special law to the contrary, the balance of the Commonwealth Liability Reduction Fund and the Medical Assistance Liability Fund established by section twenty-two of chapter two hundred and eighty-seven of the acts of nineteen hundred and eighty-nine, shall be transferred to the General Fund after all obligations of said funds have been met; provided, however, that the treasurer of the commonwealth shall certify not later than May thirty-first, nineteen hundred and ninety-one that all obligations of said funds have been paid; provided further, that the comptroller shall execute the transfers pursuant to the treasurer's authorization not later than June thirtieth, nineteen hundred and ninety-one; and provided further, that after said transfers have been completed, the comptroller shall dissolve the Commonwealth Liability Reduction Fund and the Medical Assistance Liability Fund.

**SECTION 61.** Notwithstanding the provisions of section thirty-one of chapter twenty-nine of the General Laws, or of any general or special law to the contrary, the commissioner of administration is hereby authorized and directed to establish a centralized biweekly payroll system for all employees currently paid under the weekly payroll system and for all employees under the supervision of the board of regents. Said biweekly payroll system shall conform to such rules and regulations as the commissioner of administration, with the approval of the state treasurer, the comptroller, and the personnel administrator, may make, provided that, within five days of the effective date thereof, said regulations shall be submitted to the clerks of the house and senate, who shall forward the same to the house and senate committees on ways and means. Said regulations shall not be subject to the provisions of chapter thirty A of the General Laws. The comptroller shall prepare and submit to the governor and council, for their approval, a warrant which shall include a sum sufficient to meet the total cost of salaries included within said biweekly payroll system.

**SECTION 62.** The department of education is hereby authorized to transfer up to five hundred and twenty-five thousand dollars from item 7028-0302 of section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety, to items 4202-0021, 4800-0041, 5046-0000, 5047-0000, 5948-0000 and 7061-0012 of said section two for the purposes of funding rate increases for fiscal year nineteen hundred and ninety-one as approved by the division of purchased services for schools pursuant to chapter seventy-one B of the General Laws.

**SECTION 63.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of public welfare and the secretary of human services are hereby authorized and directed to develop a disability review system for medically unemployable persons applying for assistance under the provisions of chapter one hundred and seventeen of the General Laws. Such review shall provide that every reasonable attempt be made on the part

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of medically unemployable persons to apply for applicable benefits under the federal supplemental security income program, and that every effort be made on the part of the department of public welfare to assist said persons in the application process. The secretary of human services shall submit a plan for implementing said disability review system which shall include estimates of both the savings and costs associated with said plan. In developing such plan, the secretary of human services shall consider providing individual plans for rehabilitation or job training for general relief recipients subsequent to the denial of their federal supplemental security income program applications, in order to limit the dependence of temporarily medically unemployable persons upon general relief benefits. Said implementation plan together with recommendations for legislation, if any, shall be filed with the senate and house committees on ways and means no later than June first, nineteen hundred and ninety-one.

**SECTION 64.** The secretary of human services and the commissioner of the department of public welfare are hereby authorized and directed to conduct a study of the impact of eliminating general relief benefits for persons who are over the age of forty-five and without a work history. Said study shall consider the fiscal and policy impact of amending eligibility criteria. Said secretary shall report the results of said study along with any recommendations to the house and senate committees on ways and means on or before June first, nineteen hundred and ninety-one.

**SECTION 65.** The secretary of administration and finance or his designee, the secretary of the executive office of human services or his designee, the associate commissioner of the medicaid program or his designee, the commandant of the Soldiers' Home in Massachusetts or his designee, the superintendent of the Soldiers' Home in Holyoke or his designee and the commissioner of the office of veteran services or his designee, are hereby authorized and directed to review all regulatory requirements for implementing a medicaid certification program at the Chelsea and Holyoke soldiers' homes. Said study shall further review the costs associated with said program including facility renovation, staffing requirements, changes to the billing system, and compliance with life-safety codes. The study shall further consider net changes to state revenues and expenditures, including but not limited to the federal veterans administration's per diem reimbursement, private pay outpatient service collections, veteran domiciliary and hospital fees, and medicaid nursing home reimbursement and federal financial participation rates. Said study shall report all policies, procedures and recommendations for the implementation of said program to the house and senate ways and means committees on or before September first, nineteen hundred and ninety-one.

**SECTION 66.** Notwithstanding the provisions of section thirty-six A of chapter thirty-five of the General Laws, or the terms of the loan authorized by the Emergency Board on June twenty-first, nineteen hundred and eighty-nine for



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Hampshire county, the county is hereby authorized to refund said loan by the issuance of bonds or notes for a period of ten years. Payment on such refunding bonds or notes shall be made in accordance with section twelve of chapter sixty-four D of the General Laws.

**SECTION 67.** The aggregate amount which Hampshire county may borrow pursuant to the provisions of section six of chapter one hundred and ninety-three of the acts of nineteen hundred and eighty-nine shall not exceed five hundred thousand dollars. The county is hereby authorized to refund debt issued pursuant to said section six for a term not to exceed ten years from the date of the original borrowing. Payments on such refunding shall be made in accordance with section twelve of chapter sixty-four D of the General Laws. The authority provided by said chapter one hundred and ninety-three of the acts of nineteen hundred and eighty-nine to issue debt is hereby rescinded to the extent that the debt has been previously issued.

**SECTION 68.** Notwithstanding the provisions of any general or special law to the contrary, the executive office of communities and development is hereby authorized and directed to identify all local housing authorities with reserve fund balances which exceed the required level of such balances, as determined by said executive office, and all local housing authorities so identified shall repay to the commonwealth such excess funds, equal to the amount held in reserve which exceeds the amount required by said executive office to be held in reserve, not later than June thirtieth, nineteen hundred and ninety-one.

**SECTION 69.** The executive office of elder affairs shall conduct a study identifying any and all federal financial participation funds available for home care case management services. The conclusions of said study shall be reported to the house and senate committees on ways and means on or before April first, nineteen hundred and ninety-one.

**SECTION 70.** The secretary of administration and finance is hereby authorized and directed to prepare monthly reports on layoffs initiated in fiscal years nineteen hundred and ninety-one and nineteen hundred and ninety-two and total reduction in force estimates or targets for the end of the year for fiscal years nineteen hundred and ninety-one and nineteen hundred and ninety-two. Said reports shall state by department or agency the number of layoff notices delivered to employees and the number of employees actually laid off in the previous month, and the annualized savings, including salaries, wages and fringe costs, associated with such layoffs. Such report shall include said employees receiving compensation from accounts payable through appropriated funds, trust funds, federal funds, or proceeds from the sale of bonds or notes; provided, however, that said report shall include the account number, the employing agency and the position of such employees. Said reports shall be filed not later than the third Monday of each month with the house and senate committees on ways and means.

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**SECTION 71.** The chief administrative justice of the trial court shall conduct a cost analysis of all rental space of the judicial branch. Said analysis shall ascertain the need for such space and determine the extent of maximization of funds for the space rented. Said analysis, along with any recommendations, shall be filed with the house and senate committees on ways and means on or before June first, nineteen hundred and ninety-one.

**SECTION 72.** The commissioner of administration is authorized and directed to implement a plan for the disengagement of the department of mental retardation from the court ordered consent decrees. Said plan shall include staffing patterns as required for the operation and maintenance of each facility, including their impact on the client population and the provision of certifiable services pursuant to Title XIX of the Social Security Act of each of the seven state schools. Said plan shall further study the costs associated with the full implementation of the existing staffing pattern plan at the state schools for fiscal year nineteen hundred and ninety-two. Said plan shall identify additional community based residences and community day programs, including operational costs, and the consolidation of state schools required for the implementation of said plan. The findings of said study shall be filed with the house and senate committees on ways and means no later than April fifteenth, nineteen hundred and ninety-one.

**SECTION 73.** The secretary of administration and finance is hereby authorized and directed to conduct a study regarding the advisability of implementing a sliding fee scale for tuition paid by state employees attending Massachusetts public colleges and universities. Said study shall review the costs of the Commonwealth of the present policy of permitting state employees to attend state colleges and universities without tuition charges, the impact to any collective bargaining agreements on any sliding fee scale, the feasibility of restricting tuition benefits to state employees attending work related courses, the impact of sliding fee tuition policy on the ability of the commonwealth and its institutions of higher education to recruit employees, and the cost savings to be achieved by implementing a sliding fee tuition policy. Said study, together with drafts of legislation necessary to carry out its recommendations, if any, shall be transmitted to the house and senate committees on ways and means no later than May first, nineteen hundred and ninety-one.

**SECTION 74.** It is hereby found that (1) during the fiscal year ending June thirtieth, nineteen hundred and ninety-one, the economy of the commonwealth of Massachusetts has experienced a deepening recession; (2) the deteriorating economy is preventing the fiscal health of the commonwealth from fully recovering from its fiscal year nineteen hundred and ninety status despite the best efforts of the general court and the governor to balance the state budget; and (3) the budget of the commonwealth of Massachusetts has suffered additional revenue losses because of a poor economy, unfavorable court judgments, and other events.

Therefore, it is hereby declared that the commonwealth faces a fiscal emergency in said fiscal year ending June thirtieth, nineteen hundred and ninety-one, that it is in the best interest of the people of the commonwealth to confer upon the governor the powers which are contained in this section, and that the governor should use these powers and all other powers at his disposal to ensure that state expenditures do not exceed state revenues for the fiscal year ending June thirtieth, nineteen hundred and ninety-one. Therefore, notwithstanding the provisions of other sections of this act or of any other general or special law to the contrary, for the fiscal year ending June thirtieth, nineteen hundred and ninety-one, but not for any subsequent fiscal year, the governor is hereby authorized to make reductions in items of appropriation in section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety as reduced by section one A of said chapter as follows: items of appropriation for all constitutional offices; the judicial branch of government, excluding items 0320-0001, 0321-1500, 0321-1501, 0322-0001, 0330-0100, 0330-2030, 0330-2040, 0330-2200, and 0330-2410; the district attorneys; the office of campaign and political finance, the state ethics commission; the inspector general; and the office of the comptroller; together with their constituent agencies and items within their control, if, as of March fifteenth, nineteen hundred and ninety-one, the revenues for the fiscal year ending June thirtieth, nineteen hundred and ninety-one are estimated by the secretary of administration and finance pursuant to section five B of chapter twenty-nine of the General Laws to be insufficient to meet the expenditures authorized and anticipated in said fiscal year; provided, however, that the governor shall not reduce by more than four percent the amount appropriated for any item of appropriation enumerated herein, and shall not reduce the total of the items in excess of the total shortfall between estimated revenue and anticipated expenditures; provided further that a schedule of all such reductions shall be filed with the chairmen of the house and senate committees on ways and means no later than forty-eight hours prior to their implementation; provided, further, that the authority granted by this section shall be in addition to any other authority of the governor to control expenditures of appropriated funds.

**SECTION 75.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance is hereby authorized and directed to establish the following fees for service; provided, however, that said fees for service shall take effect upon the effective date of this section.

**SECRETARY OF STATE, SECURITIES DIVISION**

(1) Securities Registration

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|--------------------|--|
| (a) Ad valorem fee | 1/20 of 1% of the aggregate amount of the offering in the Commonwealth |
| (b) Minimum fee    | \$300  |
| (c) Maximum fee    | \$1,500  |

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|-----|--|----------------|
| (2) | Open-end Investment Companies Registration |                |
|     | (a) Registration                           | \$2,000        |
|     | (b) Reporting fee                          | \$1,000 annual |
| (3) | Unit Investment Trust Registration         |                |
|     | (a) Registration                           | \$750          |
|     | (b) Reporting fee                          | none           |
| (4) | Broker-dealer Registration Fee             |                |
|     | (initial and renewal)                      | \$300 annual   |
| (5) | Agent Registration Fee                     |                |
|     | (initial, renewal and transfer)            | \$40 annual.   |

**SECTION 76.** The department of public welfare is hereby directed to prepare a detailed fiscal and policy analysis and implementation plan for obtaining maximum federal reimbursement for emergency shelter benefits in order to control growth of the emergency assistance program. Said analysis and implementation plan shall include seeking federal reimbursement for emergency shelter as a special need under Title IV-A of the Social Security Act for families who have been residing in emergency shelters or hotels or motels under the program of emergency assistance for over ninety days, and accessing any other applicable source of federal funds to reduce emergency assistance expenditures. The results of said analysis and recommendations for any further legislation required to implement said plan shall be submitted to the house and senate committees on ways and means no later than June first, nineteen hundred and ninety-one.

**SECTION 77.** The commissioner of the department of social services is hereby directed to conduct a study and investigation with respect to children who are under the legal custody of the department and are also under the supervision of or in the custody of the department of youth services. Said report and investigation shall also include children who are on the department of social services' caseload and are under the supervision of or in the custody of the department of youth services. The commissioner of the department of social services shall work in conjunction with the commissioner of youth services on said report. The commissioner of youth services shall make available to the commissioner of the department of social services all data necessary to complete said study.

The commissioner of social services shall determine the number of such children cared for by the department during fiscal years nineteen hundred and eighty-nine, nineteen hundred and ninety, and nineteen hundred and ninety-one, and examine the level of and type of services those children were receiving from the department of social services prior to their placement with the department of youth services.

The commissioner of social services shall submit a report of his findings to the

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clerks of the house and senate prior to September first, nineteen hundred and ninety-one. Said report shall contain policy and legislative recommendations to achieve such intervention and care of the children under the care of the department of social services as necessary to provide a level of care that includes a preventative component aimed at reducing the number of children cared for by both the department of social services and the department of youth services. Said report shall include recommendations regarding the level of available contracted services necessary to implement said policies.

**SECTION 78.** Notwithstanding the provisions of any general or special law to the contrary, Iris K. Holland shall receive all emoluments of the office of member of the general court in regard to health care insurance, life insurance and any other insurance coverage provided by the group insurance commission to which she would otherwise be entitled had she taken her oath of office on January second, nineteen hundred and ninety-one and such coverage shall continue until she takes her oath of office.

**SECTION 79.** The president of the senate, or his designee, is hereby authorized to transfer amounts, as needed, among line-items 9512-0000 through 9519-7000 and item 9737-0500 of section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety, as reduced by section one A of said act.

**SECTION 80.** The speaker of the house of representatives, or his designee, is hereby authorized to transfer amounts, as needed, among the following line-items: items 9622-8000 through 9634-6000 and item 9737-0000, in section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety, as reduced by section one A of said act.

**SECTION 81.** There is hereby established a special commission for the purpose of making an investigation and study of the provision of health insurance to public employees. The special commission shall consist of seven members to be appointed by the speaker of the house of representatives and four members to be appointed by the president of the senate. Said commission's investigation and study shall examine, but not be limited to, the benefits, premiums, copayments and deductibles incorporated in the health maintenance organization and indemnity plans available to state, municipal and other governmental employees; the use of cost containment mechanisms; the efficacy of alternatives to current methods of grouping public employees for insurance purchasing; the costs and benefits of the current system of administering such benefits and the adequacy of information available for making such insurance purchases, including the cost and utilization of benefits provided under such health care plans. Said study shall consider the fiscal and public policy effects of altering current cost-sharing arrangements for governmental health insurance purchases and the effects of any alterations to such cost-sharing arrangements on the retirees of state, municipal and other governmental units. Said study shall further consider and compare the structure of health

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insurance plans offered by other governmental and quasi-governmental bodies, as well as by private-sector employers and unions. The commission shall issue an interim report, covering the results of its investigation and recommendations, if any, on the aforesaid issues, and file said report with the clerks of the house of representatives and the senate on or before April fifteenth, nineteen hundred and ninety-one.

Said special commission shall also be charged with investigating and studying the benefits, if any, of cafeteria plans that permit employees to select from among various optional plan coverages, as well as the issue of insurance coverage in two-wage-earner households. Finally, the commission shall evaluate and address the cost effectiveness of the commonwealth's contract with the John Hancock Mutual Life Insurance Company, as well as potential savings that might be generated by utilization of preferred payor organizations and increased managed care. The commission shall report final results of its investigation and study, its recommendations, if any, and address the issues listed in this paragraph, by filing a final report with the clerks of the house of representatives and the senate on or before April fifteenth, nineteen hundred and ninety-two.

**SECTION 82.** Effective July first, nineteen hundred and ninety-one, notwithstanding any general or special law to the contrary, for the purposes of sections sixteen C and sixteen D of chapter seventy-one of the General Laws, the Norfolk County Agricultural School, Bristol County Agricultural School and the Essex County Agricultural and Technical Institute shall be considered to be Regional Schools. Provided further, that notwithstanding any general or special law to the contrary, Norfolk County Agricultural School, Bristol County Agricultural School, and the Essex Agricultural and Technical Institute shall be allowed to expend at the level of appropriation both direct and indirect for fiscal year nineteen hundred and ninety-one for said schools plus whatever additional revenue shall be generated as a result of this act and any other additional revenue.

Notwithstanding any general or special law to the contrary, the several counties within the aforementioned schools shall as a first obligation of said counties expend monies at the same level as fiscal year nineteen hundred and ninety-one for direct and indirect costs of said schools and shall not be obligated to expend more than the fiscal year nineteen hundred and ninety-one levels. Provided further, that the Board of Trustees of the several Agricultural Schools may charge tuition in excess of the state approved rate for out of district students in proportion to the appropriation approved in excess of the mandatory appropriations contained in this section. The aforementioned Board of Trustees are further hereby authorized to charge tuition to in-district students an amount which shall be no greater than the net difference between the total direct and indirect costs per student, and the state approved rate.

Any appropriation not spent or obligated in a fiscal year shall be deemed to be

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appropriated in the succeeding fiscal year. For the purposes of this section, indirect costs shall include but not be limited to: health insurance for employees, liability insurance, pension costs, interest and reduction of debt, unemployment and worker's compensation costs. Provided further, that the obligation of Bristol County for the purposes of this section shall not exceed one million dollars.

**SECTION 83.** There is hereby established a medicaid task force on property deeds information consisting of the commissioner of the department of public welfare or his designee, the attorney general or his designee, a representative of the Massachusetts Registers of Deeds and Assistant Registers of Deeds Association, and a representative of the Massachusetts Conveyancers Association. Said task force shall investigate methods of collecting and transmitting to the department of public welfare information concerning property transactions in the commonwealth involving recipients of or applicants for medical assistance, and the impact of the Federal Privacy Act (P.L. 93-579) on any effort to collect and transmit such information. Said task force shall make any recommendations for legislation to the senate and house committees on ways and means no later than June first, nineteen hundred and ninety-one.

**SECTION 84.** Notwithstanding the provisions of sections three hundred and seventy-five and three hundred and eighty-three of chapter one hundred and fifty of the acts of nineteen hundred and ninety, no certificate of release of any lien imposed by section sixteen C of chapter one hundred and eighteen E of the General Laws need be obtained, recorded or filed with respect to the estate of any person dying prior to July first, nineteen hundred and ninety-one, and no license to sell real estate or other decree shall be defective on account of the failure to obtain such certificate of release with respect to any such estate.

**SECTION 85.** The commissioner of education is hereby directed to conduct a study of and develop a plan, if appropriate, to address the transportation requirements of children who participate in the program established by this section. Said commissioner shall also conduct a study of the impact, if any, on the METCO program by the program established by section twenty-three of this act. Both studies shall consider the impact of the implementation of the program established by said section twenty-three for the complete school year nineteen hundred and ninety-one and nineteen hundred and ninety-two and shall be filed with the clerks of the senate and house of representatives who shall forward the same to the senate and house committees on ways and means no later than August first, nineteen hundred and ninety-two.

**SECTION 86.** Notwithstanding the provisions of chapter thirty-two A of the General Laws, or of any general law or special law to the contrary, all retirees, their spouses and dependents insured or eligible to be insured under section five of said chapter thirty-two A, if enrolled in medicare part A at no cost to the retiree, or eligible for coverage thereunder, shall be required to transfer to a medicare health

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benefits supplement plan offered by the group insurance commission under section ten C or section fourteen of said chapter thirty-two A; provided, that benefits under said plan and medicare part A and part B together shall be of comparable actuarial value to those under the retiree's existing coverage. Each retiree shall provide the commission, in such a form as the commission shall prescribe, such information as is necessary to transfer to a medicare health benefits supplement plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The commonwealth shall pay any medicare part B premium penalty assessed by the federal government on said retirees as a result of enrollment in medicare part B at the time of transfer into the medicare health benefits supplement plan. The commission shall analyze the effect of the transfer of coverage under this section on both the health coverage of said retirees and the health insurance expenditures of the commonwealth, and shall report its findings, and recommendations, if any, by filing a report with the clerks of the senate and house, who shall forward the same to the senate and house committees on ways and means, no later than January first, nineteen hundred and ninety-three.

**SECTION 87.** Notwithstanding any general or special law to the contrary, the secretary of administration and finance in consultation with the secretary of human services and the secretary of elder affairs may establish a sliding schedule of fees for the provision of certain services funded by departments and commissions within the executive office of human services and the executive office of elder affairs; provided, however, that no such fee shall be charged to individuals and families whose incomes are at or below two hundred percent of the federal poverty line; provided, further, that any sliding fee scale which is in effect on or before the effective date of this section shall be exempt from the provisions of this section; provided, however, that exemption from this section shall not preclude the secretary of administration and finance, the secretary of executive office of human services or the secretary of elder affairs from adjusting or changing the fee structure of any existing sliding fee scales; provided, further, that the commissioner of such department or commission shall be authorized to adjust or waive a recipient's sliding fee copayment if the commissioner determines that imposition of such a fee would interfere with the recipients ability to receive services for reasons including, but not limited to, financial hardship due to recent disaster or extraordinary medical or rental expenses; provided, further, that the secretary of administration and finance shall file a schedule of such fees, including an estimate of the new costs and revenues resulting therefrom, with the senate and house committees on ways and means at least sixty days before implementation of such fees; and provided, further, that each such department or commission shall provide affected recipients at least sixty days notice of such fees before implementation of such fees.

**SECTION 88.** Notwithstanding the provisions of any general or special law to



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the contrary, the comptroller shall transfer any amount in excess of three million dollars, not to exceed twelve million five hundred thousand dollars from the Environmental Challenge Fund to the General Fund; provided, that the secretary of environmental affairs shall certify that said revenues have been generated as a result of new initiatives to collect outstanding obligations to said Environmental Challenge Fund; provided further, that the transfer shall be executed no later than June thirtieth, nineteen hundred and ninety-one.

**SECTION 89.** The governor is hereby authorized and directed to submit to the legislature an early retirement incentive program together with any recommended legislation. In developing said plan, the governor shall review and take into account the recommendations put forth by the senate post audit and oversight committee. The governor's submission to the legislature shall set forth the incentives to be used, the employees to whom the program will be offered, the time limits within which the program will be offered to the employees and an analysis of the costs and savings that the commonwealth will incur in offering said program. The governor shall submit said program and legislation to the clerk of the house of representatives and the clerk of the senate on or before May fifteenth, nineteen hundred and ninety-one.

**SECTION 90.** (a) A state of fiscal emergency exists in the commonwealth by reason of the current budget deficit and the probability of future budget deficits. It is imperative that the consequences of such financial condition be mitigated and corrected as soon as possible, so as to avert the necessity of a permanent reduction in force of government employees that will jeopardize program operations and the delivery of services vital to the health, welfare and safety of the citizens of this commonwealth. Therefore, as a matter of paramount public policy, during this period of fiscal exigency, the general court finds and declares that a temporary program of furloughs for employees and officers, under the terms of this section, is the least painful means of conserving and utilizing the commonwealth's available monies during this extraordinary period of fiscal constraint while permitting the continuation, without any interruption, of the provision of vital services.

(b) Notwithstanding any general or special law to the contrary, if, as of April seventh, nineteen hundred and ninety-one, revenues for the fiscal year ending June thirtieth, nineteen hundred and ninety-one are estimated by the commissioner of administration, pursuant to section five B of chapter twenty-nine, to be insufficient to meet the expenditures authorized and anticipated in said fiscal year, a temporary program of furloughs, according to the schedule set forth in subdivision (c) of this section, shall be implemented. Said furlough program shall apply to each employee or officer, whether or not elected, in all branches, offices, departments, agencies and authorities of the commonwealth, whose compensation is partially or fully funded by (i) state appropriation; (ii) receipts from bond revenues; (iii) federally funded or reimbursed programs; (iv) trust funds as defined in section one

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of chapter twenty-nine of the General Laws, including without limitation trust funds of the board of regents and institutions of higher education; or (v) authority expenditures; provided, that the furlough program shall not be mandatory for judges, who are, however, recommended to take voluntary leaves of absences in accordance with subdivision (j) of this section.

Each said employee shall elect finally in writing to his immediate manager, by April twelfth, nineteen hundred and ninety-one, one of the following three options, which shall apply to all of the days said employee is furloughed under subdivision (c): He shall take said days as unpaid days off, with the exception that this option shall not be available to critical and essential employees, under the provisions of subdivision (c); continue to work said days without pay and receive a number of bonus paid vacation days, at a rate of one and one-quarter days for each day without pay worked, to be available for use beginning in fiscal year nineteen hundred and ninety-two; or continue to work said days without pay and receive a lump sum, under the terms of subdivision (d) of this section. Employees failing to make such an election shall have an election made for them by their immediate managers. Said temporary furlough program shall take place between April fourteenth, nineteen hundred and ninety-one and June thirtieth, nineteen hundred and ninety-one.

In the event that implementation of such furlough program in a given authority of the commonwealth would result in no savings to the commonwealth, said authority shall make payment in lieu of such furlough program to the commonwealth, in the amount a reduction of staff payroll expenses, in accordance with the provisions of subdivision (c) of this section, would represent, and it is recommended that said authorities absorb the costs of said payment by instituting a temporary furlough program for their employees, under the same terms as those set forth in this section. Notwithstanding the provisions of any general or special law to the contrary, but in conformance with federal law, all savings in personnel expenditures yielded from said temporary furlough program, including savings to agencies and departments funded entirely or in part through assessments, and all payments in lieu of monies owing to implementation of a furlough program, shall be transmitted forthwith to the general fund or to the commonwealth for deposit in the general fund, as appropriate.

(c) Between April fourteenth, nineteen hundred and ninety-one, and June thirtieth, nineteen hundred and ninety-one, employees covered by this section shall be furloughed according to the following schedule:

For each employee whose annual compensation is less than \$20,000, no days; for each employee whose annual compensation is \$20,000 or greater but not more than \$24,999, two days; for each employee whose annual compensation is \$25,000 or greater but not more than \$29,999, four days; for each employee whose annual compensation is \$30,000 or greater but not more than \$34,999, six days; for each

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employee whose annual compensation is \$35,000 or greater but not more than \$39,999, seven days; for each employee whose annual compensation is \$40,000 or greater but not more than \$49,999, eight days; for each employee whose annual compensation is \$50,000 or greater, but not more than \$59,999, ten days; for each employee whose annual compensation is \$60,000 or greater but not more than \$69,999, twelve days; for each employee whose annual compensation is \$70,000 or greater, fifteen days. For the purposes of this section, compensation shall be defined as salary which reflects routine payment for regular work assignments as defined in the glossary of key terms for the PARIS system, so-called.

For determining the number of furlough days for part-time employees, the compensation paid to such employees on a per diem basis shall be adjusted to an annualized basis as if such employees were full-time employees. The number of furlough days employees would be required to take at such annualized compensation, under the schedule set forth in this paragraph, shall then be pro-rated to reflect the percentage of time such part-time employees serve.

The governor, with respect to the executive branch, the speaker of the house of representatives and the senate president, with respect to their chambers of the legislative branch, the chief justice with respect to the judicial branch, and all heads of other constitutional offices and authorities for their offices, are hereby authorized and directed to make rules and regulations, not subject to the provisions of chapter thirty A of the General Laws, after consultation with and approval of the commissioner of administration and the comptroller, for implementing and administering said temporary furlough program, including, but not limited to, procedures for scheduling said furloughs and bonus vacations days, and maintaining records of such matters as employees' options regarding their furlough days, the reduction of each employee's compensation during said period, the bonus vacation days and the lump sum amounts due employees who choose those respective options. In addition, the governor shall determine those positions critical or essential for public safety or public health, and employees in such positions shall not have the option to take their furlough days off without pay, but may choose between one of the other two options; provided, the governor shall notify the senate and house committees on ways and means of his determinations regarding said positions.

(d) Employees who have chosen the option of continuing to work their furlough days unpaid through the temporary furlough period for receipt of a lump sum, and who subsequently retire or otherwise terminate employment, or the beneficiary of such an employee who dies, shall be entitled, within thirty days of such retirement, termination or death, to said lump-sum payment, in an amount equal to said employee's per diem salary foregone as a result of furlough for the number of days required in subdivision (c), as that salary stands either at the time of the furlough, or at the time of such retirement, termination or death, whichever

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is greater; provided, however, no such payment shall be made prior to fiscal year nineteen hundred and ninety-two. The commissioner of administration is hereby authorized and directed to establish and implement a plan to carry out the provisions of this paragraph. Said plan shall provide that no such payment is to be made from the commonwealth's appropriation to a branch, office, department, agency or authority of the commonwealth.

Employees who have chosen the option of continuing to work their furlough days unpaid through the temporary furlough period for receipt of bonus vacation days, and who subsequently retire or otherwise terminate employment before having used all or part of said bonus vacation days, or the beneficiary of such an employee who dies before having used all or part of said bonus vacation days, shall be entitled to payment in an amount equal to said unused bonus vacation days, computed on the basis of said employee's salary as it stands either at the time of the furlough or at the time of such retirement, termination or death, whichever is greater; provided, however, no such payment shall be made prior to fiscal year nineteen hundred and ninety-two. The commissioner of administration is hereby authorized and directed to establish and implement rules, not subject to the provisions of chapter thirty A of the General Laws, to carry out the provisions of this paragraph.

For the purposes of this subdivision, a transfer of employment from one branch, office, department, agency, authority or instrumentality of the commonwealth to another shall not constitute termination of employment.

(e) No employee shall be eligible to use vacation, personal, sick, disability time, compensatory time, or other such leave credits to make up the difference in their level of compensation on account of the temporary furlough program; provided, however, that those employees who return to work during the furlough period, after having been on military leave serving in the Persian Gulf in Operation Desert Shield or Desert Storm shall not be subject to the temporary furlough provisions of this section.

(f) For employees hired and starting work on or after April fourteenth, nineteen hundred and ninety-one, and for employees returning to work after having been on unpaid leave status that began prior to March fourteenth, nineteen hundred and ninety-one, the temporary furlough program provided for in this section shall be applied in the initial days of such employment in accordance with the schedule in subdivision (c).

(g) The temporary furlough program pursuant to this section shall not impair any rights, privileges, status or eligibility of any employee with respect to seniority and employee benefits, other than level of compensation for nineteen hundred and ninety-one, including, but not limited to, health insurance, accidental death and disability benefits, retirement service credit and final average salary under the retirement laws. The provisions of this section shall not result in the loss of any

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accrued vacation days otherwise eligible to be carried over to a subsequent fiscal year.

(h) The governor, commissioner of administration and all other appropriate officials are hereby authorized and directed to take all actions necessary relative to all existing and future collective bargaining agreements to meet the requirements of this section. All public employers covered by this section shall meet and negotiate in good faith with all employee organizations representing collective bargaining units of officers and employees affected by the temporary furlough program, concerning said program. Notwithstanding the provisions of subdivisions (b), (c) and (f) of this section, where any such public employer and employee organization enter into an agreement on or before April fourteenth, nineteen hundred and ninety-one for an alternative procedure for realizing personnel savings equivalent to the savings which would be effectuated by the furlough program under this section, for all members of that collective bargaining unit, such alternative procedure may be implemented in lieu of said furlough program. Employees of any branch, agency, department, office or authority which has by March fourteenth, nineteen hundred and ninety-one implemented, or signed an agreement to implement, a plan to achieve personnel savings involving the reduction of compensation for employees, shall be credited for the number of days of compensation foregone under said plan, against the number of days of furlough required under subdivision (c) of this section; provided, said credit shall not extend beyond the number of days of furlough required under subdivision (c).

(i) Notwithstanding any general or special law to the contrary, if as of April seventh, nineteen hundred and ninety-one, revenues for the fiscal year ending June thirtieth, nineteen hundred and ninety-one are estimated by the commissioner of administration to be insufficient to meet the expenditures authorized and anticipated in said fiscal year, the commissioner of administration is hereby directed to reduce all consultant contracts by one percent, and to reduce by one percent all purchase of service contracts, based on the total value provided in section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety, as further reduced by section one A of said chapter one hundred and fifty and any amounts withheld by the governor pursuant to section nine C of chapter twenty-nine of the General Laws. Said commissioner is directed to recommend to consultants and providers under such contracts, that they absorb said reduction by instituting a furlough program for themselves and their employees, under the same terms as those set forth in this section.

(j) In addition to any and all existing rights under general or special laws, or agreements, employees may, entirely at their option, be entitled to take leaves of absences between April first, nineteen hundred and ninety-one and June thirtieth, nineteen hundred and ninety-one, of at least one working day, and not to exceed three months, in duration, after providing notice to, and receiving the approval of,

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the heads of their branches, agencies, departments, offices or authorities, by April seventh, nineteen hundred and ninety-one. Any employee who takes such a leave of absence shall not receive pay during the period of leave; provided, however, that time spent on leave of absence shall not impair any other rights, privileges, status or eligibility of any state employee based on length of service, including seniority, allowed vacation time, retirement service credit and final average salary under the retirement laws. Health and insurance benefits including, without limitation, policies of group life insurance, group accidental death and disability insurance, and the group general or blanket hospital, surgical, medical, dental and other health insurance provided for an employee of the commonwealth shall be continued for said employee for such period of leave of absence; provided, however, that notwithstanding any general or special law, rule or regulation to the contrary, the employee shall make payment of the portion of the total monthly premium or rate that would have otherwise been deducted from his salary, wages or other compensation had such employee not taken such leave, and the commonwealth shall contribute the remaining amount of any such premium cost. Any employee taking such leave of absence shall be credited for the number of days of said leave against the number of days of furlough required under subdivision (c) of this section; provided, said credit shall not extend beyond the number of days of furlough required under subdivision (c); and provided further, all savings realized as a result of such leaves of absences shall be transmitted forthwith to the general fund.

(k) The commissioner of administration shall authorize and direct all agency heads to develop, and encourage implementation of, job-sharing plans for their employees.

(l) Notwithstanding any general or special law to the contrary, the governor is hereby authorized and directed to set the level of compensation paid to every cabinet secretary, undersecretary, or commissioner at the level of compensation that the person holding such position received on October first, nineteen hundred and ninety; provided, moreover, that the level of compensation for any cabinet secretary, undersecretary and commissioner position created since October first, nineteen hundred and ninety shall be comparable to the compensation level for comparable positions affected by this paragraph.

(m) Notwithstanding the provisions of any general or special law to the contrary, the state treasurer is hereby authorized and directed to establish the following public employee pension account draw-down program with the following provisions:

(i) Every public employee who is a member of the contributory retirement system established pursuant to chapter thirty-two of the General Laws and who is required to participate in the temporary furlough program under this section is hereby authorized to draw down on the accumulated total deductions in such

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employee's account in the annuity savings fund of the system to which such employee belongs.

(ii) The amount which such employee is hereby authorized to so draw down shall not exceed either the total amount of such employee's compensation which shall be reduced on account of said furlough program or the total amount of accumulated total deductions for such member as of March thirty-first, nineteen hundred and ninety-one, whichever is the lesser amount.

(iii) The state treasurer shall notify such employees of said drawn-down program no later than April first, nineteen hundred and ninety-one. Each such employee may elect to draw down a portion of the amount allowed under said program in each of the three months of April, May, and June of nineteen hundred and ninety-one. The amounts elected to be drawn-down shall be paid as an emergency draw to the employee but shall not be deducted from the compensation paid to such employee during such months. The amount of draw-down shall be deducted from the accumulated total deductions in his account in the annuity savings fund.

(iv) Each employee who elects to draw-down from his annuity savings account must repay to said account the entire amount of the draw-down plus regular interest prior to the date of his retirement in order to be eligible for a retirement allowance, or within five years of the date of such draw-down, whichever is sooner. The state treasurer is hereby authorized and directed to establish reasonable schedules that will allow such employees to repay such draw-down and regular interest through installments. If such employee leaves government service and requests a return of his accumulated total deductions, he shall receive the amount of his accumulated total deductions less any amount of accumulated total deductions plus regular interest drawn down and not repaid in accordance with this subdivision.

(n) The provisions of this section shall be deemed severable, and if any part of this section shall be adjudged unconstitutional or invalid, such judgment shall not affect the validity of other parts thereof.

**SECTION 91.** There is hereby established a special commission on special education, to consist of three members of the senate, five members of the house of representatives, the commissioner of administration, the commissioner of education, the secretary of the executive office of human services, a representative of the Massachusetts advocacy center, a representative of the disability law center, a representative of the Massachusetts association of 766 approved private schools, a representative of the Massachusetts association of special education administrators, a representative of the Massachusetts municipal association, a representative of the Massachusetts association of school superintendents, a representative of the Massachusetts association of school committees, a representative of the Massachusetts association of regional schools, one parent of a Massachusetts public school

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student who is receiving special education, and one parent of a Massachusetts public school student who is not receiving special education; provided, however, that the members of the senate shall be appointed by the president of the senate, the members of the house of representatives shall be appointed by the speaker of the house, each representative of an organization shall be designated by the respective organization represented, and the parents shall be appointed by the governor.

Said commission is hereby authorized and directed to investigate and study the costs and benefits of special education programs in the commonwealth, and to analyze and evaluate issues relevant to any reforms needed to improve efficiency or control costs in the special education system and to ensure equitable treatment of children with and without special needs, including but not limited to the following issues: the rate at which children are placed in special education programs in Massachusetts as compared to other states; the availability of individualized education programs designed to enable children without special needs to function in the regular classroom; the definition of special needs and the standards for special needs programs in Massachusetts as compared to the definition and standards in other states and in the federal education of handicapped children program; the extent to which Massachusetts children are in fact provided with special education in the least restrictive alternative environment as compared with children in other states; the actual costs and the rate of cost increases of Massachusetts special education programs as compared with programs in other states; the costs and the necessity of special transportation provided to students with special needs; the numbers of children placed in private residential and non-residential special education programs in Massachusetts, and the costs of such programs; the availability of alternative funding sources for special education programs.

Said commission may travel within the commonwealth and may conduct public hearings. Said commission shall file its report, including recommended legislation, rule changes or implementation reforms, with the house and senate committees on ways and means and the joint legislative committee on education no later than June first, nineteen hundred and ninety-one.

**SECTION 92.** Notwithstanding the provisions of section sixteen of chapter one hundred and eighteen F of the General Laws or any other general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, as of June thirtieth, nineteen hundred and ninety-one, eight million dollars from the public sector responsibility account of the Medical Security Trust Fund to the General Fund without further authorization.

**SECTION 93.** The secretary of administration and finance is hereby authorized and directed to establish a Quabbin Watershed Management Access Fee pursuant to chapter four hundred and thirty-six of the acts of nineteen hundred and ninety.



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**SECTION 94.** Notwithstanding any general or special law to the contrary, during fiscal year nineteen hundred and ninety-one and fiscal year nineteen hundred and ninety-two, no person shall be hired nor shall any personnel vacancy be filled in any agency or department of state government unless said personnel vacancy or person to be hired performs a critical or essential service and the commissioner of administration and finance certifies in writing to the chairman of the house and senate committees on ways and means that such person is being hired to perform a critical and essential service.

**SECTION 95.** Sections thirty-seven, thirty-nine, forty-one, forty-three and forty-five shall take effect on July first, nineteen hundred and ninety-one. Sections thirty-eight, forty, forty-two, forty-four, and forty-six shall take effect on July first, nineteen hundred and ninety-two.

**SECTION 96.** (a) Section twenty-three shall take effect on June thirtieth, nineteen hundred and ninety-one. Section seventy-eight shall take effect on January first, nineteen hundred and ninety-one. Sections twenty-four, fifty-seven and fifty-eight shall take effect on July first, nineteen hundred and ninety-one. Section fifty-nine shall take effect on October first, nineteen hundred and eighty-seven.

(b) Section twenty-nine shall become inoperative on June thirtieth, nineteen hundred and ninety-five. Section thirty shall take effect on July first, nineteen hundred and ninety-five.

(c) Except as provided in this section, the previous section, or as otherwise provided in this act, the provisions of this act shall take effect upon enactment.

**SECTION 97.** The provisions of this act shall be deemed severable, and if any part of this act shall be adjudged unconstitutional or invalid, such judgment shall not affect the validity of other parts thereof.

\*Sections 7, 36, 53, 57, 93, 94 and 90(l) disapproved and returned to the House of Representatives March 22, 1991. The remainder Approved March 22, 1991.

Governor's veto of Section 90(l) was overridden in the House of Representatives on April 1, 1991 and was overridden in the Senate April 23, 1991.

## **Chapter 7.**

### **AN ACT RELATIVE TO EXTENDING TAX FILING AND PAYMENT DEADLINES FOR THOSE SERVING IN THE PERSIAN GULF DURING OPERATION DESERT SHIELD OR DESERT STORM.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately extend tax filing and payment deadlines for taxpayers of the commonwealth serving in combat areas or their spouses, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 62C of the General Laws is hereby amended by adding the following section:-

Section 81. (a) In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive Order as a "combat zone" for purposes of section one hundred and twelve of the Code, at any time during the period designated by the President by Executive Order as the period of combatant activities in such zone for purposes of such section, or hospitalized as a result of injury received while serving in such area during such time, the period of service of such area, plus the period of continuous qualified hospitalization attributable to such injury, and in all cases under this section, the next one hundred and eighty days thereafter, shall be disregarded in determining, under the laws of the commonwealth, in respect of any tax liability, including any interest, penalty, additional amount, or addition to the tax of such individual:-

(1) Whether any of the following acts was performed within the time prescribed therefor:-

(A) filing any returns of income or estate tax, except income tax withheld at source;

(B) payment of any income or estate tax, except income tax withheld at source, or any installment thereof or of any other liability to the commonwealth in respect thereof;

(C) filing an application for abatement of any tax under section thirty-seven;

(D) filing a petition for abatement with the appellate tax board or probate court under section thirty-nine;

(E) allowance of a credit or refund of any tax;

(F) bringing suit upon any claim for credit or refund of any tax;

(G) assessment of any tax;

(H) giving or making any notice or demand for the payment of any tax, or with respect to any liability to the commonwealth in respect of any tax;

(I) collection, by the commissioner, by levy or otherwise, of the amount of any liability in respect of any tax;

(J) bringing suit by the commonwealth, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) any other act required or permitted under the laws of the commonwealth specified in regulations prescribed under this section by the commissioner.

(2) The amount of any credit or refund including interest.

(b) The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a) for any taxable year beginning two years

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or less after the date designated under section one hundred and twelve of the Code as the date of termination of combatant activities in a combat zone.

(c) The period of service in the area referred to in subsection (a) shall include the period during which an individual entitled to benefits under subsection (a) is in a missing status within the meaning of section six thousand and thirteen (f)(3) of the Code.

(d) The application of subsection (a) shall be limited in the following manner under the following circumstances:

(1) if the commissioner determines the collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the commissioner is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the commissioner is in an area for which United States post offices under instructions of the United States Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed; and

(2) the assessment or collection of any tax or of any liability to the commonwealth in respect of any tax, or any action or proceeding by or on behalf of the commonwealth in connection therewith, may be made, taken, begun or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(e) Any individual who performed Desert Shield services and the spouse of such individual shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a). For purposes of this subsection, the term "Desert Shield services" means any services in the Armed Forces of the United States or in support of such Armed Forces if:

(1) Such services are performed in the area designated by the President of the United States pursuant to section seven thousand five hundred and eight (f)(2)(A) of the Code as the "Persian Gulf Desert Shield area"; and

(2) Such services are performed during the period beginning on August second, nineteen hundred and ninety, and ending on the date on which any portion of the area referred to in subparagraph (1) is designated by the President of the United States as a combat zone pursuant to section one hundred and twelve of the Code.

(f) For purposes of subsection (a), the term "qualified hospitalization" means:

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- (1) any hospitalization outside the United States,
- (2) any hospitalization inside the United States except that not more than five years of hospitalization may be taken into account under this subsection; provided, however, that this paragraph shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a).

**SECTION 1A.** Section 5 of chapter 59 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the word "poverty", in line 417, and inserting in place thereof the following words:- poverty or financial hardship resulting from a change to active military status, not including initial enlistment.

**SECTION 2.** This act shall take effect as of August second, nineteen hundred and ninety.

Approved March 22, 1991.

**Chapter 8.                    AN ACT RELATIVE TO A CERTAIN SUPERIOR COURT OFFICER OF THE TRIAL COURT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a sick leave bank for a certain superior court officer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law or any rule or regulation to the contrary, the trial court of the commonwealth is hereby authorized and directed to establish a sick leave bank for superior court officer John Grimaldi. Each employee in the bargaining unit represented by Local 254 S.E.I.U. may voluntarily contribute one or more of his sick days to said bank for use by superior court officer John Grimaldi.

Approved March 25, 1991.

**Chapter 9.                    AN ACT RELATIVE TO UNEMPLOYMENT INSURANCE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately maximize eligibility for federal reimbursements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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*Be it enacted, etc., as follows:*

**SECTION 1.** Section 23 of chapter 151A of the General Laws is hereby amended by striking out subsection (f).

**SECTION 2.** Said chapter 151A is hereby further amended by striking out section 30, as most recently amended by section 285 of chapter 177 of the acts of 1990, and inserting in place thereof the following section:-

Section 30. (a) Except as provided in subsection (b), the total benefits which an unemployed individual may receive during his benefit year shall be an amount equal to thirty-six percent of his wages in the base period, or an amount equal to thirty times his benefit rate, whichever is less, plus dependency benefits payable under section twenty-nine. If such amount includes a fractional part of a dollar, it shall be rounded to the next lower full dollar amount.

(b) For any week of unemployment which falls in an extended benefit period as defined in paragraph (a) of subsection (1) of section thirty A, an individual's eligibility for benefits in excess of twenty-six times the individual's weekly benefit amount, plus dependency benefits payable under section twenty-nine, shall be subject to terms and conditions set forth in subsection (3) of said section thirty A.

(c) If in the opinion of the commissioner, it is necessary for an unemployed individual to obtain further industrial or vocational training to realize employment, the total benefits which such individual may receive shall be extended by eighteen times the individual's benefit rate, if such individual is attending an industrial or vocational retraining course approved by the commissioner, provided however, that such additional benefits shall be paid to the individual only when attending such course and only if such individual has exhausted all rights to regular and extended benefits under this chapter and has no rights to benefits or compensation under this chapter or any other state employment compensation law or under any federal law; and provided, further, that any benefits paid to an individual under the provisions of this paragraph which would not be chargeable to the account of any particular employer under the provisions of section fourteen shall be charged to the solvency account. An individual eligible to receive a trade readjustment allowance under Chapter 2 of Title II of the Trade Act of 1974, as amended, shall not be eligible to receive additional benefits under this section for each week the individual receives such trade readjustment allowance.

**SECTION 3.** Subsection (b) of section thirty of chapter one hundred and fifty-one A of the General Laws shall apply to any week of unemployment occurring on or after the effective date of this act but shall not apply to individuals who on the effective date of this act have received an amount equal to or greater than twenty-six times their weekly benefit amount, plus dependency benefits payable under section twenty-nine of said chapter one hundred and fifty-one A.

Approved March 28, 199

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**Chapter 10.**

**AN ACT RELATIVE TO THE GRANTING OF LICENSES FOR  
THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN  
ORGANIZATIONS IN THE TOWN OF SHARON.**

*Be it enacted, etc., as follows:*

Notwithstanding any limitation imposed by section eleven of chapter one hundred and thirty-eight of the General Laws as to the time and manner of voting upon the question therein set forth, and to section seventeen of said chapter one hundred and thirty-eight as to the number thereof, the town clerk of the town of Sharon shall cause to be placed on the official ballot to be used in said town of Sharon at the next annual town meeting for the election of officers, the following question:-

“Shall licenses be granted in the town of Sharon for the sale therein of all alcoholic beverages by war veterans’ organizations and by clubs, as defined in section one of chapter one hundred and thirty-eight of the General Laws, which operate standard size nine or eighteen hole golf courses?”

YES	
NO	

If a majority of the votes cast in said town in answer to said question is in the affirmative, said town shall be taken to have authorized the sale in said town of all alcoholic beverages to be drunk on the premises of veterans’ organizations as defined and limited in section twelve of said chapter one hundred and thirty-eight and clubs which operate standard size nine or eighteen hole golf courses, notwithstanding any provisions of said section twelve to the contrary. Said licenses shall be subject to all other provisions of said chapter one hundred and thirty-eight.

Approved April 1, 1991.

**Chapter 11.**

**AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO  
APPLY SEWER USER FEES TO REDUCE THE PROPERTY  
TAX LEVY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Pittsfield is hereby authorized for the fiscal year nineteen hundred and ninety-two and thereafter to apply the amount collected as a sewer user fee, so-called, to reduce the property tax levy in said city for said fiscal

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year and thereafter on an annual basis.

**SECTION 2.** The clerk of the city of Pittsfield shall cause to be placed on the official ballot to be used at the municipal election to be held in the year nineteen hundred and ninety-one in the city of Pittsfield, or a special municipal election called for such purpose, the following question:-

“Shall the city of Pittsfield reduce its property tax levy by the amount collected under a sewer user fee beginning in fiscal year nineteen hundred and ninety-two?” If a majority of the voters in answer to said question is in the affirmative, then section one shall take full effect, but not otherwise.

**SECTION 3.** This act shall take effect upon its passage.

Approved April 2, 1991.

**Chapter 12.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Catherine P. Sabaitis, as she is an associate justice of the probate and family court department of the trial court on April sixth, nineteen hundred and ninety-one between Donna L. Blanchard of the town of North Attleboro and Robert L. Fougere of the town of Franklin, and the state secretary shall issue to said Catherine P. Sabaitis in her capacity as aforesaid a certificate of such authorization.

Approved April 3, 1991.

**Chapter 13.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage,

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therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by George Lebherz, a justice in the district court department of the trial court of the commonwealth, in the town of Falmouth on April sixth, nineteen hundred and ninety-one between Romi Fay Herr of the city of Medford and Christopher Grant Lebherz of the town of Falmouth, and the state secretary shall issue to said George Lebherz in his capacity as aforesaid a certificate of such authorization.

Approved April 3, 1991.

**Chapter 14.            AN ACT FURTHER REGULATING CRIMINAL OFFENDER  
RECORD INFORMATION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate criminal offender record information, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The third paragraph of section 168 of chapter 6 of the General Laws is hereby amended by striking out the last two sentences, added by section 4 of chapter 319 of the acts of 1990, and inserting in place thereof the following two sentences:- After consultation with the executive office of communities and development and subject to the provision of said chapter thirty A, the board shall promulgate further regulations governing the collection and use by local housing authorities of such criminal offender record information as they may lawfully receive; provided, however, that such regulations shall provide that the following information be available to housing authorities operating pursuant to chapter one hundred and twenty-one B, upon request, solely for the purpose of evaluating applicants to housing owned by such housing authorities, in order to further the protection and well-being of tenants of such housing authorities: conviction data; and arrest and other data regarding any pending criminal charge; provided, further, that any housing authority receiving such data shall not make, and shall prohibit, any dissemination of such information, for any purpose other than as set forth



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herein. The board shall have the authority to hear complaints alleging that criminal offender record information, evaluative information, or records of juvenile proceedings have been unlawfully disseminated or obtained, and to issue orders enforcing its rules and regulations, including the imposition of civil fines payable to the commonwealth not to exceed five hundred dollars for each willful violation thereof, after notice and hearing as provided by applicable law.

**SECTION 2.** This act shall take effect as of March fourteenth, nineteen hundred and ninety-one.

Approved April 4, 1991.

**Chapter 15.           AN ACT EXEMPTING THE POSITIONS OF CHIEF ENGINEER OF THE FIRE DEPARTMENT AND CHIEF OF THE POLICE DEPARTMENT IN THE TOWN OF WELLESLEY FROM THE PROVISIONS OF CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the acceptance by the town of Wellesley of the provisions of chapter thirty-four of the acts of nineteen hundred and thirty-two, the position of chief engineer of the board of fire engineers of said town shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of the incumbent of said position on the effective date of this act.

**SECTION 3.** The provisions of sections one and two of this act shall become effective only if the majority of the votes cast in answer to the following question, which shall be printed on the official ballot for the next annual or special election in the town of Wellesley, is in the affirmative:- "Shall the town revoke its acceptance of chapter thirty-four of the acts of nineteen hundred and thirty-two and remove the position of the chief engineer of the board of fire engineers of the town of Wellesley from the provisions of civil service law and rules for the employment of any successor to the incumbent, if any, of said position?"

**SECTION 4.** Notwithstanding the acceptance by the town of Wellesley of the provisions of chapter four hundred and sixty-eight of the acts of nineteen hundred and eleven, the position of chief of police of said town shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 5.** The provisions of section four shall not impair the civil service status of the incumbent of said position on the effective date of this act.

**SECTION 6.** The provisions of sections four and five shall become effective only if the majority of the votes cast in answer to the following question, which shall be printed on the official ballot for the next annual or special election in said town

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of Wellesley, is in the affirmative:- "Notwithstanding the town's acceptance of the provisions of chapter four hundred and sixty-eight of the acts of nineteen hundred and eleven, shall the town remove the position of chief of the police department of the town of Wellesley from the provisions of civil service law and rules for the employment of any successor to the incumbent, if any, of said position?"

**SECTION 7.** This act shall take effect upon its passage.

Approved April 5, 1991.

**Chapter 16.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Bruce M. Selya as he is a judge of the United States Court of Appeals for the First Circuit in the city of Boston on April twentieth, nineteen hundred and ninety-one between Elissa Anne Gordet and Thomas Manuel Franco both of the city of Boston, and the state secretary shall issue to said Bruce M. Selya in his capacity as aforesaid a certificate of such authorization.

Approved April 5, 1991.

**Chapter 17.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

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Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Richard Stern in the city of Boston on September twenty-first, nineteen hundred and ninety-one between Helene Stern and Robert Dumas both of the town of Brookline, and the state secretary shall issue to said Richard Stern a certificate of such authorization.

Approved April 5, 1991.

**Chapter 18.           AN ACT AUTHORIZING THE STATE SECRETARY TO SOLEMNIZE A CERTAIN MARRIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth in said section thirty-nine, the solemnization of a marriage by Judge Julian Abele Cook, Jr. of Troy, Michigan, in the town of Orleans on September first, nineteen hundred and ninety-one between Carolyn Nancy Lerner of Detroit, Michigan and Dwight Phillip Bostwick of Bethesda, Maryland, and the state secretary shall issue to said Julian Abele Cook, Jr. in his capacity as aforesaid a certificate of such authorization.

Approved April 5, 1991.

**Chapter 19.           AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PLYMOUTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The charter of the town of Plymouth which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out section 1-3-1 and inserting in place thereof the following section:-

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1-3-1 This charter provides for the representative town meeting-selectmen-town manager form of government.

**SECTION 2.** Said charter is hereby further amended by striking out section 2-3-2 and inserting in place thereof the following section:-

2-3-2 The quorum necessary for the conduct of any business shall be seventy members. A smaller number than the established quorum however, shall adjourn any meeting forthwith to a stated date, time, and place.

**SECTION 3.** Said charter is hereby further amended by striking out section 2-8-1 and inserting in place thereof the following section:-

2-8-1 All town officers, the town manager, the town engineer, chairpersons of the advisory and finance committee and of all boards and commissions or their designated representatives, and all department heads shall attend all sessions of the representative town meeting. They shall have all the privileges of representative town meeting members except the power to vote unless they have been elected to the office of town meeting member. The absence of any such person shall not invalidate the actions of the town meeting.

**SECTION 4.** Said charter is hereby further amended by striking out chapter 3 and inserting in place thereof the following chapter:-

#### CHAPTER 3:

#### THE EXECUTIVE BRANCH: THE BOARD OF SELECTMEN AND THE TOWN MANAGER

##### Section 1: The Board of Selectmen: Composition and Terms

3-1-1 A Board of Selectmen of five members shall be elected for three year overlapping terms. The regular election for the office of selectmen shall be held in accordance with chapter 5.

3-1-2 Vacancies in the office of selectmen shall be filled by special election in accordance with MGL Chapter 41:10.

##### Section 2: General Powers and Duties

3-2-1 The Board of Selectmen shall be the chief executive office of the town. It shall serve as the goal setting, long-range planning and policy-making body of the town. It shall make recommendations on major courses of action to town meeting and adopt policy directives and guidelines for implementation by the officers, boards, committees, commissions and employees of the town.

3-2-2 The Board of Selectmen shall have the power to enact rules and regulations to implement its policies.

3-2-3 The Board of Selectmen shall review the annual proposed operating and capital budgets submitted by the Town Manager and make recommendations with respect thereto as they deem advisable. The Town Manager shall present the budget, incorporating the recommendations of the selectmen, to the Advisory and Finance Committee.

3-2-4 The Board of Selectmen shall act as the licensing authority of the town

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and shall have power and responsibility to issue licenses, to make all necessary rules and regulations regarding the issuance of licenses, to attach conditions and impose restrictions it considers in the public interest and to enforce, or cause to be enforced, laws, rules and regulations relating to all businesses for which it issues licenses.

3-2-5 The Board of Selectmen shall have the power to approve all collective bargaining agreements to which the town is the contracting party.

3-2-6 The Board of Selectmen shall be responsible, through the Town Manager, for the efficient and orderly operation of all agencies of the town except those under the direction of another elected town agency.

3-2-7 The Board of Selectmen may investigate or authorize the Town Manager, another town officer or any agency to investigate the conduct of any town department, office or agency. The report of any such investigation shall be filed in the Town Manager's office, and a report summarizing such investigation shall be printed in the next annual town report.

#### Section 3: Appointments

3-3-1 The Board of Selectmen shall appoint a Town Manager, town counsel, registrars of voters, election officers, constables and members of all multiple member boards, committees and commissions except as otherwise provided in this charter and/or the bylaws.

#### Section 4: Town Manager - Appointment and Removal

3-4-1 The Board of Selectmen shall appoint a Town Manager by an affirmative vote of at least three members.

3-4-2 The Town Manager shall be appointed solely on executive and administrative qualifications and shall be especially suited by education, training and experience to perform the duties of the office.

3-4-3 The Board of Selectmen shall set the compensation of the Town Manager, not to exceed an amount appropriated by town meeting.

3-4-4 The Town Manager shall not have served in elective office in Plymouth town government for at least two years prior to appointment.

3-4-5 The Board of Selectmen may remove the Town Manager at any time by an affirmative vote of at least three members. Within seven days thereafter, the Town Manager may appeal the decision of the Board by filing a written request with the Board of Selectmen for a public hearing. If such request is filed, the Board of Selectmen shall conduct a public hearing within fourteen days and act upon the appeal within seven days thereafter.

3-4-6 The Board of Selectmen shall designate a qualified person to serve as Acting Town Manager and to perform the duties of the office during any period of any vacancy exceeding thirty days caused by the manager's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed one hundred and eight days.

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## Section 5: Powers and Duties

3-5-1 The Town Manager shall be the chief administrative officer of the town and shall be responsible to the Board of Selectmen for the effective management of all town affairs placed in the Manager's charge by the charter, the Board of Selectmen, bylaw or vote of town meeting and the implementation of town policies established by the Board of Selectmen.

The Town Manager shall:

a. unless otherwise provided herein, appoint and may suspend or remove all department heads, a Board of Assessors, all officers and subordinates and employees of the town, including those under grant funding, except employees of the school department. In the case of an employee who works with a multiple member board or the Plymouth Public Library Corporation, action under this section shall be taken only after consultation with that multiple member board. Appointments, suspensions or removals by the Town Manager shall become effective on the fifteenth day after notice of the action is filed with the Board of Selectmen unless the Board shall within that period vote in the majority to veto the action. The Board of Selectmen may by a majority vote waive this fifteen day period whereupon the action shall become effective forthwith. This same authority to veto the actions of the Town Manager provided herein to the Board of Selectmen shall accrue to the Planning Board in the case of the appointment, suspension or removal of the Director of Planning and Development.

b. fix the compensation of all town officers and employees appointed by the Town Manager within the limits of existing appropriations and the personnel bylaw.

c. supervise all town departments under the jurisdiction of the Board of Selectmen and direct the operations of the town; may, with the approval of the Board of Selectmen, establish, reorganize, consolidate or abolish any department or position under the manager's direction and supervision.

d. administer, either directly or through designated persons, all provisions of general and special laws applicable to the town, all bylaws and all regulations established by the Board of Selectmen.

e. be responsible for coordination of operational and strategic planning for the town.

f. administer all grants received by the town.

g. submit to the Board of Selectmen a written proposed operating budget for the ensuing fiscal year. The proposed budget shall detail estimated revenue from all sources and all expenditures, including debt services, for the previous, current and ensuing year.

h. submit annually to the Board of Selectmen a five year capital improvements program to include a list of all capital improvements proposed for the next fiscal years with supporting data; cost estimates and methods of financing; recom-

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mended time schedules; and the effect on the operating budget or revenues for each request.

i. be responsible for keeping full and complete records of the financial and administrative activities of the town and shall render as often as may be required by the selectmen a full report on all operations during the period requested by the board.

j. administer and enforce collective bargaining contracts, personnel rules, regulations and bylaws adopted by the town.

k. develop and maintain a complete inventory of real and personal property of the town, except school property.

l. have full jurisdiction over the lease, rental and use of all town property, except schools, and shall be responsible for the maintenance and repair of all town property, excluding school buildings.

m. be the Chief Procurement Officer under the provisions of chapter thirty B of the General Laws and is, therefore, responsible for the purchasing of all supplies, materials and equipment for the town, except the school department, including the bidding and award of all contracts.

n. approve all warrants or vouchers for payment of town funds submitted by the Town Accountant.

o. negotiate collective bargaining contracts on behalf of the Board of Selectmen, unless the manager specifically designates another negotiator or negotiating team.

p. represent the town at local, state and regional meetings and undertake public relations activities for the Board of Selectmen.

q. have authority to examine, without notice, the activities of any agency under his control or the conduct of any officer or employee thereof and shall have access to all town books and records necessary for the performance of the duties of Town Manager.

r. perform any other duties required by the bylaws, votes of town meeting or the Board of Selectmen.

#### Section 6: Department of Public Works

3-6-1 There shall be a department of public works under a director who shall be a civil engineer. Said director shall be appointed by the Town Manager and shall be qualified by education and experience for the duties of the office.

3-7-2 The department of public works shall be responsible for: (a) the design, construction, maintenance, repair, and cleaning of roads, sidewalks, storm drains, sewers, bridges, and other public way related structures; (b) the maintenance, repair, and cleaning of all buildings owned or leased by the town, except those of the school department; (c) the development and maintenance of all cemeteries, parks, and recreations facilities, except those of the school department; (d) snow removal; (e) providing for and supervising the collection and disposal of garbage

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and other refuse and the maintenance and operation of all facilities for the disposal of same; (f) the supervision, care and replacement of trees; (g) the design, construction, operation and maintenance of all water and sewer facilities; and (h) such other functions as may be assigned by the Town Manager.

**SECTION 5.** Said charter is hereby further amended by striking out section 4-2-1.

**SECTION 6.** Said charter is hereby further amended by striking out chapter 6 and inserting in place thereof the following chapter:-

**CHAPTER 6:**

**FINANCE**

**Section 1: Establishment and Scope of the Department of Finance**

6-1-1 There shall be a Department of Finance responsible for the fiscal and financial affairs of the town and for the coordination and overall supervision of all fiscal and financial activities of all town government agencies except the School Department. The Department of Finance shall include the functions of Accountant, Treasurer, Collector, Assessors and Director of Data Processing.

6-1-2 The Department of Finance shall be responsible for and shall include the following functions:

- a. coordination of all financial services and activities of town government;
- b. maintenance of all accounting records and other financial statements for all town governmental offices and agencies;
- c. payment of all financial obligations on behalf of the town;
- d. investment of town funds and management of debt;
- e. receipt of all funds due to the town from any source;
- f. maintenance of the system of property valuation;
- g. rendering of advice, assistance, guidance and recommendations to all other town offices and agencies in any financial or fiscal affairs;
- h. monitoring throughout the fiscal year of the expenditure of funds by town offices and agencies;
- i. general supervision of the purchase of all goods, services, materials and supplies by the town;
- j. general supervision of all data processing functions, activities and equipment of town governmental offices and agencies.

**Section 2: Director of Finance**

6-2-1 There shall be a Director of Finance appointed by the Town Manager. The Director shall be a person especially fitted by education, training and experience to perform the duties of the office.

6-2-2 At the discretion of the Town Manager, the Director of Finance may serve as the head of any division within the department. The Town Manager also may designate one person to serve as head of more than one division within the department.



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6-2-3 The Director of Finance shall be responsible to the Town Manager for the effective operation of the Department of Finance and all fiscal and financial activities of town government. The Director shall coordinate and provide overall supervision for all activities of the Department and, in consultation with the division head and the Town Manager, shall have the authority to direct and assign all personnel serving in that department.

6-2-4 The Director of Finance shall have the following specific powers and duties:

a. to coordinate the financial functions of all departments and agencies and to oversee the following functions: accounting, treasury, tax collections, assessing, data processing, budgeting and procurement; to ensure that each function is operating efficiently and in accordance with the applicable statute, by-law, code and/or accepted practice; to be accountable for planning, organizing and providing administrative direction for all financial functions.

b. to work with the Town Manager and the Board of Selectmen in development of strategic financial plans and policies.

c. to be responsible for the compilation and submission of the annual operating budget and an annual capital improvement plan to the Town Manager. The Director shall receive all requests made for the expenditure of town funds from every town office and agency and shall assemble all such requests into a form deemed to be best suited to show a complete financial plan for all town funds and activities for the ensuing fiscal year. The proposed budget shall show in detail all estimated income from the proposed property tax levy and from every other source by category.

d. to be responsible for the general oversight throughout the year of the expenditure of all town funds pursuant to such budgets and expenditures as authorized by Town Meeting.

#### Section 3: Advisory and Finance Committee

6-3-1 An Advisory and Finance Committee of fifteen members shall be appointed by the Moderator for three year overlapping terms. There shall be at least one member from each precinct of the town.

6-3-2 The Advisory and Finance Committee shall conduct one or more public hearings on the proposed operating and capital budgets and shall issue its recommendations in print and make copies available to the voters at least fourteen days prior to the scheduled date of the annual town meeting. In preparing its recommendations, the Committee may require any town department, board or office to furnish it with appropriate financial reports and budgetary information.

6-3-3 The Advisory and Finance Committee shall present the proposed budget to town meeting.

6-3-4 In the final month of the fiscal year, no department, commission, office or agency may expend, except for amounts previously encumbered, more than

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one-twelfth of its annual appropriation, unless expenditures have been approved by the Advisory and Finance Committee.

**SECTION 7.** Said charter is hereby further amended by striking out chapter 7 and inserting in place thereof the following chapter:-

CHAPTER 7:

PLANNING AND DEVELOPMENT

Section 1: Establishment and Scope of a Department of Planning and Development

7-1-1 There shall be a Department of Planning and Development responsible for the planning and the community and economic development functions of the town and for the supervision and coordination of all planning and development activities of all town government agencies. The Department of Planning and Development shall include the functions of planning, subdivision control, community development, economic development, zoning appeals, design review and redevelopment.

7-1-2 The Department of Planning and Development shall be responsible for and shall include the following specific functions:

- a. coordination of all planning and development activities of town government;
- b. administration of subdivision control rules and regulations;
- c. land acquisition and management;
- d. conservation administration and enforcement;
- e. redevelopment, revitalization and rehabilitation activities;
- f. administration of zoning appeals and design review;
- g. affordable housing;
- h. economic development;
- i. maintenance of all planning, development and related records and reports for all town governmental offices and agencies;
- j. rendering of advice, assistance, guidance, and recommendations to all other town offices and agencies in any planning or development issues.

Section 2: Director of Planning and Development

7-2-1 There shall be a Director of Planning and Development appointed by the Town Manager with veto authority by the Planning Board as delineated in Chapter 3. The Director shall be a person especially fitted by education, training, and experience to perform the duties of the office.

7-2-2 At the discretion of the Town Manager, the Director of Planning and Development may serve as the head of any division within the department. The Town Manager may also designate one person to serve as the head of more than one division within the department.

7-2-3 The Director of Planning and Development shall be responsible to the Town Manager and the Planning Board for the effective operation of the Department of Planning and Development and all related activities of town

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government. The Director shall coordinate and provide overall supervision of all activities of the Department and shall have, in consultation with the division head and the Town Manager, the authority to direct and assign all personnel serving in that Department.

7-2-4 The Director of Planning and Development shall have the following specific powers and duties:

a. to coordinate the planning and development functions of all departments and agencies and to oversee the following functions: planning, community development, economic development, design review, subdivision control, housing, and zoning appeals; to ensure that each function is operating efficiently and in accordance with the applicable statute, bylaw, code and/or accepted practice; to be accountable for planning, organizing and providing administrative direction for all planning functions.

b. to work with the Planning Board, Town Manager and the Board of Selectmen in development of strategic plans and policies.

#### Section 3: The Planning Board

7-3-1 A Planning Board of five members shall be elected for five year overlapping terms.

7-3-2 The Board shall make recommendations to the town meeting and to the Board of Selectmen on all matters concerning the physical, economic and environmental development of the town as prescribed by general law, this charter and bylaw.

7-3-3 The Board shall be responsible for the development and periodic updating of a comprehensive plan, which shall be utilized as the basis of its recommendations to the town. The Board shall report annually to town meeting on the status of the comprehensive plan.

#### Section 4: Conservation Commission

7-4-1 A Conservation Commission of seven members shall be appointed by the Board of Selectmen for three year overlapping terms.

7-4-2 The Commission shall exercise such powers and duties as prescribed by general law, this charter and bylaw.

#### Section 5: Development and Industrial Commission

7-5-1 A Development and Industrial of nine members may be appointed by the Board of Selectmen for five year overlapping terms.

7-5-2 The Commission shall exercise such powers and duties as prescribed by general law, this charter and bylaw.

#### Section 6: Board of Appeals

7-6-1 A Zoning Board of Appeals of five members and two associate members shall be appointed by the Board of Selectmen for three year overlapping terms.

7-6-2 The Board shall exercise such powers and duties as prescribed by general law, this charter and bylaw.

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**SECTION 8.** Said charter is hereby further amended by striking out section 8-6-1.

**SECTION 9.** Said charter is hereby further amended by striking out chapter 9 and inserting in place thereof the following chapter:-

**CHAPTER 9:**

**TRANSITIONAL PROVISIONS**

**Section 1: Effective Date**

9-1-1 The effective date of the charter amendments voted on by referendum at the May, 1991 town election shall be July 1, 1991 except for the appointment of formerly elected officials.

9-1-2 The positions of Clerk, Treasurer and Collector shall become appointed positions at the expiration of the current elected terms, which is May 9, 1992.

**SECTION 10.** This act shall be submitted to the voters of the town of Plymouth in the form of two questions which shall be placed on the ballot at a regular or special town election to be held in the year nineteen hundred and ninety-one and said questions shall be followed by a brief summary prepared by town counsel.

"Shall sections one, three, four, five, six, seven and eight of an act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act Relative to the Charter of the Town of Plymouth' be accepted?"

"Shall section two of an act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act Relative to the Charter of the Town of Plymouth' be accepted?"

If a majority of the votes cast in answer to either one of said questions is in the affirmative, the sections of this act therein referenced shall take effect, but not otherwise.

**SECTION 11.** This act shall take effect upon its passage.

Approved April 5, 1991.

**Chapter 20.                    AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN BONDS BY THE CITY OF HOLYOKE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter forty-four of the General Laws to the contrary, project costs to be financed by bonds or notes issued by the city of Holyoke for enterprise purposes may include the funding or reserves for debt service or other expenses, which reserves shall not exceed ten percent of the total loan authorization, and may also include interest incurred on any bonds or notes for a period of up to one year after the date of the original borrowing or, if later, one year after the estimated date of commencing regular operation of the

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project or projects being financed by the issue, as determined by the treasurer, but under no circumstances more than three years after the date of issue of the original borrowing. For the purposes of this act and section nineteen of said chapter forty-four, the term "enterprise" shall include each of the water, sewer, parking, and gas and electric department operations of said city, and the operations of any other city department or facility for which an enterprise fund is established under section fifty-three F1/2 of said chapter forty-four. The first payment of principal of each issue of bonds or notes issued for such purposes shall be payable either in accordance with said section nineteen of said chapter forty-four or not later than one year from the estimated date of commencing regular operation of the project or projects being financed by that issue, as determined by the treasurer, but under no circumstances more than three years after the date of issue of the original borrowing. Any net earnings derived from investment of the proceeds of the bonds or notes may be expended by the city treasurer to pay interest on the bonds or notes but otherwise shall be used only for the enterprise for which the bonds or notes are issued. Except as otherwise provided in this act, indebtedness incurred by the city for such projects shall be subject to the applicable provisions of said chapter forty-four.

**SECTION 2.** The treasurer of the city of Holyoke is hereby authorized to establish one or more debt service funds and debt service reserve funds, which may be pledged to the payment of bonds or notes issued by the city for enterprise purposes. The moneys in each fund for each enterprise and any investments held as part of the fund shall be kept separate from the general funds of the city, shall be held in trust by the treasurer or by a corporate trustee designated by the treasurer, may be invested pursuant to section fifty-five of chapter forty-four of the General Laws, and, with the income derived from such investments, shall be used without further authorization or appropriation by the city solely to pay principal, redemption premium if any, and interest on general obligation bonds or notes of the city issued for the enterprise, as long as such bonds or notes remain outstanding. Accrued interest received upon the sale of such bonds or notes and the proceeds of such bonds or notes representing capitalized interest on the bonds or notes shall be deposited in the appropriate debt service fund. Commencing at least twelve months plus one business day before each principal installment becomes due on bonds or notes for which a debt service fund is established under this act and at least six months plus one business day before each installment of interest becomes due, there shall also be deposited in the appropriate fund each month from the revenues and receipts of the enterprise from all sources other than gifts or grants which by their terms may not be lawfully used for this purpose, an amount equal to one-twelfth of the amount needed to pay the principal installment and one-sixth of the amount needed to pay the interest installment; provided, however, that the payments to be made under this section shall be appropriately

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adjusted to reflect any accrued or capitalized interest deposited in the debt service fund, any investment earnings credited or losses charged to the fund, any principal installments payable less than one year from the date of issuance of any bonds or notes or other than annually, any interest payable less than six months from the date of issuance of any bonds or notes or other than at six months' intervals, and any redemption of bonds or notes, so that there shall be available on each payment date in the debt service fund the amount necessary to pay the interest and principal and redemption premium if any due or coming due on the bonds or notes and so that accrued or capitalized interest shall be applied to the installments of interest to which they are applicable. The amount in any debt service reserve fund shall not exceed ten percent of the aggregate outstanding principal amount of bonds or notes for the payment of which the fund is pledged. Subject to any limitation imposed by law, the city shall be required to fix and collect rates and charges which together with other available moneys shall provide moneys sufficient at all times to make the required payments to any debt service fund or debt service reserve fund established under this act as they come due, and to satisfy all other obligations to be paid from its enterprise revenues in a timely fashion.

**SECTION 3.** Except for any proceeds received during or for the fiscal year ending June thirtieth, nineteen hundred and ninety-one, the proceeds of any construction grant approved pursuant to chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight for the city school projects authorized by the loan order adopted by the board of aldermen on October eighteenth, nineteen hundred and eighty-eight shall be paid directly to the trustee appointed in accordance with this section, which proceeds shall be held in trust and applied by said trustee to pay principal of and interest on the bonds issued by the city for the project. At least five days prior to each date on which a payment of principal or interest is due on bonds or notes issued for the project, the city treasurer shall deposit with the trustee the amount necessary to make that payment, after taking account of all grant proceeds or other moneys held by the trustee that are available for that purpose. Any funds to be held under this section shall be deposited with a corporate trustee, which may be any trust company or bank having the powers of a trust company within the commonwealth. The treasurer of the city with the approval of the mayor shall appoint the trustee and shall execute a trust agreement in such form as they may determine to be necessary or appropriate. Any such funds held in trust may be invested in accordance with the provisions of section fifty-five of chapter forty-four of the General Laws, and the trust agreement may provide that any investment earnings shall be applied to pay project costs, debt service on bonds or notes issued by the city for the project or trustee's fees and other related expenses.

**SECTION 4.** This act shall take effect upon its passage.

Approved April 10, 1991.

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**Chapter 21.           AN ACT ESTABLISHING THE OFFICE OF  
TREASURER-COLLECTOR IN THE TOWN OF  
WILBRAHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The office of treasurer-collector of the town of Wilbraham is hereby established. Said treasurer-collector shall be appointed by the board of selectmen for an indefinite term. Said collector-treasurer shall perform all the duties hereinbefore performed by the treasurer and collector of said town and shall perform such other powers and duties as may from time to time be established.

**SECTION 2.** Notwithstanding the provisions of section one, the incumbents in the offices of town treasurer and collector upon the effective date of this act shall continue to hold said offices and to perform the duties thereof until an appointment of a treasurer-collector is made in accordance with section one, and upon such appointment the terms of office of the town treasurer and the office of town collector shall terminate.

**SECTION 3.** This act shall take effect on May fourth, nineteen hundred and ninety-one.

Approved April 16, 1991.

**Chapter 22.           AN ACT RELATIVE TO THE CHARTER COMMISSION OF  
THE TOWN OF NORTHBRIDGE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, including without limitation the provisions of section twelve A of chapter forty-three B of the General Laws, the following question shall appear on the ballots to be used at the next annual town election to be held in the town of Northbridge: "Shall this town accept the Charter proposed by the Charter Commission elected in 1988 and which proposal was rejected by the voters at the 1989 and 1990 Annual Town Election?" If a majority of the votes cast in answer to said question is in the affirmative said charter shall take effect as provided therein, but not otherwise.

**SECTION 2.** The report of the Northbridge Charter Commission, as submitted in nineteen hundred and eighty-nine, is hereby declared to be an optional charter for said town. The board of selectmen in said town is hereby authorized and directed to make such changes in the text of the final report of said Charter Commission as originally submitted to the voters as may be necessary to insure the

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orderly implementation of said charter. Said board of selectmen shall cause a sufficient number of copies of the proposed charter to be made available at the town hall, at least seven days before the town election, for each registered voter who may request the same.

**SECTION 3.** This act shall take effect upon its passage.

Approved April 18, 1991.

**Chapter 23.            AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Sheryl Hoseanopoulos in the city of Boston on May eighteenth, nineteen hundred and ninety-one between Steven Nevins and Lauren White, both of the town of Billerica, and the state secretary shall issue to said Sheryl Hoseanopoulos a certificate of such authorization.

Approved April 26, 1991.

**Chapter 24.            AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred



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and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Walter Christian Schumann in the city of Cambridge on May twenty-sixth, nineteen hundred and ninety-one, between Laurence Cohen of the town of Brookline and Susan Gail Worst of the city of Somerville, and the state secretary shall issue to said Walter Christian Schumann a certificate of such authorization.

Approved April 26, 1991.

**Chapter 25.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize, in the manner set forth under said section thirty-nine, the solemnization of a marriage by Miriam Straus of Marshall, California, in the town of Marblehead on June second, nineteen hundred and ninety-one, between David Hammer of Oakland, California and Lauren Kozlen of Oakland, California, and the state secretary shall issue to said Miriam Straus a certificate of such authorization.

Approved April 26, 1991.

**Chapter 26.           AN ACT AUTHORIZING THE TOWN OF BRAINTREE TO  
ESTABLISH A CERTAIN TRUST FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Braintree is hereby authorized to establish a trust fund to be known as the Braintree 400th Anniversary Celebration Committee Trust Fund and to authorize the transfer to said fund, the sum of five thousand dollars from the 350th Anniversary Celebration Committee Fund established under the provisions of clause (27B) of section five of chapter forty of the General Laws.

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**SECTION 2.** This act shall take effect upon its passage.

Approved May 1, 1991.

**Chapter 27.           AN ACT AUTHORIZING THE TOWN OF TEMPLETON TO  
PAY THE FUNERAL EXPENSES OF ROGER HOUGHTON,  
A FIREFIGHTER KILLED IN THE PERFORMANCE OF HIS  
DUTY.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section one hundred G of chapter forty-one of the General Laws or any other general or special law to the contrary, the town of Templeton is hereby authorized to pay the reasonable expense not exceeding five thousand dollars of the funeral and burial of Roger Houghton, captain of the Templeton fire department, who died while in the performance of his duty.

Approved May 3, 1991.

**Chapter 28.           AN ACT AUTHORIZING THE COUNTY TREASURER OF  
THE COUNTY OF NORFOLK TO TRANSFER CERTAIN  
UNCLAIMED LAND DAMAGES TO THE GENERAL FUND  
OF THE COUNTY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize the county treasurer of the county of Norfolk to transfer unclaimed land damages to the general fund of the county, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of sections seven D and seven E of chapter seventy-nine of the General Laws, the county treasurer of the county of Norfolk is hereby authorized to transfer to the general fund of said county, so much of the unclaimed land damages, not to exceed the sum of one hundred thousand two hundred and forty-six dollars plus accrued interest, as represent damages for any such takings made by the county commissioners of said county prior to July first, nineteen hundred and eighty.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, any person claiming an interest in any such damages as are identified

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in section one of this act, may establish his claim at any time hereafter. The county commissioners shall make a final determination on any such claim and may make payments therefor from any available funds.

Approved May 3, 1991.

**Chapter 29.           AN ACT AUTHORIZING THE TOWN OF MILLVILLE TO  
PAY A CERTAIN UNPAID BILL.**

*Be it enacted, etc., as follows:*

The town treasurer of the town of Millville is hereby authorized to pay from available funds to Rogers Excavating, Inc. a sum not to exceed twelve thousand three hundred twenty-one dollars and forty-five cents pursuant to said contracts for road repairs, notwithstanding the failure of the town to comply with appropriate provisions of law relative to competitive bidding in the awarding of the contract.

Approved May 3, 1991.

**Chapter 30.           AN ACT EXTENDING THE TIME BY WHICH THE BUDGET  
MUST BE SUBMITTED IN CITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of the first sentence of section thirty-two of chapter forty-four of the General Laws or any other general or special law to the contrary, within one hundred and seventy days after the annual organization of the city government in any city other than the city of Boston, the mayor shall submit to the city council the annual budget, which shall be a statement of the amounts recommended by him for the proposed expenditures of the city for the fiscal year ending June thirtieth, nineteen hundred and ninety-two.

**SECTION 2.** Notwithstanding the fourth paragraph of said section thirty-two of said chapter forty-four, if, upon the expiration of one hundred and seventy days after the annual organization of the city government in any city other than the city of Boston in the year nineteen hundred and ninety-one, the mayor shall not have submitted to the city council the annual budget for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, the city council shall, upon its own initiative, prepare such annual budget by June thirtieth, nineteen hundred and ninety-one, and such preparation shall be where applicable subject to the provisions governing the annual budget of the mayor.

**SECTION 3.** Notwithstanding the provision of section thirty-two of chapter

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forty-four of the General Laws or any other general or special law to the contrary, commencing July first, nineteen hundred and ninety-one and ending September first, nineteen hundred and ninety-one, the mayor may submit to the city council in any city other than the city of Boston, a continuing appropriation budget for said city on a month by month basis for a period not to exceed ninety days, if said city has not approved an operating budget for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, because of circumstances beyond its control.  
*Emergency Letter: May 3, 1991 @ 4:52 P.M.* Approved May 3, 1991.

**Chapter 31.            AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO  
BORROW MONEY FOR RENOVATION AND REPAIR OF  
THE CITY HALL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The board of aldermen of the city of Somerville is hereby authorized to raise and expend a sum not exceeding two million six hundred thousand dollars to finance costs of renovation and repair to the city hall. Sums heretofore advanced temporarily by said city for such purposes in anticipation of the permanent financing of such costs to be deposited in the city treasury.

**SECTION 2.** For the purposes authorized by section one the treasurer of the city of Somerville, with the approval of a two-thirds majority of the board of aldermen, may borrow upon the credit of the city such sums as necessary, not exceeding, in the aggregate, two million six hundred thousand dollars, and may issue bonds or notes of the city therefor, which shall bear on their face the words, City of Somerville City Hall Renovations Loan, Act of 1990. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than ten years from their dates. The bonds or notes shall be signed by the city treasurer and countersigned by a two-thirds majority of the board of aldermen. The city may sell said securities at public or private sale, upon such terms and conditions and in such manner as the city treasurer, with the approval of a two-thirds majority of the board of aldermen, may deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to the provisions of chapter forty-four of the General Laws.

**SECTION 3.** This act shall take effect upon approval by the board of aldermen and the mayor of the city of Somerville.

Approved May 9, 1991.

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**Chapter 32.**

**AN ACT PROVIDING FOR THE TRANSFER OF REAL  
PROPERTY IN FRANKLIN FIELD IN THE CITY OF BOS-  
TON TO THE CITY OF BOSTON ACTING BY AND  
THROUGH THE TRUSTEES OF THE GEORGE ROBERT  
WHITE FUND.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the transfer of real property in the city of Boston from the metropolitan district commission to the city of Boston, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

The deputy commissioner of the division of capital planning and operations, on behalf of and in consultation with the metropolitan district commission, is hereby authorized to transfer by deed approved as to form by the attorney general to the city of Boston, acting by and through the trustees of the George Robert White Fund, without consideration, for park and recreational purposes, notwithstanding the provisions of sections forty E to forty I, inclusive of chapter seven of the General Laws, or any other general or special law to the contrary, and the city of Boston is hereby authorized to accept said deed for a certain parcel of land with the buildings and improvements thereon situated in Franklin field in the Dorchester district of said city, bounded and described as follows: Beginning at a point on the southerly side line of Talbot avenue at a distance of one hundred feet easterly from the easterly side line of Blue Hill avenue extended; thence running easterly, five hundred feet, along the said southerly side line of Talbot avenue; thence turning at a right angle and running southerly, two hundred and eighty feet; thence turning at a right angle and running westerly, four hundred and sixty-two feet, more or less, to the back of a sidewalk which lies parallel to and approximately one hundred feet from the easterly side line of Blue Hill avenue; thence turning to the right and running northerly by the back of said sidewalk, and by the line of the back of the sidewalk extended, two hundred and eighty-three feet, more or less, to the point of beginning; containing approximately one hundred and thirty-four thousand, six hundred and eighty square feet.

Approved May 9, 1991.

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**Chapter 33.****AN ACT PROVIDING FOR AN ACCELERATED TRANSPORTATION DEVELOPMENT AND IMPROVEMENT PROGRAM FOR THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an accelerated transportation development and improvement program for the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The state department of public works, hereinafter called the department, is hereby authorized and directed to expend a sum not to exceed two billion nine hundred three million nine hundred sixty-two thousand four hundred twenty-six dollars for the following purposes:

Projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under the provisions of section thirty-four of chapter ninety of the General Laws, highway or mass transportation studies including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section seventeen of said chapter ninety, improvements on routes not designated as state highways without assumption of maintenance responsibilities, and notwithstanding the provisions of any general or special law to the contrary, projects to alleviate contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety, and for the relocation of persons or businesses, or replacement of dwellings or structures including, but not limited to, the provision of last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., PL 90-646, and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within one month after such removal. In planning projects funded by this section and section three, consideration shall be made, to the extent

feasible, to accommodate and incorporate provisions to facilitate the use of bicycles as a means of transportation.

Funds authorized by this section shall, except as otherwise specifically provided in this act, be subject to the provisions of the first paragraph of section six and sections seven and nine of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six and, notwithstanding the provisions of any general or special law to the contrary, may be used for the purposes stated in this act in conjunction with funds of cities, towns, and any political subdivision of the commonwealth.

In carrying out the provisions of this section and section three, the department may enter into such contracts or agreements as are appropriate with other state, local or regional public agencies or authorities. In relation to such agreements between the department and other state agencies or authorities, the department is hereby authorized to and may advance monies to such agencies or authorities, without prior expenditure by such agencies or authorities, and such agencies and authorities are authorized to accept monies necessary to carry out such agreements; provided, however, that the department certify to the comptroller the amounts so advanced; provided, further, that such agreements contain provisions satisfactory to the department for the accounting of such monies as expended by said agency or authority; and provided, further, that all monies not expended under such agreement be credited to the account of the department from which they were advanced.

Notwithstanding the provisions of sections thirty-eight C, forty A and forty B of chapter seven of the General Laws, the department shall have jurisdiction over the selection of designers performing design services in connection with the ventilation buildings, utility facilities and toll booths to be constructed as part of the Central Artery/Tunnel Project, and shall control and supervise said structures.

In addition to the foregoing the department is further authorized:

(1) to expend funds made available by this act to acquire from any person land or rights in land by lease, purchase, or eminent domain under the provisions of chapter seventy-nine of the General Laws, or otherwise for parking facilities adjacent to any public way, to be operated by the department or under contract with any person;

(2) to expend funds made available by this act for the acquisition of van-type vehicles used for multi-passenger, commuter-driven carpools and high occupancy vehicles including, but not limited to, water shuttles and water taxis; and

(3) in accordance with all applicable state and federal law, and regulations, to exercise all powers and do all things necessary and convenient to carry out the purposes of this act.

**SECTION 1A.** Amounts authorized by section one of this act shall be available for expenditure and shall be allocated on the accounting records of the comptroller

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to the department as follows:-

(a) a sum not to exceed two billion one hundred ninety-six million nine hundred fourteen thousand one hundred sixty-eight dollars to the department for projects, pursuant to the provisions of section one, on the interstate federal aid highway system. Said sum may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by department employees or by consultants. Amounts expended for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects;

(b) a sum not to exceed six hundred forty-seven million four hundred forty-eight thousand two hundred fifty-eight dollars to the department for projects, pursuant to the provisions of section one, on the federal aid highway system, other than interstate; provided, however, that a sum not to exceed twenty million dollars of the authorization contained in this paragraph shall be expended for the purpose of treating or eliminating the discharge of highway drainage under the control of the department into Hobbs Brook and Stony Brook reservoirs or into any land area within five hundred feet thereof. Sums provided herein may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by department employees or by consultants. Amounts expended for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects;

(c) a sum not to exceed forty-nine million six hundred thousand dollars to the department for direct expenses in connection with research and planning projects and work to be done on a cooperative basis with educational institutions and other state, regional and federal agencies; and

(d) a sum not to exceed ten million dollars for administrative and engineering expenses attributable to the purposes and projects authorized by section one.

Notwithstanding the provisions of any general or special law to the contrary, or any other provision of this act, the department shall not enter into any obligations for projects which are eligible to receive federal funds pursuant to the authority granted under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the state portion of such obligation. The department shall only enter into obligations for said projects pursuant to the authority granted in this act based upon the prior commitment of sufficient federal funds and the availability of state funding authorized or appropriated for such use by the general court for the class and category of project for which such obligation applies.

**SECTION 2.** (a) The metropolitan district commission, hereinafter referred to as the "commission", shall expend the amounts specified in subsection (b) for the



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following purposes:

Projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under the provisions of section thirty-four of chapter ninety of the General Laws, highway or mass transportation studies including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section seventeen of said chapter ninety, improvements on routes not designated as state highways without assumption of maintenance responsibilities, and notwithstanding the provisions of any general or special law to the contrary, projects to alleviate contamination of public and private water supplies caused by the commission's storage and use of snow removal chemicals which are necessary for the purposes of highway safety, and for the relocation of persons or businesses, or replacement of dwellings or structures including, but not limited to, the provision of last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., PL 90-646, and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within one month.

Funds authorized by this section shall, except as otherwise specifically provided in this act, be subject to the provisions of the first paragraph of section six and sections seven and nine of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six and, notwithstanding the provisions of any general or special law to the contrary, may be used for the purposes stated in this act in conjunction with funds of cities, towns, and any political subdivision of the commonwealth.

(b) The commission is hereby authorized and directed to expend a sum not to exceed one hundred twenty million dollars as follows:-

(i) a sum not to exceed eighty million dollars to the commission for the design, construction, reconstruction or rehabilitation of commission parkways, boulevards and related appurtenances and equipment; provided, however, that said sums may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by commission employees or by consultants. Amounts expended for commission employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects;

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(*ii*) a sum not to exceed thirty-two million dollars to the commission for the design and reconstruction of, and improvements, including the testing, removal, encapsulation of lead-based paint, to commission bridges; provided, however, that said sum may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by commission employees or by consultants. Amounts expended for commission employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects; and

(*iii*) notwithstanding the provisions of any general or special law to the contrary, a sum not to exceed eight million dollars to the commission for the enhancement of its advanced telecommunication system and for traffic mitigation or safety equipment.

**SECTION 3.** In addition to the funds and purposes authorized by section one of this act, the department is hereby authorized and directed to expend the following sums:-

(*a*) a sum not to exceed two million dollars for the acquisition and improvement of maintenance sites, including the construction of sanitary facilities and the erection of protective fences;

(*b*) a sum not to exceed two hundred ninety-two million seven hundred seventy-five thousand dollars for the construction of, repair of, or improvement to non-federally aided projects. Said sum may be expended for the cost of said projects including, but not limited to, the cost for engineering and other services essential to such projects, rendered by department employees or by consultants. Amounts expended for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects;

(*c*) a sum not to exceed one hundred eighty million dollars for projects for construction and reconstruction of town and county ways under subdivision (*a*) of clause (2) of section thirty-four of chapter ninety of the General Laws; provided, however, that each city or town shall certify to the department that the city or town has expended all of the sums apportioned to the city or town under the provisions of paragraph (*d*) of section three of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, paragraph (*d*) of section three of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, and paragraph (*c*) of section three of chapter fifteen of the acts of nineteen hundred and eighty-eight; or that said city or town has remaining a sum of money which by itself is insufficient to finance a proposed project; provided further, that a city or town shall comply with procedures established by the department; provided, further, that any such city or town is hereby authorized to appropriate for such projects amounts not in excess of the amounts provided to such city or town under this section; provided, further, that said appropriation shall be considered as an

available fund upon the approval of the commissioner of revenue pursuant to section twenty-three of chapter fifty-nine of the General Laws; provided, further, that the commonwealth shall reimburse said city or town under this section within thirty days of receipt by the department of a request for reimbursement from such city or town, such request to include certification by such city or town that actual expenses have been incurred on projects eligible for reimbursements under this section, and the work has been completed to its satisfaction according to the specifications of said project and in compliance with applicable law; provided, further, that the department may enter into agreements with cities and towns to provide engineering and other services essential to the development of projects and if the department agrees to provide services, amounts charged for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects; provided, further, that funds provided herein may be expended for the entire cost of any project eligible under the provisions of said chapter ninety; provided, further, that the funds provided herein may be expended for the repair, replacement or removal of underground municipal public works fuel tanks; and provided, further, that notwithstanding the provisions of any general or special law to the contrary, the allocations to cities and towns from amounts authorized in this subparagraph are as follows:-

Abington	338,184	Becket	240,829
Acton	584,764	Bedford	678,919
Acushnet	268,663	Belchertown	531,121
Adams	302,906	Bellingham	429,509
Agawam	616,040	Belmont	536,265
Alford	74,666	Berkley	207,552
Amesbury	394,768	Berlin	184,895
Amherst	678,938	Bernardston	184,779
Andover	1,150,516	Beverly	910,142
Arlington	795,377	Billerica	942,645
Ashburnham	316,482	Blackstone	213,202
Ashby	242,806	Blandford	259,535
Ashfield	305,653	Bolton	244,152
Ashland	313,320	BOSTON	13,894,510
Athol	511,721	Bourne	557,946
ATTLEBORO	1,139,797	Boxborough	131,428
Auburn	540,728	Boxford	325,697
Avon	181,343	Boylston	186,392
Ayer	243,969	Braintree	1,008,087
Barnstable	1,950,597	Brewster	259,038
Barre	424,991	Bridgewater	494,948

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Brimfield	269,078	East Brookfield	88,881
BROCKTON	1,936,946	East Longmeadow	491,443
Brookfield	166,475	Eastham	209,197
Brookline	941,333	Easthampton	448,493
Buckland	179,813	Easton	508,791
Burlington	857,352	Edgartown	218,309
CAMBRIDGE	2,314,060	Egremont	153,232
Canton	609,042	Erving	87,675
Carlisle	224,736	Essex	128,341
Carver	351,370	EVERETT	633,573
Charlemont	178,061	Fairhaven	453,063
Charlton	514,447	FALL RIVER	1,936,996
Chatham	308,769	Falmouth	1,040,117
Chelmsford	959,292	FITCHBURG	1,185,598
CHELSEA	454,642	Florida	164,059
Cheshire	190,791	Foxborough	461,942
Chester	247,082	Framingham	1,818,180
Chesterfield	215,665	Franklin	548,880
CHICOPEE	1,149,964	Freetown	305,391
Chilmark	63,848	GARDNER	598,917
Clarksburg	69,209	Gay Head	18,653
Clinton	320,044	Georgetown	217,769
Cohasset	205,066	Gill	172,765
Colrain	331,114	GLOUCESTER	668,982
Concord	642,506	Goshen	112,292
Conway	269,021	Gosnold	6,848
Cummington	199,207	Grafton	423,116
Dalton	211,612	Granby	264,334
Danvers	749,320	Granville	270,429
Dartmouth	914,678	Great Barrington	405,739
Dedham	609,343	Greenfield	631,466
Deerfield	372,056	Groton	369,199
Dennis	659,633	Groveland	182,550
Dighton	268,843	Hadley	317,406
Douglas	315,639	Halifax	214,338
Dover	217,799	Hamilton	234,070
Dracut	624,054	Hampden	233,431
Dudley	395,257	Hancock	111,008
Dunstable	157,837	Hanover	393,995
Duxbury	445,029	Hanson	257,445
East Bridgewater	201,683	Hardwick	373,437

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Harvard	361,622	Manchester	147,012
Harwich	588,473	Mansfield	490,087
Hatfield	232,773	Marblehead	438,471
HAVERHILL	1,315,487	Marion	131,716
Hawley	181,788	MARLBOROUGH	814,319
Heath	213,590	Marshfield	546,503
Hingham	629,927	Mashpee	530,059
Hinsdale	156,490	Mattapoisett	213,245
Holbrook	237,049	Maynard	399,142
Holden	549,113	Medfield	366,678
Holland	158,824	MEDFORD	1,019,528
Holliston	410,096	Medway	298,591
HOLYOKE	1,108,008	MELROSE	547,649
Hopedale	126,526	Mendon	183,083
Hopkinton	371,731	Merrimac	155,988
Hubbardston	318,233	Methuen	957,500
Hudson	467,248	Middleborough	749,999
Hull	268,232	Middlefield	151,864
Huntington	171,847	Middleton	188,427
Ipswich	378,749	Milford	634,130
Kingston	262,647	Millbury	360,190
Lakeville	287,709	Millis	249,773
Lancaster	286,503	Millville	90,764
Lanesborough	201,804	Milton	584,722
LAWRENCE	1,228,991	Monroe	71,666
Lee	282,802	Monson	480,987
Leicester	403,008	Montague	483,691
Lenox	281,369	Monterey	192,136
LEOMINSTER	1,029,795	Montgomery	127,879
Leverett	147,366	Mount Washington	69,189
Lexington	891,602	Nahant	93,758
Leyden	151,812	Nantucket	601,228
Lincoln	265,339	Natick	852,424
Littleton	291,049	Needham	871,482
Longmeadow	462,228	New Ashford	41,009
LOWELL	1,904,715	NEW BEDFORD	2,233,902
Ludlow	529,220	New Braintree	206,022
Lunenburg	376,141	New Marlborough	350,279
LYNN	1,573,900	New Salem	163,296
Lynnfield	316,319	Newbury	237,736
MALDEN	968,226	Newburyport	450,037

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NEWTON	2,241,354	REVERE	686,952
Norfolk	289,103	Richmond	173,151
NORTH ADAMS	409,278	Rochester	248,562
North Andover	721,156	Rockland	367,414
North Attleborough	587,801	Rockport	194,511
North Brookfield	311,191	Rowe	152,599
North Reading	338,981	Rowley	194,387
NORTHAMPTON	937,248	Royalston	295,923
Northborough	393,268	Russell	104,200
Northbridge	350,337	Rutland	298,126
Northfield	287,596	SALEM	760,949
Norton	419,802	Salisbury	193,757
Norwell	363,301	Sandisfield	333,923
Norwood	851,316	Sandwich	483,528
Oak Bluffs	160,297	Saugus	555,865
Oakham	180,802	Savoy	201,943
Orange	397,911	Scituate	530,901
Orleans	301,101	Seekonk	487,198
Otis	181,716	Sharon	513,066
Oxford	440,032	Sheffield	354,587
Palmer	511,428	Shelburne	224,315
Paxton	163,133	Sherborn	227,532
PEABODY	834,655	Shirley	227,293
Pelham	98,427	Shrewsbury	636,068
Pembroke	339,401	Shutesbury	157,765
Pepperell	377,462	Somerset	495,337
Peru	137,098	SOMERVILLE	1,064,551
Petersham	258,301	South Hadley	475,041
Phillipston	186,043	Southampton	269,883
PITTSFIELD	1,434,494	Southborough	316,111
Plainfield	94,549	Southbridge	535,588
Plainville	235,479	Southwick	315,253
Plymouth	998,868	Spencer	488,883
Plympton	151,250	SPRINGFIELD	3,591,191
Princeton	337,914	Sterling	379,140
Provincetown	119,988	Stockbridge	202,542
QUINCY	1,768,200	Stoneham	472,292
Randolph	674,942	Stoughton	669,517
Raynham	338,819	Stow	221,936
Reading	533,201	Sturbridge	406,502
Rehoboth	533,678	Sudbury	639,426

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Sunderland	175,688	West Boylston	258,049
Sutton	411,705	West Bridgewater	252,621
Swampscott	257,996	West Brookfield	232,842
Swansea	525,722	West Newbury	199,676
TAUNTON	1,164,229	West Springfield	784,250
Templeton	328,720	West Stockbridge	148,457
Tewksbury	752,648	West Tisbury	66,078
Tisbury	143,224	Westborough	606,877
Tolland	162,919	WESTFIELD	1,120,789
Topsfield	253,319	Westford	476,642
Townsend	428,058	Westhampton	189,323
Truro	167,625	Westminster	408,523
Tyngsborough	260,857	Weston	453,083
Tyringham	102,812	Westport	596,109
Upton	267,944	Westwood	469,199
Uxbridge	409,773	Weymouth	1,096,268
Wakefield	619,967	Whately	137,757
Wales	104,466	Whitman	314,458
Walpole	597,900	Wilbraham	459,015
WALTHAM	1,586,200	Williamsburg	190,847
Ware	431,750	Williamstown	293,072
Wareham	633,479	Wilmington	741,982
Warren	296,669	Winchendon	408,098
Warwick	228,210	Winchester	492,427
Washington	173,868	Windsor	273,073
Watertown	743,161	Winthrop	302,934
Wayland	468,689	WOBURN	1,157,952
Webster	436,884	WORCESTER	3,787,283
Wellesley	830,830	Worthington	242,627
Wellfleet	221,307	Wrentham	333,633
Wendell	199,230	Yarmouth	828,402
Wenham	118,779		

(d) a sum not to exceed two million dollars for the purpose of implementing the provisions of section thirty-two of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three;

(e) a sum not to exceed five million dollars for the construction and reconstruction of department owned garages and maintenance shops, and for beneficial and necessary improvements to department owned garages, maintenance shops, administrative buildings, and other structures. Notwithstanding the provisions of any general or special law to the contrary, such projects shall be

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carried out by the department;

(*f*) a sum not to exceed three million dollars for the laying out, construction or reconstruction or other improvement to bicycle paths and related facilities; provided, however, that the commissioner shall appoint a bicycle program advisory committee, which shall consist of five members, three of which shall be representatives of bicyclist organizations, which shall review all aspects of both bicycle and roadway projects which affect bicycle safety and utilization, and make recommendations to the department to facilitate the use of bicycles for transportation; and provided, further, that the commissioner shall designate a qualified employee of the department to serve as a bicycle program coordinator who shall review and make recommendations concerning all aspects of both bicycle and roadway projects which affect bicycle safety and utilization;

(*g*) a sum not to exceed four million dollars to provide for the replacement of fuel tanks on department property;

(*h*) a sum not to exceed ten million dollars to provide for the assessment, containment, transportation and disposal, decontamination, and general cleanup of hazardous materials at department sites;

(*i*) a sum not to exceed two million dollars for the acquisition, by eminent domain under the provisions of chapter seventy-nine of the General Laws or by purchase or otherwise, of land or rights in land within or adjacent to public ways for the purpose of restoring, preserving, or enhancing areas of scenic beauty or special environmental value. Such acquisition shall be made following consultation with the secretary of environmental affairs and appropriate advisory committees; provided, however, that prior to any such acquisition, notice of acquisition shall be filed with the house and senate committees on ways and means and the joint committee on transportation;

(*j*) a sum not to exceed fifteen million dollars for expenses of alternative means of transportation during construction of the central artery north area project, the central artery third harbor tunnel project or any other project of significant scope which might cause traffic or other disruptions; and to facilitate the use of high-occupancy vehicles and to provide for the facilitation and creation of a Boston inner harbor water shuttle and water taxi service;

(*k*) a sum not to exceed one hundred and fifty million dollars for the design and reconstruction of, and improvement, including the testing, removal and encapsulation of lead-based paint, to state highway bridges and other bridges; provided, however, that notwithstanding the provisions of any other law to the contrary, the provisions of section sixty-one and section sixty-two A to sixty-two H, inclusive, of chapter thirty of the General Laws and chapter ninety-one and section forty of chapter one hundred and thirty-one of the General Laws shall not apply to bridge projects of the department authorized under this act for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges,



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including the immediate roadway approaches necessary to connect said bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced; provided, however, that notwithstanding the foregoing, the provisions of said section sixty-one and section sixty-two A to sixty-two H, inclusive, of said chapter thirty and said chapter ninety-one and said section forty of chapter one hundred and thirty-one shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles River known as "Scheme Z Modified" crossing, so called, described in the final supplemental environmental impact report for the Central Artery/Tunnel Project dated November fifteen, nineteen hundred and ninety, or any successor thereto; provided, further, that the secretary of environmental affairs shall develop recommended environmentally sound design and construction standards for said projects and shall submit these recommended standards in the form of a report to the joint committee on natural resources and agriculture and the house and senate committee on ways and means by September first, nineteen hundred and ninety-one; provided, further, that in the case of any state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of any railroad company, railway company or its assigns operating on said track of a desirable clearance between said track and the state highway bridge, but said clearance shall be at the discretion of the department; provided, further, that the department, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for such purposes as the department may deem necessary or convenient to carry out the provisions of this act; provided, further, that if a flagman is needed to carry out the provisions of this act, that railroad company, railway company, or its assigns shall provide such flagman. For the purposes of this paragraph, the term "bridge" shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility, or other area. Sums provided herein may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by department employees or by consultants. Amounts expended for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects;

(l) a sum not to exceed seven million dollars for the design and construction by the department of an addition to the research and materials building located in the town of Wellesley;

(m) a sum not to exceed five million dollars for non-federal aid highway expenditures which are potentially reimbursable by the federal government;

(n) a sum not to exceed twenty-five million dollars for the purchase, long-term leasing and rehabilitation of necessary durable equipment, including highway

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maintenance fleet equipment;

(o) a sum not to exceed two million dollars for the purchase of parts for durable equipment including highway maintenance fleet equipment;

(p) a sum not to exceed twenty million dollars for the purpose of bridge painting;

(q) a sum of not less than one hundred thousand dollars and not greater than two hundred fifty thousand dollars for the construction of traffic lights at the new entrance to the Five Mile Pond, at the intersection of Slater Avenue and Route 20 in the city of Springfield;

(r) a sum not to exceed five million dollars for the purposes of an off-street parking program pursuant to chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty; and

(s) a sum not to exceed five hundred thousand dollars for the purpose of disparity studies, so-called, as required by federal law, to determine the availability and utilization of minority and women owned businesses to provide goods and services and construction to the departments and to other state agencies and public entities, including a full survey of contracts of the departments and other state agencies.

**SECTION 4.** Pursuant to the provisions of sections one and three, the department is hereby authorized and directed to expend a sum of not less than four hundred million dollars for projects in the counties of Berkshire, Hampden, Hampshire, Franklin, Norfolk, Worcester, Essex, Middlesex, Barnstable, Bristol, Dukes, Nantucket and Plymouth; provided, however, that the department shall expend not less than seventy-five million dollars in the counties of Berkshire, Hampden, Hampshire, and Franklin; not less than seventy-five million dollars in the counties of Norfolk and Worcester; not less than seventy-five million dollars in the counties of Essex and Middlesex; and not less than seventy-five million dollars in the counties of Barnstable, Bristol, Dukes, Nantucket and Plymouth.

**SECTION 5.** No payment in excess of one hundred thousand dollars by way of purchase of real estate or any interest therein shall be made by the department, and no settlement in excess of one hundred thousand dollars or in excess of the amount recommended by the real estate review board established by section six of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six shall be made out-of-court for damages recoverable under chapter seventy-nine of the General Laws, by reason of a purchase or taking under this act or under chapter six hundred and seventy-nine of the acts of nineteen hundred and sixty-five, chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine, chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, chapter three hundred and fifty-six of the acts of

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nineteen hundred and seventy-seven, chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two, chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five or chapter fifteen of the acts of nineteen hundred and eighty-eight. Each recommendation of the real estate review board shall be in writing and shall be accompanied by a written statement of the reasons for such recommendation.

No settlement by reason of taking under this act or under said chapter six hundred and seventy-nine, six hundred and sixteen, seven hundred and sixty-eight, seven hundred and sixty-five, eight hundred and fifty-nine, three hundred and fifty-six, four hundred and eighty, seven hundred and thirty-two, three hundred and thirty-five, six hundred and thirty-seven, eight hundred and eleven or chapter fifteen, in excess of one hundred thousand dollars or in excess of the recommendation of the real estate review board, shall be made by agreement of the parties during or after trial except with the written approval of the court; provided, however, that the settlements in excess of the recommendation of the board may be made without such approval if the settlement does not exceed the amount of any verdict or finding which may have been rendered, together with interest and costs.

**SECTION 6.** The department may provide functional replacement of real property in public ownership whenever the department has acquired such property in whole or in part under the provisions of this act or such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the department determines such functional replacement is necessary and in the public interest. For purposes of this section, the term "functional replacement" shall mean the replacement, pursuant to the provisions of chapter seven of the General Laws including sections forty F and forty F 1/2 requiring authorization of the general court prior to disposition of real property, either land or facilities or both, which will provide equivalent utility and the term "real Property in public ownership" shall mean any and all present and future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth. This section shall not constitute authorization by the general court as required under said chapter seven.

Whenever the department determines it is necessary that any utility, or utility facility as defined under federal law be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facilities shall be relocated by the department or by the owner thereof in accordance with

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an order from the department; provided, however, that the commonwealth may reimburse the owner of such utility or utility facility for the cost of relocation; and provided further, that any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to the provisions of section twenty-seven of chapter one hundred and forty-nine of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, any utility facility that is required to be relocated because of the construction of a project federally funded under the Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated temporarily above ground during the construction of said project.

**SECTION 7.** Any amounts made available by sections one, two and three of this act or heretofore made available by section one of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine, section four of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, sections six and eight of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, section two of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven, section two A of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, section seventeen of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, section one of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two, sections one and three of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, section three of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, and section three of chapter fifteen of the acts of nineteen hundred and eighty-eight shall be available for expenditure until June thirtieth, nineteen hundred and ninety-five.

**SECTION 8.** To meet a portion of the expenditures necessary in carrying out the provisions of clauses (i) and (ii) of subsection (b) of section two and subject to the provisions of section eighteen which impose an annual limit of not less than twenty-five million dollars on the issuance of special obligation bonds for the purposes of said clauses (i) and (ii), the state treasurer shall, upon the request of the governor, issue special obligation bonds in an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of not less than seventy-five million dollars pursuant to section two O of chapter twenty-nine of the General Laws. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later

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than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Infrastructure Subfund established in section two O of chapter twenty-nine of the General Laws. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 9.** To meet a portion of the expenditures necessary in carrying out the provisions of clauses (b), (c) and (k) of section three, the state treasurer shall, upon the request of the governor, issue special obligation bonds in an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of six hundred twenty-two million seven hundred seventy-five thousand dollars pursuant to section two O of chapter twenty-nine of the General Laws. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Infrastructure Subfund established in section two O of chapter twenty-nine of the General Laws. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 10.** To meet a portion of the expenditures necessary in carrying out the provisions of section one and clauses (j) and (m) of section three, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of four hundred ninety-nine million one hundred four thousand nine hundred thirty-seven dollars to be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act, pursuant to the provisions of section ten of chapter fifteen of the acts of nineteen hundred and eighty-eight.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding thirty years as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations

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shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account *(i)* generally prevailing financial market conditions, *(ii)* the impact of each approach on the overall capital financing plans and needs of the commonwealth, *(iii)* any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and *(iv)* any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O; provided, further, that the aggregate amount of special obligation bonds issued pursuant to this paragraph and general obligation bonds issued pursuant to this section shall not exceed four hundred ninety-nine million one hundred four thousand nine hundred and thirty-seven dollars.

All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Infrastructure Subfund established in section two O of said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 11.** To meet a portion of the expenditures necessary in carrying out the provisions of clauses *(a)*, *(d)*, *(e)*, *(f)*, *(g)*, *(h)*, *(i)*, *(l)*, *(q)* and *(r)* of section three, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of forty million two hundred and fifty thousand dollars to be in addition to those bonds previously authorized for projects and programs which remain uncommitted or unobligated on the effective date of this act, in section eleven of chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, section nine of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, section fourteen of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, section nine of chapter three hundred and fifty-six of the acts of nineteen hundred and

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seventy-seven, section nine of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, section twenty-four of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, section two of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two, section ten of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, section nine of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, and section ten of chapter fifteen of the acts of nineteen hundred and eighty-eight.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen.

All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, however, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account (i) generally prevailing financial market conditions, (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O; provided, further, that the aggregate amount of special obligation bonds issued pursuant to this paragraph and general obligation bonds issued pursuant to this section shall not exceed forty million two hundred fifty thousand dollars.

All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen. All interest and payments on account of principal and such obligations shall be payable from the Infrastructure Subfund established in said section two O of said chapter twenty-nine. Special obligation bonds issued

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pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 12.** To meet a portion of the expenditures necessary in carrying out the provisions of clauses (*n*), (*o*), and (*p*) of section three, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of forty-seven million dollars.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account (*i*) generally prevailing financial market conditions, (*ii*) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (*iii*) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (*iv*) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O; provided, further, that the aggregate amount of special obligation bonds issued pursuant to this paragraph and general obligation bonds issued pursuant to this section shall not exceed forty-seven million dollars.

All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal of such obligations shall be payable from the Infrastructure Subfund established in said section two O of said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable



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solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 13.** To meet a portion of the expenditures necessary in carrying out the provisions of clauses *(i)* and *(ii)* of subsection *(b)* of section two of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of thirty-seven million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that the aggregate amount of general obligation bonds issued pursuant to this section and special obligation bonds issued pursuant to section nine shall not exceed one hundred twelve million dollars.

**SECTION 14.** To meet a portion of the expenditures necessary in carrying out the provisions of clause *(iii)* of subsection *(b)* of section two and clause *(s)* of section three, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of eight million five hundred thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 15.** To meet a portion of the expenditures necessary in carrying out the provisions of section seven of chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, section six of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine, section six of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, section eleven of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, section eight of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven, section eight of chapter four

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hundred and eighty of the acts of nineteen hundred and seventy-nine, section twenty-three of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, section one of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two and section one of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, section one of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, and section one of chapter fifteen of the acts of nineteen hundred and eighty-eight, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the total amount of bonds authorized in each of the above referenced acts in order to meet a portion of the expenditures necessary in carrying out the provisions of the above referenced sections.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account (i) generally prevailing financial market conditions, (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O of said chapter twenty-nine.

All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal and such obligations shall be payable from the Infrastructure Subfund established in section two O of

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said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 16.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections one, two, three, and fifteen of this act and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that the state treasurer may determine to issue any notes as special obligations pursuant to section two O of chapter twenty-nine of the General Laws if the notes, or renewals thereof, are to be paid from the proceeds of special obligation bonds to be issued pursuant to said section two O. All payments on account of principal on the notes allocable to the Federal Highway Construction Program Fund shall be repaid from said fund.

**SECTION 17.** Notwithstanding the provisions of any general or special law to the contrary, reimbursements authorized pursuant to clause (c) of section three of this act and projects authorized pursuant to clauses (i) and (ii) of subsection (b) of section two and clauses (b) and (k) of said section three shall have priority for funding by special obligation bonds issued within the annual expenditure limits established by section eighteen of this act. Said reimbursements authorized by said clause (c) of said section three shall be made within thirty days of the receipt of certification of project completion and all other required documentation. Projects authorized by said clauses (i) and (ii) of said subsection (b) and clauses (b) and (k) of said section three shall be advertised for construction bids pursuant to an annual or biennial advertising schedule of the department. Within such priorities, first consideration for all funding made available to the department and commission by this act shall be for projects posing the most immediate risk to public safety.

**SECTION 18.** Notwithstanding the provisions of any general or special law to the contrary, the state treasurer shall not issue in any one fiscal year more than four hundred million dollars in special obligation bonds pursuant to the provisions of section two O of chapter twenty-nine of the General Laws for the purposes set forth in section one, clauses (i) and (ii) of subsection (b) of section two, and sections three, fifteen and clause (b) of section thirty-seven of this act; provided, however, that of said four hundred million dollars not less than twenty-five million dollars

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of special obligation bonds shall be issued annually pursuant to said section two O of said chapter twenty-nine for the purposes of projects authorized by said clauses (i) and (ii) of said subsection (b); provided, further, that the sum total of bonds issued for the purposes set forth in said sections one, two, three, fifteen and clause (b) of section thirty-seven shall not exceed one billion one hundred twenty-five million dollars during the period commencing on July first, nineteen hundred and ninety-one and ending on June thirtieth, nineteen hundred and ninety-four.

**SECTION 19.** Bonds issued as special obligation bonds pursuant to the provisions of this act shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section sixty A of chapter twenty-nine of the General Laws, nor shall debt service with respect to such bonds be included in any computation of the limit imposed by section sixty B of said chapter twenty-nine.

**SECTION 20.** Notwithstanding the provisions of chapter thirty-one of the General Laws or any other general or special law or rule to the contrary, the commissioner of public works may provisionally appoint in any fiscal year not more than one hundred and fifty persons who have received a bachelor's or master's degree in an appropriate engineering, environmental, architectural, or scientific discipline from an accredited college or university to serve in the titles of civil engineer I, environmental analyst I, game biologist I, or chemist I; provided, however, that upon request to the personnel administrator, the commissioner may appoint persons possessing said bachelor's or master's degrees to additional non-engineering professional titles in the first level of a class series within the statewide classification plan after a determination by the personnel administrator that the knowledge, skills, and abilities of the title are necessary to effectuate the purposes of the provisions of this act; provided, further, that no appointment may be made under this paragraph to a title for which the minimum entrance requirements as established by the personnel administrator include experience in addition to education. Following such provisional appointment, each person appointed under this paragraph shall be subject to the provisions of chapter one hundred and fifty E of the General Laws except as otherwise provided herein; provided, further, that no such person shall be terminated or otherwise removed from a position as a result of the establishment or certification of a civil service eligible list for the title in which such person is employed. Each such person appointed under this paragraph or under subparagraph (1) of paragraph (c) of section two of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five or under section forty-one of chapter fifteen of the acts of nineteen hundred and eighty-eight shall be deemed eligible to take and shall take the first appropriate civil service examination for the title in which he is employed, the announcement for which is posted following such provisional appointment or the

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effective date of this act, whichever is later; provided, however, that in the case of engineering titles, each such person appointed under this paragraph shall within one year of his provisional appointment secure certification as an engineer-in-training or as a registered professional engineer by the board of registration of professional engineers and land surveyors as provided by the provisions of chapter one hundred and twelve of the General Laws. Upon receipt of a passing grade on the examination, a satisfactory performance evaluation as defined in section six A of said chapter thirty-one for a one year probationary period and, in the case of persons appointed to said engineering title, certification as an engineer-in-training or as a registered professional engineer, each such person appointed under this paragraph or under said subparagraph (1) of said paragraph (c) of said section two of said chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five or under section forty-one of chapter fifteen of the acts of nineteen hundred and eighty-eight shall be deemed to be appointed a civil service employee in accordance with the provisions of said chapter thirty-one; provided, however, that if a person appointed under this paragraph fails to take and pass the first appropriate civil service examination and where required fails to pass the first appropriate engineer-in-training examination or professional engineer certification, notwithstanding the provisions of any law or collective bargaining contract to the contrary, the commissioner shall terminate the employment of said person.

Notwithstanding the provisions of chapter thirty-one of the General Laws or any other general or special law or rule to the contrary, the commissioner may provisionally appoint no more than thirty persons who have received bachelor's or master's degrees in an appropriate environmental, architectural or scientific discipline from an accredited college or university and who possesses the appropriate additional experience requirements as established by the personnel administrator to serve in titles of wildlife land acquisition coordinator, landscape architect, geologist, building inspector, ornithologist or construction coordinator 1, or in titles above the first level of a class series of the statewide classification plan not described above after a determination by the personnel administrator that the knowledge, skills and abilities of the title are necessary to effectuate the purposes of the provisions of this act. Following his provisional appointment, each such person shall be subject to the provisions of chapter one hundred and fifty E of the General Laws, but shall not be subject to the provisions of said chapter thirty-one except as otherwise provided herein; provided, however, that no such person shall be terminated or otherwise removed from such position as a result of the establishment or certification of a civil service eligible list for the title in which a person is employed. Each such person provisionally appointed under this paragraph shall be deemed eligible to take and shall take the first appropriate civil service examination, or otherwise acquire civil service status in a manner consistent with civil service law and rules for the title in which he is employed, the

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announcement for which is posted following such provisional appointment or the effective date of this act, whichever is later. Each such person appointed under this paragraph, after a satisfactory performance evaluation as defined in section six A of said chapter thirty-one of a probationary period and a receipt of a passing grade on the civil service examination, shall be deemed to be appointed a civil service employee in accordance with the provisions of said chapter thirty-one; provided, however, that if a person appointed under this paragraph fails to take the first appropriate civil service examination, notwithstanding the provisions of any law or collective bargaining agreement to the contrary, the commissioner shall terminate the employment of said person.

Nothing in this section shall be construed to relieve the department of any appointment obligations pursuant to any relevant court orders or consent decrees. To the extent practicable, preference in initial appointments made pursuant to this section shall be given first to disabled veterans as defined in section one of said chapter thirty-one of the General Laws, second to veterans as defined in said section one of said chapter thirty-one, and third to all other qualified persons, including employees of the department having such degrees as are specified.

**SECTION 21.** In furtherance of section twenty-five A of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five and in fulfillment of chapter five hundred and seventy-nine of the acts of nineteen hundred and eighty, the department and all other state agencies and authorities are hereby authorized to take all necessary and desirable actions, in accordance with all applicable federal and state laws and regulations, to develop, facilitate and effectuate the construction, ownership and operation of a third harbor tunnel crossing and its approaches and connections to the interstate highway system, all as shown on plans and described in a report entitled "Layout and Construction of Third Harbor Tunnel, Boston, MA" prepared by Bechtel/Parsons Brinckerhoff, dated the first day of November, nineteen hundred and ninety, copies of which are on file with the chief engineer of the department of public works, the committee on transportation, the deputy commissioner of capital planning and operations and the department of environmental protection.

**SECTION 22.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed three million dollars for the purpose of further implementing the provisions of section thirteen of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three; provided, however, that any grant funds awarded under this section shall be for not more than eighty percent of the total purchase cost of the vehicles or equipment. Said secretary may waive said limitation upon determination that a recipient is in critical financial need.

**SECTION 23.** To meet the expenditures necessary in carrying out the provisions of section twenty-two of this act, the state treasurer shall, upon request

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of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of three million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Mobility Assistance Program Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, nineteen hundred and ninety-nine. All interest and payments on account of principal of such obligations shall be payable from the General Fund.

Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 24.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section twenty-two of this act and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-nine.

Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 25.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed nine million five hundred thousand dollars for the purposes set forth in section three of chapter one hundred and sixty-one D of the General Laws.

**SECTION 26.** To meet the expenditures necessary in carrying out the provisions of section twenty-five, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of nine million five hundred thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Intercity Bus Capital Assistance Program Loan, Act of 1991 and shall be issued for such maximum term of years not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and four. All interest and payments on account of principal of such obligations shall be payable from the Intercity Bus

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Capital Assistance Program Fund to the extent that there are funds available therein for payments. Notwithstanding the foregoing, bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

Said bonds shall not be subject to section fifty-three of chapter twenty-nine of the General Laws.

**SECTION 27.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section twenty-five of this act and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms not exceeding one year as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth. All payments on account of principal on the notes allocable to the Intercity Bus Capital Assistance Program Fund shall be repaid from said fund.

**SECTION 28.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed one million nine hundred thousand dollars for boat services for commuter operations to and from the city of Boston from the north and south shores and between points within the inner harbor, or other public transportation purposes including, but not limited to, the planning, design, construction or acquisition of docking, dredging and other landside facilities, such as parking or shelter facilities, boats, the purchase of other equipment in connection with said services and the disposal of same when their use has been substantially diminished including any and all equipment or boats purchased for marine transportation service prior to this act. In carrying out the provisions of this section said secretary may enter into contracts or agreements as are appropriate with other state and local public agencies, authorities, or political subdivisions of the commonwealth including, but not limited to, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the department of environmental management or with private parties, which are hereby granted the power and authority to enter into any contracts or agreements with said secretary.

**SECTION 29.** To meet the expenditures necessary in carrying out the provisions of section twenty-eight, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of one million nine hundred thousand dollars. All bonds issued by the common-



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wealth as aforesaid shall be designated on their face, Commuter Boat Assistance Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund.

Bonds and notes and interest thereon issued under the authority of this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth.

**SECTION 30.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section twenty-eight of this act and may issue and renew from time to time notes of the commonwealth therefor bearing fixed interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

**SECTION 31.** The Massachusetts aeronautics commission, hereinafter referred to as the "aeronautics commission", is hereby authorized and directed to expend a sum not to exceed eight million six hundred thousand dollars for the purpose of airport systems improvement and development in the commonwealth, including the development of a pavement management program and an airport fuel tank replacement program, for payments, reimbursements, or both, to cities, towns and counties for planning, design and construction of airports pursuant to section thirty-nine F and fifty-one K of chapter ninety of the General Laws, for providing navigational aids pursuant to section forty of chapter ninety of the General Laws, for administrative costs including the salary of the director of operations and the environmental planner authorized by this section, and for the purpose of implementing the provisions of section thirty-nine A of chapter ninety of the General Laws. Sums authorized by this section shall be in addition to any prior sums authorized for said purposes.

For the purpose of carrying out the above-mentioned airport development and safety programs, the aeronautics commission is hereby authorized to appoint one director of operations and one environmental planner without regard to the provisions of chapter thirty-one of the General Laws or any collective bargaining agreement pursuant to chapter one hundred and fifty E of the General Laws. Except

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as otherwise specified herein, following appointment under this paragraph, a person shall not be subject to the provisions of said chapter thirty-one; and a person shall not be terminated or otherwise removed from a position as a result, directly or indirectly, of the establishment, or operation of any civil service list pursuant to said chapter thirty-one.

The commission's rules and regulations governing the maintenance and safety program shall include a provision that the commonwealth's share of the total cost of each project shall not exceed seventy percent.

**SECTION 32.** To meet the expenditures necessary in carrying out the provisions of section thirty-one, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of eight million six hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Airport Capital Outlay, Act of 1991, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen. All interest and payments on account of principal of such obligations shall be payable from the General Fund.

Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 33.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section thirty-one and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

**SECTION 34.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not exceeding ten million dollars pursuant to the provisions of chapter one hundred and sixty-one C of the General Laws; provided, however, that a sum not to exceed one million five hundred thousand dollars shall be expended for the acquisition or improvement of railroad rights of way.

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**SECTION 35.** To meet the expenditures necessary in carrying out the provisions of section thirty-four, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth, in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of ten million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Rail Transportation Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen. All interest and payments on account of principal of such obligations shall be payable from the General Fund.

Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 36.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section thirty-four and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 37.** In addition to the monies and purposes authorized under the provisions of section twenty-three of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, the secretary of the executive office of transportation and construction is hereby authorized and directed to expend a sum not exceeding fifteen million dollars as follows:

(a) a sum not to exceed ten million six hundred sixty-five thousand dollars for the purchase, long-term lease and rehabilitation of rolling stock; and

(b) a sum not to exceed four million three hundred and thirty-five thousand dollars for the construction, reconstruction, and rehabilitation of regional transit authority facilities and related appurtenances.

**SECTION 38.** To meet the expenditures necessary in carrying out the provisions of clause (a) of section thirty-seven of this act, the state treasurer shall upon the request of the governor, issue and sell bonds of the commonwealth, in

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an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of ten million six hundred and sixty-five thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Regional Transit Authority Capital Assistance Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal of such obligations shall be payable twenty percent from the Highway Fund and eighty percent from the General Fund.

Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 39.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by clause (a) of section thirty-seven and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 40.** To meet the expenditures necessary in carrying out the provisions of clause (b) of section thirty-seven, the state treasurer shall upon the request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of four million three hundred and thirty-five thousand dollars. Bonds issued by the commonwealth as aforesaid shall be designated on their face, Regional Transit Authority Construction Capital Assistance Loan, Act of 1991 and shall be issued for such maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth;

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provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, however, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account (i) generally prevailing financial market conditions, (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (iii) any rating assigned to outstanding bonds of the commonwealth and any rating expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (iv) any applicable provision of a trust agreement or credit enhancement agreement entered into pursuant to said section two O of said chapter twenty-nine.

All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Regional Transit Authority Capital Assistance Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on the account of principal of such obligations shall be payable from the Infrastructure Subfund established in section two O of chapter twenty-nine of the General Laws. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 41.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by clause (b) of section thirty-seven and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be issued as special obligations pursuant to section two O of said chapter twenty-nine of the General Laws. Such notes, or renewals thereof, are to be paid from the proceeds of special obligations bonds to be issued pursuant to said section two O of said chapter twenty-nine.

**SECTION 42.** The secretary of transportation and construction is hereby authorized and directed to establish a program to provide capital assistance funds

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to regional transit authorities organized pursuant to the provisions of chapter one hundred and sixty-one B of the General Laws for the purpose of implementing an alternative fuel pilot program. Funds provided for said program shall be limited to the purchase of vehicles, conversion of vehicles, and engineering, design, acquisition, construction and reconstruction of facilities. Said secretary shall make, and from time to time revise, guidelines for the allocation and distribution of funds made available for this purpose among the regional transit authorities.

**SECTION 43.** The secretary of transportation and construction is hereby directed to expend a sum not to exceed one million five hundred thousand dollars for the purposes set forth in section forty-two. To meet the expenditures, the state treasurer shall upon the request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time, but not exceeding in the aggregate, one million five hundred thousand dollars. All bonds or notes issued by the commonwealth as aforesaid shall be designated on their face, Regional Transit Authority Alternative Fuel Program Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal of such obligations shall be payable eighty percent from the General Fund and twenty percent from the Highway Fund.

Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 44.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section forty-two and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 45.** The proceeds from the sale of additional bond authorization provided under section ninety-one shall be expended for the capital needs of the Massachusetts Bay Transportation Authority, hereinafter referred to as the author-

ity, as follows:

(a) a sum not to exceed seventy-eight million six hundred thousand dollars for the purchase, long-term leasing and rehabilitation of rolling stock;

(b) a sum not to exceed five hundred eighty-seven million one hundred thousand dollars for the design, construction, rehabilitation, modernization and expansion of shops, carhouses, commuter rail improvements, stations, and other authority facilities, including material and equipment procurements; including not less than three million dollars for the Cardinal Medeiros Pier Rehabilitation Project; provided, however, that no money shall be spent on the Old Colony railroad rehabilitation project;

(c) a sum not to exceed one hundred sixty-two million two hundred thousand dollars for system-wide track, power, signal, bridge, and ventilation infrastructure improvements; provided, however, that no money shall be spent on the Old Colony railroad rehabilitation project;

(d) a sum not to exceed seventy-five million dollars for the south station transportation center project;

(e) a sum not to exceed one hundred million dollars for the north station transportation center project; and

(f) a sum not to exceed eighty-five million dollars for the Old Colony railroad rehabilitation project.

The authority shall file a report on the capital projects in design, along with capital projects currently expending funds from bond authorizations. Said report shall be filed with the joint committee on transportation and the house and senate committees on ways and means. The first report shall be filed on July first, nineteen hundred and ninety-one and additional reports shall be filed on a quarterly basis thereafter.

**SECTION 46.** It is hereby found and declared that open areas exist or will be created in, around, or above the south station transportation center project that is funded in part pursuant to paragraph (d) of section forty-five of this act; that the continued existence of such areas would constitute an economic liability, substantially impair or arrest the sound growth of the city of Boston, and, because of the economic and social interdependence of communities, retard the economic well being of the commonwealth as a whole; that the failure to develop or redevelop such areas would invite and likely cause decadence or blight that would constitute a serious and growing menace, injurious and inimical to the safety, health, morals, and welfare of the residents of the city and of the commonwealth; that development or redevelopment of such areas in order to prevent the occurrence of substandard conditions is necessary to retain existing industries, attract new industries, and promote the sound economic growth of the city and of the commonwealth; that the development or redevelopment of such areas requires the stimulation of private investment therein; and that the development or

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redevelopment of such areas for biomedical, medical and pharmaceutical research and development and for other commercial purposes therefore constitutes an important public purpose for which public money may be expended and invested.

**SECTION 46A.** As used in this section and section forty-six B of this act, the term "MBTA" shall mean the Massachusetts Bay Transportation Authority established by section two of chapter one hundred and sixty-one A of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, the MBTA is hereby authorized to borrow from the commonwealth, at any one time or from time to time before June thirtieth, two thousand and one, a sum not exceeding in the aggregate three million dollars to be used solely for the purposes and in the manner set forth in sections forty-six and forty-six B of this act. Such loan or loans shall be payable solely from amounts that the MBTA is obligated to pay the commonwealth in accordance with the provisions of said section forty-six B.

**SECTION 46B.** The MBTA is hereby authorized with the concurrence of the secretary of transportation and construction, to enter into an agreement with the developer of an economic development project that is undertaken by an institution for higher education or an organization related thereto for the development or redevelopment of facilities for biomedical, medical and pharmaceutical research and development and for other commercial purposes near or over the South Station Transportation Center project authorized in paragraph (d) of section forty-five which provides that: (i) the MBTA may lend any and all amounts borrowed by the MBTA pursuant to section forty-six A to such developer for the construction of such economic development project or any planning, consulting, designing, permitting, marketing or other preparation therefor; (ii) the MBTA may borrow, pursuant to said section forty-six A, such sums as are requested by such developer to be expended for any such construction, planning, consulting, designing, permitting, marketing or other preparation; and (iii) such developer shall repay to the MBTA the aggregate of any such amounts lent to such developer by the MBTA plus interest thereon calculated from the date such amounts are so lent and at a rate equal to the true interest cost on bonds issued by the commonwealth at or about the time any such amounts are so lent, such repayment to be made in ten equal annual installments over a period commencing upon the completion of such economic development project or upon July first, two thousand and one, whichever comes first.

Any amounts received by the MBTA from such developer pursuant to this section shall be paid to the commonwealth forthwith. If on June thirtieth, two thousand and one, any amount borrowed under authority of section forty-six A of this act has not been disbursed to such developer by the MBTA for the purposes provided herein, such undisbursed amount shall be returned to the commonwealth forthwith.



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**SECTION 46C.** To meet the expenditures necessary in carrying out the provisions of section forty-six A the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, three million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, MBTA/Biomedical Development Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and eleven. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 46D.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section forty-six A of this act and may issue and renew from time to time notes of the commonwealth bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one. Notes and interest thereupon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 47.** Notwithstanding the provisions of any general or special law to the contrary, the authority, is hereby authorized to use or take land of the commonwealth, without compensation therefor, and may acquire, either by voluntary transfer or by eminent domain under chapter seventy-nine of the General Laws, such properties as the authority may determine to be necessary for the purposes of constructing and equipping a commuter rail line from the South Station area of the city of Boston and over or under the Fort Point Channel or from a point southeasterly thereof, along the former route of the Old Colony Division of the New York, New Haven and Hartford Railroad through the city of Boston, the city of Quincy and the town of Braintree, thence dividing into three routes: the Middleborough Line through the towns of Holbrook, Randolph, Avon, Brockton, Bridgewater and Middleborough; the Plymouth Line through the towns of Weymouth, Abington, Whitman, Hanson, Halifax, Kingston and Plymouth; and the Greenbush Line through Weymouth, Hingham, Cohasset and Scituate, and for the purposes of constructing and equipping a bridge over the Neponset river between the cities of Boston and Quincy over the lands of the commonwealth, adjacent to the present rapid transit bridge over said river and other properties as the authority

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may determine to be necessary for said commuter rail line and its appurtenances including, but not limited to, unused portions of the former route now owned by the towns of Scituate and Cohasset; portions of the former Middleborough Line and the former Greenbush Line now under the control of the executive office of transportation and construction, to be subject to an easement for freight usage; vacant land in Cohasset now under the control of the department of environmental management; land under the control of the board of regents at Bridgewater state college now used for parking purposes; and vacant land under the control of the department of public health at Lakeville state hospital.

**SECTION 48.** In addition to any contract assistance paid to the Massachusetts Bay Transportation Authority under the provisions of chapter one hundred and sixty-one A of the General Laws or any other general or special law, the executive office for administration and finance, acting on behalf of the commonwealth, shall, on the recommendation of the secretary, enter into a contract or contracts with the Massachusetts Bay Transportation Authority, hereinafter referred to in this section as "the authority", to provide for additional contract assistance for the authority's net additional expense of providing mass transportation or rail service to cities and towns outside the area constituting the authority under contracts with said cities and towns, with regional transportation areas, or with the operator of said transportation service and such amounts shall be paid by the commonwealth to the authority and shall not be reimbursed by said cities and towns to the authority; provided, however, that said contract assistance for the net additional expense of bus service provided to and on behalf of the regional transit authorities and cities and towns outside the authority's district shall, subject to appropriation, be not more than two million dollars in annual obligation.

**SECTION 49.** Whenever the Massachusetts Bay Transportation Authority deems it necessary to make surveys, soundings, test pits, borings, drillings or examinations to obtain information for or to expedite the construction of public transportation facilities or other projects under its jurisdiction, said authority, its authorized agents or employees may, after thirty days notice by registered or certified mail, and without the necessity of any judicial orders or other legal proceedings, enter upon any lands, waters and premises, not including buildings, in the commonwealth, including lands both publicly and privately owned, including land owned by railroad corporations, for the purpose of making surveys, soundings, test pits, borings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, and the entry shall not be deemed a trespass. Said authority shall make reimbursement for any injury or damage to lands resulting from the entry caused by any act of its authorized agents or employees and shall so far as possible restore such lands to the same condition as prior to the making of such surveys, soundings, test pits, borings, drillings or examinations.

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**SECTION 50.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to enter into one or more contracts with qualified contractors for the placement of public information and advertising messages in and upon vehicles and real property operated by said authority. Said advertising shall include, but not be limited to, cards, signs, posters, and other forms of visible matter to be placed at all passenger stations, platforms, and passenger coaches; on the exterior of all buses and light rail vehicles; on frequently used bus shelters; on clocks; on outdoor advertising structures; on dioramas; and on electronic message boards programmed to display real time public information and advertising messages.

**SECTION 51.** Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority may enter into the New England Power Pool subject to the conditions set forth in chapter one hundred and sixty-four A of the General Laws.

**SECTION 52.** The department of public safety is hereby authorized and directed to spend no more than ten million one hundred fifty thousand dollars as follows:

(a) a sum not to exceed ten million dollars for the purchase of state police cruisers; and

(b) a sum not to exceed one hundred fifty thousand dollars for the purposes of section fifty-five.

**SECTION 53.** To meet the expenditures necessary in carrying out the provisions of section fifty-two, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of ten million one hundred fifty thousand dollars. All bonds, issued by the commonwealth as aforesaid shall be designated on their face, Public Safety Program Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, nineteen hundred and ninety-nine. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund.

Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 54.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized in section fifty-two, and may issue and renew, from time to time, notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes

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shall be issued and may be renewed one or more times for such terms not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-nine.

Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

**SECTION 55.** The secretary of public safety is hereby authorized and directed to conduct a study to determine the feasibility of and procurements necessary to establish and make available a statewide common interagency emergency and disaster communications frequency network for all police, fire, emergency medical, civil defense, national guard, and coast guard emergency communications. The secretary shall, throughout the course of the study, consult with the directors of the regional emergency medical service councils, as well as other public safety and disaster related organizations. In addition, said secretary or his designee and the secretary of environmental affairs or his designee, in consultation with the commission and the department, shall study and develop a plan to link individual agency's telecommunications infrastructure to facilitate the development of a telecommunications network for all state agencies. A preliminary report shall be filed on or before November first, nineteen hundred and ninety-one, and a final report and any necessary legislation including any capital authorizations needed to implement the secretary's recommendation shall be filed on or before April first, nineteen hundred and ninety-two. Said reports shall be filed with the joint committee on public safety and the house and senate committees on ways and means.

**SECTION 56.** The commissioner of the department of environmental management is hereby authorized and directed to expend a sum not to exceed one million five hundred thousand dollars for the purposes of section ten of chapter ninety-one of the General Laws. The commissioner shall prioritize projects authorized under this section based on the benefit to water transportation.

**SECTION 57.** To meet the expenditures necessary in carrying out the provisions of section fifty-six of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of one million five hundred thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Waterways Dredging Program Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and four. All payments on account of principal of such

obligations shall be payable from the Highway Fund.

Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 58.** The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section fifty-six of this act and may issue and renew from time to time notes of the commonwealth therefore bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four.

Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

**SECTION 59.** The registry of motor vehicles is hereby authorized and directed to expend no more than one million and two hundred thousand dollars as follows:-

(a) A sum not to exceed seven hundred thousand dollars for new licensing systems that upgrade photographic and signature imaging; and

(b) A sum not to exceed five hundred thousand dollars for mass testing equipment.

Said equipment to be used to implement the provisions of the federal Commercial Motor Vehicle Safety Act of 1986.

**SECTION 60.** To meet the expenditures necessary in carrying out the provisions of section fifty-nine, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of one million two hundred thousand dollars. All bonds, issued by the commonwealth as aforesaid shall be designated on their face, Public Safety Program Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 61.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized in section fifty-nine of this act, and may issue and

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renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes whether original or renewal shall not be later than June thirtieth of the year two thousand and six. Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

**SECTION 62.** All sums expended either pursuant to, or for which reimbursement is made under this act, for the purpose of acquiring, constructing, or altering public transportation passenger vehicles or facilities shall be expended in accordance with the provisions of 42 USC 12141 to 42 USC 12150, inclusive.

**SECTION 63.** Each executive office, agency, department, board and commission receiving funds pursuant to this act shall certify to the comptroller on a quarterly basis, beginning in the fourth quarter of fiscal year nineteen hundred and ninety-one, that all payments from the proceeds of the sale of bonds, notes or other funds authorized in this act, that have been made during the preceding quarter in the form of salaries, wages, benefits, reimbursements for services or other compensation to any person, whether an individual, corporation or association, were for duties and responsibilities primarily allowable to projects or undertakings authorized or substantially funded in this act.

The comptroller shall file with the house and senate committees on ways and means, a quarterly report, beginning with the fourth quarter of fiscal year nineteen hundred and ninety-one, detailing the total number, and corresponding dollar amount, of employees and consultants compensated by each executive office, agency, department, board and commission from the sale of bonds, notes or other funds authorized in this act, in the "AA", "BB", "CC", "HH", "JJ" and "OO" subsidiary accounts, respectively.

**SECTION 64.** Notwithstanding the provisions of chapter thirty-one of the General Laws or any other general or special law or rule to the contrary, the commissioner of the metropolitan district commission may provisionally appoint in any fiscal year not more than fifty persons who have received a bachelor's or master's degree in an appropriate engineering, environmental, architectural, or scientific discipline from an accredited college or university to serve in the titles of civil engineer I, environmental analyst I, game biologist I or chemist I; provided, however, that upon request to the personnel administrator, the commissioner may appoint persons possessing said bachelor's or master's degrees to additional nonengineering professional titles in the first level of a class series within the statewide classification plan after a determination by the personnel administrator that the knowledge, skills and abilities of the title are necessary to effectuate the

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purposes of the provisions of this act; provided, further, that no appointment may be made under this paragraph to a title for which the minimum entrance requirements as established by the personnel administrator include experience, in addition to education. Following such provisional appointment, each person appointed under this paragraph shall be subject to the provisions of chapter one hundred and fifty E of the General Laws, but shall not be subject to the provisions of chapter thirty-one of the General Laws except as otherwise provided herein; provided, further, that no such person shall be terminated or otherwise removed from a position as a result of the establishment or certification of a civil service eligible list for the title in which a person is employed. Each person appointed under this paragraph shall be deemed eligible to take and shall take the first civil service examination for the title in which he is employed, the announcement for which is posted following a provisional appointment or the effective date of this act, whichever is later; provided, further, that in the case of engineering titles, each person appointed under this paragraph shall secure certification as an engineer-in-training or as a registered professional engineer by the board of registration of professional engineers and land surveyors as provided by the provisions of chapter one hundred and twelve of the General Laws. Upon receipt of a passing grade on the examination and a satisfactory performance evaluation as defined in section six A of said chapter thirty-one for a one year probationary period and, in the case of persons appointed to said engineering title, certification as an engineer-in-training or as a registered professional engineer, each person appointed under this paragraph shall be deemed to be appointed a civil service employee in accordance with the provisions of said chapter thirty-one; provided, however, that if a person appointed under this paragraph fails to take and pass the first appropriate civil service examination, and, where required fails to pass the engineer-in-training examination or professional engineer certification within one year of his provisional appointment, notwithstanding the provisions of any law or collective bargaining contract to the contrary, the commissioner shall terminate the employment of the person.

Notwithstanding the provisions of chapter thirty-one of the General Laws or any other general or special law or rule to the contrary, the commissioner may provisionally appoint no more than thirty persons who have received a bachelor's or master's degree in an appropriate environmental, architectural, scientific discipline from an accredited college or university and who possesses the appropriate additional experience requirements as established by the personnel administrator to serve in titles of wildlife and acquisition coordinator, landscape architect, geologist, building inspector, ornithologist, construction coordinator I and any other entry level title associated with said disciplines, or in titles above the first level class series of the statewide classification plan not described above after a determination by the personnel administrator that the knowledge, skills and

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abilities of the titles are necessary to effectuate the purposes of the provisions of this act. Following his provisional appointment, each person shall be subject to the provisions of chapter one hundred and fifty E of the General Laws, but shall not be subject to the provisions of said chapter thirty-one except as otherwise provided herein; provided, however, that no person shall be terminated or otherwise removed from a position as a result of the establishment or certification of a civil service eligible list for the title in which a person is employed. Each person provisionally appointed under this paragraph shall be deemed eligible to take and shall take, the first appropriate civil service examination for the title in which he is employed, the announcement for which is posted following a provisional appointment or the effective date of this act, whichever is later. Each person appointed under this paragraph, after a satisfactory performance evaluation as defined in section six A of said chapter thirty-one of a probationary period and the receipt of a passing grade on the civil service examination, shall be deemed to be appointed a civil service employee in accordance with the provisions of said chapter thirty-one; provided, however, that if a person appointed under this paragraph fails to take and pass the first appropriate civil service examination, or otherwise acquire civil service status in a manner consistent with civil service law and rules, notwithstanding the provisions of any law or collective bargaining agreement to the contrary, the commissioner shall terminate the employment of the person.

Nothing in this section shall be construed to relieve the commissioner of any appointment obligations pursuant to any relevant court orders or consent decrees. To the extent practicable, preference in initial appointments made pursuant to this section shall be given first to disabled veterans as defined in section one of said chapter thirty-one of the General Laws, second to veterans as defined in section one of said chapter thirty-one, and third to all other qualified persons, including employees of the commission having such degrees as are specified.

**SECTION 65.** The commissioner of the metropolitan district commission is hereby authorized to develop and establish a project accounting system for capital accounts. The project accounting system shall be utilized to assess charges for all project related costs including, but not limited to, administrative overhead costs. The commissioner may employ or reassign employees of the commission to said project as may be required; provided, however, that the salaries and administrative expenses may be charged to the accounts funding such projects. Said charges shall not exceed seven percent of the following appropriation accounts: 2420-7880, 2420-8881, 2440-7870, 2440-7878, 2440-7879, 2440-7880, 2440-7885, 2440-7891, 2440-7892, 2440-7893, 2440-7895, 2440-8802, 2440-8819, 2440-8840, 2440-8844, 2440-8848, 2440-8873, 2440-8881, 2440-8884, 2440-8885, 2440-8887, 2440-8888, 2440-8889, 2440-9812, 2440-9813, 2440-9883, 2440-9848, 2444-8812, 2449-7350, 2449-7373, 2449-8754, 2449-8755, 2490-0008, 2490-0009, 2490-0010, 2490-0012,



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2490-8881.

**SECTION 66.** A report shall be filed with the joint committee on transportation and the house and senate committees on ways and means which provides a current status on the capital projects in design, along with capital projects current expending authorization. Said report shall be filed by the commission, the Massachusetts aeronautics commission and the secretary of the executive office of transportation and construction on behalf of the regional transit authorities and as spending relates to said executive office's Mobility Assistance Program, Intercity Bus Capital Assistance Program, the Rail Transportation Program, and the Commuter Boat Program. The first report shall be filed on July first, nineteen hundred and ninety-one and shall be filed on a quarterly basis thereafter.

**SECTION 67.** The secretary of transportation and construction shall, within one year of the effective date of this act, prepare a comprehensive state transportation plan for the fiscal years from nineteen hundred and ninety-two through nineteen hundred and ninety-seven. Said plan shall be prepared after public hearings pursuant to chapter thirty A of the General Laws. Said plan shall be designed to improve the quality of life in the commonwealth by promoting economic development and employment in the commonwealth by meeting cost effectively the diverse transportation needs of all residents of the commonwealth, including urban, suburban, and rural populations and especially elderly, disabled and transit-dependent persons, while minimizing the harmful effects of transportation systems on public health and the environment and promoting public safety. Said plan's development process shall consider all transportation options on an integrated basis, including highway, road, transit, rail, air and water transportation, and shall be consistent and fully integrated with transportation planning activities required under the federal Clean Air Act. Said plan shall also include an engineering assessment to anticipate highway, road and bridge needs throughout the commonwealth which prioritizes projects based on need as determined by objective engineering measurements of condition, safety and service. The executive offices of environmental affairs and economic affairs shall be consulted in the development of said plan. Said plan shall be updated every three years.

**SECTION 68.** The secretary of administration and finance and the commissioner of public works shall prepare a report on the practice of hiring and funding salaries of employees of the commonwealth through the proceeds of bonds issued by the commonwealth and persons who, once hired, later become permanent employees of the commonwealth. Said report shall be issued by September first, nineteen hundred and ninety-one.

**SECTION 69.** All agencies, authorities and public entities of the commonwealth are hereby authorized and directed to enter into agreements with the attorney general for reimbursement for expenses incurred in fulfilling the obligations of the attorney general set forth in section three of chapter twelve of the

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General Laws as they pertain to the provisions of this act. Such action may, but shall not be limited to, representation of the commonwealth, its officers, and agencies in environmental, eminent domain, contract and tort proceedings.

**SECTION 70.** The department of public works is hereby authorized and directed to develop a plan detailing the required use of eminent domain powers to be exercised on behalf of any other public entity, authority, railroad or utility and necessary for the completion of the Central Artery Third Harbor Tunnel Project, so-called, or any other project authorized pursuant to this act. Said plan shall be filed with the committee on transportation and the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-one, together with drafts of any legislation recommended by such plan.

**SECTION 71.** The secretary of transportation and construction and the commissioner of public works shall study and implement to the extent feasible, alternative methods for accelerated billing of the Federal Highway Administration for costs of the commonwealth that are eligible for federal reimbursement. The study shall identify strategies that can be used to increase the frequency of billing and maximize the accuracy and timeliness of reimbursement. The study shall be filed with the joint committee on transportation and the house and senate committee on ways and means within one hundred and twenty days of approval of this act together with any legislation required to implement any recommendations of said study.

**SECTION 72.** In order to minimize the hazards of lead poisoning to workers and the general public, the department and the commission shall cause a lead paint inspection to be performed by a licensed lead paint inspector, pursuant to the department of labor and industries regulation 454 CMR 22.00, prior to the repair of any painted surface, including bridges, where that surface will be disturbed by the planned repair or reconstruction work. If the department or commission determines that lead abatement work is required, the department or the commission shall cause lead abatement work to be performed by a licensed de-leader-contractor, in compliance with all applicable regulations of the commonwealth, including those of the departments of labor and industries and public health, and those stipulated in 454 CMR 22.00.

**SECTION 73.** In furtherance of the purposes of this act, which are not only to promptly construct, reconstruct, improve, rehabilitate and repair the commonwealth's transportation infrastructure but also to construct and maintain the commonwealth's infrastructure as to prevent or minimize prospective infrastructure deterioration, degradation and decay and to eliminate or abate existing infrastructure deterioration, degradation or decay; in recognition that the use of certain environmentally and occupationally safe construction materials and products may not only prolong the useful life, prevent and abate deterioration, and defer repair of the commonwealth's transportation infrastructure thereby saving direct costs but also

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in forestalling deterioration may avert the disruption of transportation services thereby avoiding attendant, untoward economic consequences; and in acknowledgement that the comprehensive highway, mass transport and rail programs proposed by the act may be substantially financed with federal funds and made contingent on compliance with federal air quality standards, occupational health and safety standards and public health and safety standards: therefore, the department and all other state agencies, authorities and instrumentalities of the commonwealth are directed to consider the following:

(1) In awarding contracts and in specifying and selecting materials and products to be utilized in implementing this act, consideration shall be given and preference may be given to those materials and products which when used alone or in conjunction with other materials and products will enhance durability, maximize the useful life and abate and prevent deterioration, degradation, decay, corrosion, weathering and any other wasting of the commonwealth's transportation infrastructure, including its highways, roads, bridges, tunnels, guideways and other transportation related facilities, structures and structural components.

(2) In awarding contracts and in specifying and selecting materials and products to be utilized in implementing this act, consideration shall be given and preference may be given, to those materials and products which will enhance the resistance of transportation facilities, structures and structural components to potentially damaging insults from deicing chemicals, salt waters, brackish waters, and other hostile environments indigenous to the commonwealth.

(3) In awarding contracts and in assessing costs of materials and products to be utilized in implementing this act, the entire life cycle costs are to be considered, and consideration should be given to those materials and products whose use will result in direct and indirect cost savings, considering installation costs and repair, replacement and maintenance costs, and other direct and indirect costs and expenses, over the life of a proposed project.

(4) In awarding contracts and in specifying and selecting materials and products to be utilized in implementing this act, consideration shall be given and preference may be given to materials and products which prevent or minimize, to the extent feasible, the emission and release of toxic air pollutants into the ambient environment, the workplace environment and the indoor environment.

(5) In awarding contracts and in specifying and selecting materials and products to be utilized in implementing this act, consideration shall be given and preference may be given to materials and products which meet federal and state environmental, indoor and workplace standards, criteria, rules, regulations, policies and practices governing the emission and release of toxic air pollutants including volatile organic compounds and ozone.

(6) In awarding contracts and in specifying and selecting materials and products to be utilized in implementing this act, consideration shall be given and preference

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may be given to those materials and products supplied by or produced by companies which employ and retain and are likely to continue to employ and retain significant numbers of residents of the commonwealth.

(7) Nothing in this section shall be construed as establishing a preference for asphalt or concrete applications in the construction, repair and paving of highways or roads.

(8) The provisions of this section are severable, and if any of its provisions or any application thereof shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions or other application thereof.

**SECTION 74.** Notwithstanding the provisions of any general or special law to the contrary, the department of public works is hereby authorized and directed to pay to the town of Westford a sum equal to the entire sum of money paid by said town to the department for a traffic improvement project at the intersection of Boston, Carlisle, and Chelmsford roads in said town, pursuant to Agreement Number 5661 between the department and said town, approved by the department on February sixteenth, nineteen hundred and ninety.

**SECTION 75.** The secretary of transportation and construction is hereby authorized to establish a citizen's advisory committee to oversee the Route 146/ Massachusetts Turnpike Interchange Project as it affects the neighborhoods of the city of Worcester and the town of Millbury.

The committee established herein shall consist of two residents of the affected neighborhoods of the city of Worcester, two members from the Route 146 task force or the city manager's Route 146 advisory committee to be appointed by the city council of the city of Worcester, two residents of the affected neighborhoods of the town of Millbury, two members from the Route 146 Millbury study committee and one member of the Blackstone River Valley National Heritage Corridor Commission to be appointed by said commission.

Said committee shall sit through the entire project period. It shall meet monthly without compensation to prepare a report made available to the public on the progress of the project and any and all adverse impacts arising from the project during the project.

Said committee shall consider, but not be limited to, the following:

- (1) continued easy access into and out of the affected neighborhoods by both pedestrians and vehicles;
- (2) continued unimpaired ability for sale or rental of available property;
- (3) effective and efficient noise and air pollution control measures;
- (4) the hours during which work can be performed to complete the project;
- (5) appropriate routes for heavy equipment vehicles and other vehicles removing excavated land from the project site and any vehicle related to the project;
- (6) traffic and parking alternatives in reaction to problems stemming from the

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project;

(7) securing any and all land made available by the project and its use to stabilize and improve the residential areas of the affected neighborhoods.

**SECTION 76.** For the purposes of this act the following words shall have the following meanings:-

“Minority”, a person with permanent residence in the United States who is Black, Portuguese, Western Hemisphere Hispanic, Asian, Native American or Cape Verdean.

“Minority business enterprise”, any individual, business organization or non-profit corporation which is certified as a minority business by the state office of minority and women business assistance established pursuant to section forty-one of chapter twenty-three A of the General Laws.

It shall be the goal of each agency, commission, authority and political subdivision authorized to make expenditures pursuant to the provisions of this act, in accordance with federal law, to enter into construction contracts with minority and women business enterprises equalling, at a minimum, ten percent of the total dollar value of such contracts funded by this act, to enter into contracts for goods with minority and women business enterprises equalling, at a minimum, five percent of the total dollar value of such contracts funded by this act, and to enter into contracts for services with minority business enterprises equalling, at a minimum, five percent of the total dollar value of such contracts funded by this act.

The secretary of each agency or commission, and the executive officer of each authority or political subdivision authorized to make expenditures under the provisions of this act shall monitor the implementation of this section to insure that the best efforts of each agency, commission and authority are utilized in the implementation of this section. Each agency, commission or authority authorized to make expenditures under the provisions of this act shall provide written quarterly reports to its respective secretary and, in the case of a political subdivision, said quarterly reports shall be filed with the office granting or otherwise providing funds authorized in this act, detailing the number of contracts entered into, the dollar value of each contract entered into, the number of contracts entered into with minority business enterprises, and the dollar value of each contract entered into with minority business enterprises.

Notwithstanding the provisions of any general or special law to the contrary, each executive office, agency, commission, authority or political subdivision may certify minority and women business enterprises for the purposes of this section in a manner consistent with the rules and regulations promulgated by the state office of minority and women business assistance. If an initial determination is made by an executive office, agency, commission, authority or political subdivision that a business is a minority or women business, such determination shall be referred to said state office for its approval and certification. Said state office shall

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have thirty days from the date of referral to approve or disapprove said business. In the event said state office shall fail to act within thirty days from the date of referral, said business shall be deemed certified as a minority business and entitled to certification for the contract for which certification is initiated only. Upon the certification of a business as a minority or women business by said state office of minority and women business assistance, such certification is effective for all executive offices and agencies for the purposes of this section.

**SECTION 77.** Notwithstanding the provisions of sections twenty and sixty-four of this act, the affirmative action officer or the officer designated to monitor affirmative action hiring in the department of public works and the metropolitan district commission are hereby directed to submit a written report, in the case of said department to the secretary of transportation and construction, and in the case of said commission to the secretary of environmental affairs, within sixty days of the effective date of this act, detailing the hiring plan to be utilized to recruit and employ members of protected groups as established pursuant to executive orders numbered two hundred and twenty-seven, two hundred and forty-six, and two hundred and thirty-five, as amended by executive order number two hundred and fifty-three, for positions authorized in said sections twenty and fifty-eight. Each officer shall report, in writing, on the last day of each month to the appropriate secretary on the number of positions filled pursuant to said sections twenty and fifty-eight and the number of members of the protected groups as described herein hired as a result of the hiring plan.

**SECTION 78.** The commissioner of the department of public works appointed prior to the effective date of this act shall continue to hold office in accordance with the terms of his appointment and subject to all provisions of general law. After the effective date of this act, the department and the public works commission and all their obligations, powers and duties shall continue as they were prior to the effective date of this act, except as otherwise provided in this act.

**SECTION 79.** Section 1 of chapter 16 of the General Laws, as amended by section 7 of chapter 6 of the acts of 1991, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be a department of public works, in sections one to five, inclusive, and sections thirteen and fourteen called the department, which shall be under the supervision and control of a public works commission, in sections one to five, inclusive, called the commission.

**SECTION 80.** Said section 1 of said chapter 16 is hereby further amended by striking out the seventh sentence and inserting in place thereof the following sentence:- The position of commissioner shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty and the commissioner shall devote full time during business hours to the duties of his office.

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**SECTION 81.** Section 2 of said chapter 16 is hereby further amended by striking out the fifth sentence.

**SECTION 82.** Paragraph (b) of section 5 of said chapter 16, as appearing in the 1988 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following three sentences:- The term of the hearing examiner shall be coterminous with the term of the governor. The hearing examiner shall devote full time during business hours to the duties of his position. The position shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of chapter thirty.

**SECTION 83.** Chapter 21 of the General Laws is hereby amended by inserting after section 6H the following section:-

Section 6I. There is hereby established a fund to be known as the Environmental Law Enforcement Fund to which shall be credited such sums as are determined under the provisions of section thirteen of chapter sixty-four A; such sums as are received by the commonwealth pursuant to sections six F and six G of chapter twenty-one and sections three, twenty-two and thirty-six of chapter ninety B; such sums as are credited from other funds for the operation of the division including, but not limited to, the hazardous waste bureau; such sums as are credited pursuant to section sixteen of chapter two hundred and seventy; criminal fines received by the commonwealth pursuant to section sixteen of chapter two hundred and seventy; criminal fines or criminal penalties received by the commonwealth from prosecutions for violations of the provisions of chapter twenty-one, ninety B, one hundred and thirty or one hundred and thirty-one or the regulations promulgated thereunder; any gift or grant for the purpose of providing environmental law enforcement; sums received by the commonwealth from the sale of the division's digital data products, including, but not limited to, machine readable media, hard copy and cartographic output and the cost of the services of management information specialists needed to produce such products; and all such sums as are received by the commonwealth from the federal government on account of the activities of the division of law enforcement. Said fund may be expended, subject to appropriation, for the purpose of providing law enforcement coverage throughout the commonwealth and in maintaining, managing and operating the division of law enforcement in carrying out its functions including such appropriations and expenditures as are necessary to assure the proper administration of said division.

**SECTION 84.** Said chapter 21 is hereby further amended by inserting after section 17E the following section:-

Section 17F. There is hereby established a fund to be known as the Public Access Fund to which shall be credited such sums as are determined under the provisions of section thirteen of chapter sixty-four A and such sums as are received

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by the commonwealth from the federal government on account of the activities of the public access board. Said fund may be expended, subject to appropriation, only for the purposes authorized in section seventeen A of chapter twenty-one.

**SECTION 85.** Section 13 of chapter 64A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out paragraphs (a) and (b) and inserting in place thereof the following two paragraphs:-

(a) sixty-eight and sixty one-hundredths percent shall be credited to the Highway Fund.

(b) whereas not less than one and two-fifths percent of the excise imposed by section four is obtained from the sale or importation of fuel used in producing or generating power for the operation of watercraft of every description, except seaplanes, said excise funds shall be credited as follows:- fifteen one-hundredths of one percent to the Inland Fisheries and Game Fund established by section two of chapter one hundred and thirty-one; fifteen one-hundredths of one percent to the Public Access Fund established by section seventeen E of chapter twenty-one; thirty one-hundredths of one percent to the Marine Fisheries Fund established by section two B of chapter one hundred and thirty; thirty one-hundredths of one percent to the Environmental Law Enforcement Fund established by section six H of chapter twenty-one; and fifty one-hundredths of one percent to the Harbors and Inland Waters Maintenance Fund established by section ten B of chapter ninety-one.

**SECTION 86.** Section 7A of chapter 85 of the General Laws is hereby amended by inserting after the word "contamination", as so appearing, in lines 4 and 5, the words:- ; provided, further, that any sodium chloride, calcium chloride or chemically treated abrasives or other chemicals used for the removal of snow or ice on roads and stored within two hundred yards of an established river or estuary must be stored in a solid frame storage shed to insure against ground leaching and airborne pollution of surrounding property.

**SECTION 87.** Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Motorized bicycle" and inserting in place thereof the following definition:-

"Motorized bicycle", a pedal bicycle which has a helper motor, or a non-pedal bicycle which has a motor, rated not more than 1.5 brake horsepower, a cylinder capacity not exceeding fifty cubic centimeters, an automatic transmission, and which is capable of a maximum design speed of no more than thirty miles an hour.

**SECTION 88.** Chapter 91 of the General Laws is hereby amended by inserting after section 10A the following section:-

Section 10A 1/2. There is hereby established a fund to be known as the Harbors and Inland Waters Maintenance Fund which shall be credited such sums as are determined under the provisions of section thirteen of chapter sixty-four A, sections forty-two, forty-three, forty-five, forty-six A and forty-nine of chapter ninety-one



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and any sums received by the commonwealth from the federal government on account of the activities of the department of environmental management relative to (a) the continuous maintenance dredging; (b) cleaning of all areas within the harbors, inland waters and great ponds of the commonwealth including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation; (c) maintenance of state piers; and (d) for the purpose of carrying out the provisions of section thirty-one. All monies in said fund shall be subject to appropriation, and shall be used only for the purpose of continuous maintenance dredging and cleaning of harbors, inland waters and great ponds of the commonwealth, including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation, by the department of environmental management.

**SECTION 89.** Said chapter 91 is hereby further amended by inserting after section 11 the following section:-

Section 11A. The department is hereby authorized to enter into agreements with municipalities, local commissions or local authorities for performance of work necessary for resource protection, navigational safety and protection and development projects approved by the department. Said agreements shall be limited to those for which the department is authorized under sections nine A, ten, ten B, eleven, twenty-nine, twenty-nine A, thirty-one, thirty-eight, and thirty-nine of chapter ninety-one. The department may make application to the government of the United States for reimbursement of any amounts expended under any provisions of this section.

**SECTION 90.** Chapter 130 of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2B. There is hereby established a fund to be known as the Marine Fisheries Fund to which shall be credited such sums as are determined under the provisions of section thirteen of chapter sixty-four A; such sums as are received by the commonwealth pursuant to sections seventeen and seventy-seven of chapter one hundred and thirty; such sums received for licenses, certificates and permits issued in accordance with section eighty-three of said chapter one hundred and thirty; any gift or grant for the purpose of managing and protecting marine fish and fisheries; such sums as are credited from other funds for the propagation and management of marine fish and fisheries; such sums received on account of litigation or the settlement thereof for the purposes of aiding in the enhancement and protection of any marine fishery resource; sums received by the commonwealth from the sale of the division's digital data products; including, but not limited to, machine readable media, hard copy and cartographic output and the cost of the services of management information specialists needed to produce such products; and all sums received by the commonwealth from the federal government on account of the activities of the division of marine fisheries. All monies in

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said fund shall be appropriated for the purpose of maintaining, managing, and operating the division of marine fisheries in carrying out its functions including such appropriations and expenditures as are necessary to assure the proper administration of said division.

**SECTION 91.** Section 23 of chapter 161A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Not more than three billion one hundred seventy-eight million three hundred thousand dollars of bonds of the authority under clauses (1), (2), (3), and (4) shall be outstanding at any time; provided, however, that such funds are expended for capital projects; provided, further, that any bonds which are redeemed on or after January first, nineteen hundred and ninety-two shall not be reissued.

**SECTION 92.** The first paragraph of section 28 of said chapter 161A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The portion of the net cost of service not to be so assessed, hereinafter called contract assistance, is limited to (a) the annual debt service on bonds issued prior to January first, nineteen hundred and seventy-one for which such contract assistance has been provided by contract, and the annual debt service on ninety percent of the bonds issued thereafter, but not exceeding under this clause the debt service on two billion nine hundred thirty-seven million five hundred ten thousand dollars of bonds outstanding at any time, and (b) not more than a total of five million dollars to be paid to the authority for not more than one-half of the cost to the authority of agreements with railroads authorized by paragraph (2) of section twenty-three, and (c) not more than three million dollars annually to pay interest, principal and sinking fund requirements due upon indebtedness incurred or assumed by the authority issued to finance or refinance mass transportation facilities or equipment for express service; provided, however, that all facilities, title to which was transferred to the Metropolitan Transit Authority, pursuant to paragraph (d) of section eight A of chapter five hundred and forty-four of the acts of nineteen hundred and forty-seven shall be considered to be express service mass transportation facilities for the purpose of this clause; and provided, further, that said indebtedness shall not be subject to the limitations contained in the following paragraph; and (e) ninety percent of the lease payments arising from lease obligations of the authority providing for the long term use of mass transportation facilities and equipment.

**SECTION 93.** Said chapter 161A is hereby further amended by adding the following section:-

Section 32. The authority shall have the power to engage in electric utility business which shall include the generation, transformation, transmission and distribution of electricity for public consumption of electricity used in connection with the mass movement of persons. The authority shall be classified as a domestic

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electric utility pursuant to chapter one hundred and sixty-four A solely for the purpose of purchasing electricity and becoming a member of the New England Power Pool. The authority may exercise any of its rights and powers under chapter one hundred and sixty-one A necessary or convenient to carry out and effectuate the purpose of providing light, heat and power in connection with the mass movement of persons. In addition, the authority shall have the following powers:

(a) to purchase electric power and energy, including, without limiting the generality of the foregoing, all or a portion of the capacity and output of one or more specific electric power facilities, and steam whether or not produced by an electric power facility;

(b) to purchase electric power and energy and other products of electric power facilities from other utilities, public and private, within and without the commonwealth; provided, however, that nothing in this section shall be construed to authorize resale of electric power and energy so purchased except as otherwise authorized by law;

(c) to contract for the use of transmission and distribution facilities owned by others for the delivery to the authority, and any such owner is hereby authorized to enter into such contracts with the corporation;

(d) to contract with respect to the purchase, sale, delivery, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy and to otherwise participate in the New England Power Pool, as defined by section one of chapter one hundred and sixty-four A; and

(e) to do all things necessary, convenient or desirable to carry out the purposes of providing electricity in connection with the mass movement of persons or powers expressly granted or necessarily implied in this chapter.

**SECTION 94.** The definition of "Net cost of service" in section 1 of chapter 161B of the General Laws, as so appearing, is hereby amended by inserting after the word "rentals", in line 29, the words:- payments into a reserve account established pursuant to the provisions of paragraph (q) of section six.

**SECTION 95.** Section 6 of said chapter 161B, as so appearing, is hereby amended by adding the following paragraph:-

(q) to establish a reserve account for the purpose of meeting the cost of extraordinary expenses of the authority. The account shall consist of annual payments made by the authority into said account in an amount not to exceed three percent of the prior year's local assessment. Any balance remaining in said account at the end of each fiscal year of the authority shall be carried forward into the next fiscal year; provided, however, the aggregate amount of said account shall not exceed twenty percent of the prior year's local assessment at any time during any fiscal year of the authority. Any expenditure made by an authority pursuant to this paragraph for extraordinary expenses shall be subject to the approval of the secretary. The secretary shall issue guidelines to each authority establishing the

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type of extraordinary expenses said account may be used for and detailing the procedures for the approval process for said expenditures.

**SECTION 96.** The second paragraph of section 17 of said chapter 161B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Seventy-five percent of the bond proceeds shall be extended only for projects for which the authority has agreements with the federal government providing for matching grants or for expenditures which are preliminary to the obtaining of federal grants.

**SECTION 97.** Section 5 of chapter 161D of the General Laws, as so appearing, is hereby amended by striking out, in line 23, the word "and".

**SECTION 98.** Said section 5 of said chapter 161D, as so appearing, is hereby further amended by striking out, in line 26, the word "lessee" and inserting in place thereof the word:- lessee;.

**SECTION 99.** Said section 5 of said chapter 161D, as so appearing, is hereby further amended by adding the following clause:-

(6) Notwithstanding the provisions of clause (1), the secretary may extend the term of a lease entered into pursuant to this section; provided, however, that the term of such lease including any extension thereof shall not exceed twelve years; provided, further, that the rate for any lease extension may be adjusted and shall, as nearly as possible, produce sufficient revenues to the commonwealth in combination with the revised estimated revenues from the sale of such vehicles after twelve years under the provisions of clause (4) to recover the principal cost to the commonwealth of said program.

**SECTION 100.** Section 1 of chapter 164A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Domestic electric utility" and inserting in place thereof the following definition:-

"Domestic electric utility", an electric utility organized under the laws of, or having its principal place of business in the commonwealth, including the Massachusetts Bay Transportation Authority for the purposes specified in chapter one hundred and sixty-one A.

**SECTION 101.** Chapter 265 of the General Laws is hereby amended by adding the following section:-

Section 42. Whoever uses a radio or boom box, so-called, or similar broadcasting equipment without the use of earphones or other apparatus on a public conveyance used for the common carriage of persons, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for not more than one month. Evidence seized pursuant to this section shall be sold at public auction and the proceeds therefrom may be applied against outstanding fines and court costs.

**SECTION 102.** Section 3 of chapter 701 of the acts of 1960, as amended by section 65 of chapter 15 of the acts of 1988, is hereby further amended by striking

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out the second paragraph and inserting in place thereof the following paragraph:-

The Woods Hole, Martha's Vineyard and Nantucket Steamship Authority shall consist of four persons to be appointed as follows:- one resident of the town of Nantucket by the selectmen thereof; one resident of the county of Dukes County by the county commissioners thereof; and one resident of the town of Falmouth by the selectmen thereof, each of whom shall serve for a term of three years and until his successor has been appointed and qualified; and one resident of the town of Barnstable by the town council thereof, which shall be a nonvoting member of the authority and who shall serve at the pleasure of said town council. The successor of each member from the town of Nantucket, the county of Dukes County, and the town of Falmouth shall be appointed in a like manner for a like term, except that any person appointed to fill a vacancy shall serve only for the period of the unexpired term. A member from the town of Nantucket, the county of Dukes County or the town of Falmouth may be removed for cause by the selectmen of the town or the commissioners of the county of which he was a resident at the time of his appointment.

**SECTION 103.** Said section 3 of said chapter 701, as amended by said section 65 of said chapter 15, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The authority shall elect one of the voting members as vice-chairman and as secretary and shall also elect a treasurer who need not be a member of the authority. Two voting members of the authority shall constitute a quorum, and the vote of two members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Before the issuance of any steamship bonds under the provisions of this act, each voting member of the authority shall execute a surety bond to the commonwealth with a surety company authorized to transact business in this commonwealth as surety in the penal sum of ten thousand dollars, and the treasurer shall execute such a bond in the penal sum of twenty thousand dollars conditioned upon the faithful performance of the duties of his office. Each surety bond shall be approved by the attorney general and filed in the office of the state secretary. The members of the authority shall serve without compensation. Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out the provisions of this act shall be paid solely from funds provided under the authority of this act, and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which monies shall have been provided under authority of this act.

**SECTION 104.** Paragraph (b) of section 4 of said chapter 701, as amended by section 1 of chapter 460 of the acts of 1985, is hereby further amended by striking out, in line 6, the word "twenty-five" and inserting in place thereof the word:- fifty.

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**SECTION 105.** Paragraph (e) of said section 4 of said chapter 701 is hereby amended by inserting after the word "purposes", in line 2, the words:- ; provided, however, that no acquisition of real property or capital improvement in excess of fifty thousand dollars shall be undertaken by the authority within the town of Barnstable unless written notice of said real property acquisition or capital improvement is forwarded by registered mail and subsequently approved by the Barnstable town council, a majority of the members thereof present and voting. Said notice shall include, but not be limited to, a detailed description of the proposed real property acquisition or capital improvement and any other documents relevant or pertinent to said proposal. Failure on the part of said town council to render a vote on said real property acquisition or capital improvement within ninety days of the receipt of said notice shall constitute approval of said town council.

**SECTION 106.** Section 1 of chapter 616 of the acts of 1967 is hereby amended by striking out, in line 4, the words "three hundred million" and inserting in place thereof the words:- two hundred ninety-nine million nine hundred ninety-seven thousand one hundred fifty-seven.

**SECTION 107.** Section 1 of chapter 765 of the acts of 1972, as most recently amended by section 1 of chapter 415 of the acts of 1975, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The state department of public works, hereinafter called the department and the metropolitan district commission, hereinafter called the commission, are hereby authorized and directed to expend a sum not to exceed five hundred fifty-nine million nine hundred twenty-one thousand one hundred and five dollars for projects for the laying out, construction, reconstruction, resurfacing, relocation or improvement of highways, parkways, bridges, grade crossing eliminations and alteration of crossing at other than grade, parking facilities, training, scenic easements, archeological and paleontological studies and salvage and for construction of needed improvements on other routes not designated as state highways and without acceptance by the commonwealth of responsibility for maintenance; provided, that any portion of the sum authorized herein may be used in conjunction with county, city or town funds, and for traffic safety devices on state highways, and on roads constructed under the provisions of section thirty-four of chapter ninety of the General Laws, and for traffic and parking studies, including the establishment of school zones in cities and towns in accordance with the provisions of section seventeen of said chapter ninety; and, provided further, that when dwellings or other structures are removed the excavations or cellar holes remaining shall be filled in and brought to grade within one month, and notwithstanding any law to the contrary to relocate persons residing in or carrying on business in, or to replace such dwellings or other structures, and to pay relocation benefits in

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amounts equal to levels of benefits provided for by the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, Public Law 91-646, as amended.

**SECTION 108.** Section 1 of chapter 356 of the acts of 1977 is hereby amended by striking out, in lines 3 and 4, the words "four hundred sixty-eight million" and inserting in place thereof the words:- four hundred sixty-seven million four hundred eighty-two thousand five hundred forty-five.

**SECTION 109.** Clause (a) of section 1A of said chapter 356 is hereby amended by striking out, in line 1, the words "two hundred million" and inserting in place thereof the words:- one hundred ninety-nine million five hundred three thousand four hundred twenty.

**SECTION 110.** Clause (b) of said section 1A of said chapter 356 is hereby amended by striking out, in line 1, the words "two hundred ten million" and inserting in place thereof the words:- two hundred nine million nine hundred seventy-nine thousand one hundred twenty-five.

**SECTION 111.** Section 1 of chapter 480 of the acts of 1979 is hereby amended by striking out, in lines 3 and 4, the words "three hundred and ninety-six million" and inserting in place thereof the words:- three hundred ninety-four million nine hundred thirty-one thousand and sixty-six.

**SECTION 112.** Clause (a) of section 2 of said chapter 480 is hereby amended by striking out, in line 1, the words "two hundred million" and inserting in place thereof the words:- one hundred ninety-nine million forty-six thousand four hundred forty-eight.

**SECTION 113.** Clause (b) of said section 2 of said chapter 480 is hereby amended by striking out, in line 1, the words "one hundred and fifty-five million" and inserting in place thereof the words:- one hundred fifty-four million eight hundred eighty-six thousand six hundred eighteen.

**SECTION 114.** Section 15 of chapter 732 of the acts of 1981 is hereby amended by striking out, in lines 3 and 4, the words "two hundred and thirty-seven million" and inserting in place thereof the words:- two hundred thirty-six million nine hundred twenty-two thousand two hundred ninety-three.

**SECTION 115.** Section 16 of said chapter 732 is hereby amended by striking out clause (a), as amended by chapter 296 of the acts of 1983, and inserting in place thereof the following clause:-

(a) a sum not to exceed one hundred eighty-two million nine hundred twenty-two thousand two hundred ninety-three dollars for projects, pursuant to the provisions of section one of this act, on the federal aid highway system other than interstate.

**SECTION 116.** Section 1 of chapter 637 of the acts of 1983 is hereby amended by striking out, in lines 3 and 4, "four hundred and sixty-four million" and inserting in place thereof the words:- four hundred sixty-two million two hundred sixteen

thousand seven hundred forty.

**SECTION 117.** Clause (a) of section 2 of said chapter 637 is hereby amended by striking out, in line 1, "two hundred million" and inserting in place thereof the words:- one hundred ninety-eight million four hundred sixty-three thousand seven hundred twenty-six.

**SECTION 118.** Clause (b) of said section 2 of said chapter 637 is hereby amended by striking out, in line 1, the words "two hundred million" and inserting in place thereof the words:- one hundred ninety-nine million seven hundred fifty-three thousand and fourteen.

**SECTION 119.** The second paragraph of section 13 of said chapter 637 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Said secretary may, from funds provided for such purposes, meet the costs to administer said program, and provide grant funds to any regional transit authority established under the provisions of chapter one hundred and sixty-one B of the General Laws to any public agency or political subdivision of the commonwealth for the specific purpose of providing improved transportation services to elderly and handicapped persons and also for said purposes to any nonprofit corporation only from urban mass transportation funds.

**SECTION 120.** Subsection (c) of section 1 of chapter 240 of the acts of 1984 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any operating agreement with the tenant pertaining to said garage shall be for a term, including all options for extension, that is coterminous with the termination date of the lease with tenant authorized in subsection (b).

**SECTION 121.** Paragraph (6) of section 1 of chapter 349 of the acts of 1986 is hereby amended by inserting after the word "operation", in line 2, the words:- ; the citizens of the commonwealth have a right to public access and open space for waterfront areas and the use of such areas for active and passive park uses is desirable.

**SECTION 122.** Said paragraph (6) of said section 1 of said chapter 349 is hereby further amended by inserting after the word "uses", in line 4, the words:- serve a proper public purpose, which uses are hereby deemed water dependent-industrial uses or uses accessory thereto and.

**SECTION 123.** Said section 1 of said chapter 349 is hereby further amended by adding the following paragraph:-

(8) The authority has divided the development of the Piers into two phases (Phase I and Phase II) for planning purposes and for review in accordance with sections sixty-one to sixty-two H, inclusive of chapter thirty of the General Laws with the approval of the secretary of environmental affairs. Phase I includes the area of the piers referred to as piers 4 and 5 and associated upland areas and consists of a lobster terminal and park. Phase II includes the remainder of the piers



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and associated upland areas. The authority has completed the final environmental impact report (FEIR) with respect to Phase I. The secretary of environmental affairs certified on August second nineteen hundred and ninety that the said report adequately and properly complied with section sixty-two of chapter thirty of the General Laws and associated implementing regulations.

**SECTION 124.** Section 2 of said chapter 349 is hereby amended by striking out the definition of "PAC" and inserting in place thereof the following definition:-

"PAC", the East Boston Project Advisory Committee, Incorporated consisting of nineteen members, eight of whom shall be appointed by the mayor of the city of Boston, eight of whom shall be appointed by the commissioner of the department of public works of the commonwealth, one of whom shall be the district's house of representatives member or his designee, one of whom shall be the district's senate member or his designee and one of whom shall be the district city councilor or his designee.

**SECTION 125.** Said section 2 of said chapter 349 is hereby further amended by striking out the definition of "Plan" and inserting in place thereof the following definition:-

"Plan", for the waterfront park and lobster facility will consist of two phases. Phase I is the plan developed by the authority in the FEIR which consists of a lobster terminal and waterfront park on piers 4 and 5 and associated upland areas (Phase I). Phase II (Phase II) will be a waterfront park on pier 3 and associated upland, as more fully described below. The authority has divided the development of the Piers into two phases (Phase I and Phase II) for planning purposes and for review in accordance with sections sixty-one and sixty-two H, inclusive, of chapter thirty of the General Laws with the approval of the secretary of environmental affairs. It is important to the citizens of the commonwealth and to the potential users of the lobster terminal and park reviewed in Phase I that the construction of said project proceed as soon as possible while Phase II is designed and constructed in accordance with this act. The aforementioned lobster terminal shall provide for between eighteen and twenty commercial lobster vessels.

The area of the Phase II park shall include at least the following as shown on Sheet Nos. 26N-14E and 26N-15E of the "City of Boston Topographic and Planimetric Survey", dated 1962 and on file with the Boston Redevelopment Authority (the BRA Plan); beginning at the eastern-most edge of Pier No. 1 and a line from that edge to Marginal Road; thence returning along said line to the water's edge at Pier 1; thence running in an easterly direction along said water's edge to the midpoint between Pier 1 and the existing Pier 3; thence running parallel to said eastern-most edge of Pier 1 to the "Pierhead and Bulkhead Line" as shown on the BRA Plan; thence running along said Pierhead and Bulkhead Line (but including the full outline of any existing piers) in a southeasterly direction to a point intersecting the line of the southwestern edge of the Phase I Park extended out to

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the "Pierhead and Bulkhead Line"; then running along said Private Street and Marginal Street to the point of beginning. The foregoing description is meant and intended to result in a continuous of upland and pier bark and lobster facilities from the edge of Pier 1, to end through Pier 5, as described in the FEIR. The Phase II park shall include all pilings, supports, the bulkheads, conveyors and structures thereon or thereunder, the land underneath said piers, and upland areas located southwest of Marginal Street.

**SECTION 126.** Said chapter 349 is hereby further amended by striking out section 3 and inserting in place thereof the following section:-

*Section 3.* The division, on behalf of the commonwealth and in consultation with the department, is hereby authorized and empowered:

(a) to fix and revise from time to time and to charge and collect such fees, rentals or other charges for the use of said lobster facilities, but only to the extent allowed pursuant to the agreement between the division and the authority; provided, however, that any such fees, rentals or other charges collected hereunder shall be applied as required under section eleven; and provided, further, that any lobster pier facilities constructed in accordance with the provisions of this act shall be available to prospective users of the facilities, upon payment of a reasonable fee, in a nondiscriminatory manner;

(b) to enter into any other agreements with any person or entity or to otherwise act in order to effectuate the development of lobster facilities at any site other than the piers deemed suitable by the division and located in the Boston harbor area. The division shall have the powers relative to such a site as those granted under clauses (a), (b) and (c) of this section but without the limitations that apply to agreements with the authority with respect to the piers; and

(c) to do any and all things necessary or convenient to carry out its purposes and exercise the powers conferred by this act; provided, however, that acquisition of any interest in real property pursuant to this act shall be made in accordance with the provisions of sections forty F to forty H, inclusive, of chapter seven of the General Laws and the purposes described in Article XCVII of the Amendments to the Constitution of the Commonwealth; provided, further, that the deputy commissioner of the division may delegate any authority conferred upon him by this act to the commissioner of the department so long as said delegation conforms with section forty E of said chapter seven.

**SECTION 127.** Paragraph (a) of section 4 of said chapter 349 is hereby amended by striking out, in line 1, the word "division" and inserting in place thereof the word:- PAC.

**SECTION 128.** Said paragraph (a) of said section 4 of said chapter 349 is hereby further amended by striking out, in line 4, the word "department" and inserting in place thereof the word:- PAC.

**SECTION 129.** Paragraph (d) of said section 4 of said chapter 349 is hereby

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amended by striking out, in line 2, the word "department" and inserting in place thereof the word:- PAC.

**SECTION 130.** Paragraph (f) of said section 4 of said chapter 349 is hereby amended by striking out, in lines 1 and 7, the word "division" and inserting in place thereof, in each instance, the word:- PAC.

**SECTION 131.** Said paragraph (f) of said section 4 of said chapter 349 is hereby further amended by striking out, in line 4, the word "department" and inserting in place thereof the word:- PAC.

**SECTION 132.** Section 5 of said chapter 349 is hereby amended by striking out paragraph (c).

**SECTION 133.** Said chapter 349 is hereby further amended by striking out section 6 and inserting in place thereof the following section:-

*Section 6.* The design for the Phase I park and lobster facility shall be as set forth in the FEIR. Development of final plans and specifications and construction of the Phase I park and lobster terminal shall commence immediately. The design of the Phase II park shall be commenced immediately by the authority, in consultation with the PAC. The PAC shall approve all preliminary and final designs for the park and no construction may commence without approval of the PAC. The authority is hereby directed to move as expeditiously as possible to design and construct the Phase II park. Notwithstanding the previous sentence, the authority shall have no obligation to commence construction of the Phase II park until bonds in an amount adequate to meet the expenditure necessary to construct said Phase II park have been issued and sold by the state treasurer, as provided for in this section.

The members of the PAC shall serve without compensation. The PAC shall meet from time to time to review the operation and maintenance of the waterfront park and shall advise the authority on its compliance with the requirements of this act. The PAC shall create its own bylaws and procedures. It shall always consist of the same number of members specified above. In the event that a vacancy in the membership of the PAC occurs, for whatever reason, the remaining members of the PAC shall nominate and elect new members. The PAC is hereby authorized and directed to enter into a contract with the authority which will specify in detail the operational and maintenance requirements of the authority with respect to the Phase I park and lobster terminal and the Phase II park. The PAC shall also advise the authority as to the other issues in East Boston concerning the authority. The authority shall pay for the reasonable operating expenses of the PAC.

**SECTION 134.** Said chapter 349 is hereby further amended by striking out section 7 and inserting in place thereof the following section:-

*Section 7.* The provisions of sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws shall apply for all projects proposed at the piers, including the lobster facility and waterfront park to the extent applicable to projects

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of the authority; provided, however, that the project for Phase I of the waterfront park and lobster terminal as described in the final environmental impact report certified the secretary of environmental affairs on August second, nineteen hundred and ninety shall not require further environmental review pursuant to said sections sixty-one to sixty-two H, inclusive. For the purpose of the compliance with said sections sixty-one to sixty-two H, inclusive, the authority shall be deemed to be lead agency project proponent.

**SECTION 135.** Said chapter 349 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

*Section 8.* The authority shall fund the final design, construction, operation, and maintenance of the Phase I park, the final design of the lobster facility, and the final design of the Phase II park. Notwithstanding the foregoing, the authority shall have no obligation to fund construction of the Phase II park unless and until bonds are issued to meet the expenditure necessary to construct the Phase II park in accordance with section nine. The authority shall have responsibility for the operation and maintenance of the entire waterfront park and the lobster facility. The authority shall enter into a contract with the PAC setting forth the standards by which said authority shall operate and maintain the waterfront park and the lobster facility, such contracted standards shall be at least comparable to maintenance standards employed by other waterfront parks in the North End of the city of Boston. Said contract shall provide that a penalty shall be assessed against said authority for any failure to comply with said contracted standards. Any and all such penalties shall be paid by said authority to the PAC to be placed in a separate account for the maintenance of the waterfront park and the lobster facility.

It shall be the responsibility of the authority, at all times, to provide adequate staffing levels necessary to operate and maintain the waterfront park and the lobster facility in conformance with the contracted standards.

The entire area to be covered by the Phase I park and the Phase II park, exclusive of the lobster facility, is hereby deemed to be public park land for purposes of Article XCVII of the Amendments to the Constitution. Any use of said area by the authority or any other person or entity for uses other than the Phase I or Phase II park shall be deemed a purpose inconsistent with the use of public park lands, and thereby subject to the terms and conditions of said Article XCVII. The foregoing shall include all associated buildings and facilities and improvements thereon contained on or within the Phase I or Phase II park areas. In the event that the lobster facility is at any time discontinued or is not constructed as a lobster facility, the area where the lobster facility was or would have been constructed shall also be deemed to be a public park land subject to the protection of said Article XCVII. The authority is hereby prohibited from undertaking any use to take place on the Phase I and Phase II parks and the lobster facility if same is not constructed or discontinued, as provided for in the previous sentence which

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is not a public park land use.

**SECTION 136.** Section 9 of said chapter 349 is hereby amended by striking out the first sentence and inserting in place thereof the following three sentences:- The authority shall fund the final design, construction, operation and maintenance of the Phase I park and the operation and maintenance of the Phase II park from its general revenues. To meet the expenditure necessary to design and construct the Phase II park, the state treasurer shall issue and sell bonds of the commonwealth, registered or with interest coupons attached, as he may deem best, to an amount to be specified by the governor, from time to time, but not exceeding, in the aggregate, the sum of seventeen million dollars. Any balance left over shall be paid to the commonwealth by deposit to the fund established hereunder, which revenues shall be applied to payments on the bonds issued pursuant to section nine.

**SECTION 137.** The first paragraph of section 11 of said chapter 349 is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- Any and all revenues received by the authority from the lobster facility and waterfront park at the piers from rentals, fees, or any other charge or source other than grants made for specific purposes relating to the lobster facility and park, shall be deposited with the authority and applied to the operation and maintenance of the lobster facility. Any balance left over shall be paid to the commonwealth by deposit to the fund established hereunder, which revenues shall be applied to payments on the bonds issued pursuant to section nine.

**SECTION 138.** The second paragraph of section 11 of said chapter 349 is hereby amended by striking out the second sentence.

**SECTION 139.** Said section 11 of said chapter 349 is hereby further amended by striking out the third paragraph.

**SECTION 140.** Section 1 of chapter 811 of the acts of 1985 is hereby amended by striking out, in line 3, the words "nine hundred and thirteen million" and inserting in place thereof the words:- eight hundred forty-six million four hundred fifty-five thousand eight hundred forty-seven.

**SECTION 141.** Paragraph (a) of section 2 of said chapter 811 is hereby amended by striking out, in line 1, the words "three hundred million" and inserting in place thereof the words:- two hundred thirty-three million five hundred four thousand four hundred forty-eight.

**SECTION 142.** Paragraph (b) of said section 2 of said chapter 811 is hereby amended by striking out, in line 1, the words "five hundred and forty million" and inserting in place thereof the following words:- five hundred thirty-nine million nine hundred fifty-one thousand three hundred ninety-nine.

**SECTION 143.** Paragraph (c) of said section 2 of said chapter 811 is hereby amended by striking out subparagraph (3) and inserting in place thereof the following subparagraph:-

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(3) The commissioner may appoint, to serve in any civil engineering title in the department at the assistant, senior, principal, associate, or supervising level, for the purposes of planning, preliminary engineering, and final engineering of department projects, any person who (i) holds a permanent position in the department in the next title lower than the position applied for in the same or similar career ladder, and who is qualified by training and experience for said position; or (ii) has received the degree of bachelor of science in an appropriate engineering or environmental discipline from an accredited college or university, and has been certified as an engineer-in-training or a registered professional engineer by the board of registration of professional engineers and land surveyors under the provisions of section eighty-one of chapter one hundred and twelve of the General Laws. The total number of appointments under this subparagraph shall not exceed one hundred at any one time; and after one hundred appointments have been made, additional appointments may be made under this subparagraph only to fill vacancies created by termination of appointments previously made under this subparagraph. The total number of appointments under this subparagraph shall include not more than fifty-two appointments at the assistant level, thirty-six at the senior level, twenty at the principal level, twelve at the associate level, and four at the supervising level. Notice of availability of positions under this subparagraph shall be given to qualified employees of the department. At least one-quarter of the appointments under this subparagraph at each level shall be posted within the department in accordance with the posting provision of the applicable collective bargaining agreement, and shall be offered to qualified employees of the department, whose applications for such positions shall be considered in accordance with the promotional criteria contained in the applicable collective bargaining agreement. Following their appointment, persons appointed under this subparagraph shall be eligible to take, and shall take, the first appropriate promotional civil service examination for the title to which they have been appointed and held following their appointment; provided, however, that prior to such examination, there shall have been added to the schedule of permanent offices and positions approved by the house and senate committees on ways and means, as it exists on the effective date of this act, a number of permanent positions within the department in said title equal to the number of persons appointed in said title under this subparagraph who are taking such examination which additional permanent positions shall be filled from the civil service list to be established on the basis of such examination. In the event that the number of persons appointed in said title under this subparagraph exceeds the number of permanent positions added to the schedule as provided in the preceding sentence, persons appointed under this subparagraph shall be eligible to take the promotional examination to the extent of the available additional positions in the order of their appointment. If the employee passes a promotional examination, said employee shall be

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appointed permanently in a title in the order of his ranking on the applicable civil service list, without regard to requests for lateral transfers to a position under any applicable collective bargaining agreement, and the provisions of chapter thirty-one shall thereafter apply to said employee. Until such time as a person appointed under this subparagraph may be permanently appointed to the title as a result of such promotional examination; or if a person fails to take or fails to pass the first appropriate promotional examination for which he is eligible, held following his appointment, the commissioner shall, notwithstanding chapter thirty-one of the General Laws or any collective bargaining agreement, terminate the employment of the person in his sole discretion. Nothing in this section shall be construed to relieve the department of any appointment obligations pursuant to any relevant court orders or consent decrees. To the extent practicable, preference in initial appointments made pursuant to this section shall be given first to disabled veterans as defined in section one of said chapter thirty-one; second to veterans as defined in section one of said chapter thirty-one; and third to all other qualified persons. The commissioner of the department shall institute appropriate recruitment procedures to effectuate the purposes of this paragraph.

**SECTION 144.** The last paragraph of said paragraph (c) of said section 2 of said chapter 811 is hereby amended by striking out the last sentence.

**SECTION 145.** Said chapter 811 is hereby further amended by striking out section 23, as amended by section 78 of chapter 15 of the acts of 1988, and inserting in place thereof the following section:-

*Section 23.* The secretary of the executive office of transportation and construction is hereby authorized and directed to establish a program to provide capital assistance funds to regional transit authorities organized pursuant to the provisions of chapter one hundred and sixty-one B of the General Laws and to transportation areas organized pursuant to the provisions of chapter one hundred and sixty-one of the General Laws. Funds provided for this purpose shall be expended to meet the costs of administering the program and be awarded to regional transit authorities and transportation areas for capital projects; said projects shall be limited to purchase of vehicles and engineering, design, acquisition or construction of facilities. Said secretary shall make, and from time to time revise, guidelines for the allocation and distribution of capital assistance funds made available for this purpose among the transportation areas and regional transit authorities; provided, however, that fifty percent of the funds shall be expended only for projects for which the regional transit authority or transportation areas have agreements with the federal government providing for funds of at least one-half of the estimated eligible cost of the projects or for expenditures that are preliminary to obtaining federal funds; provided, further, that payments to regional transit authorities and transportation areas under the provisions of this paragraph shall be for the reimbursement of actual expenses incurred by a regional transit

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authority or transportation area on projects eligible under this paragraph, except that regional transit authorities and transportation areas shall be eligible to receive a direct grant under this paragraph if the regional transit authority or transportation area certifies that the grant funds will be obligated within ninety days. Said secretary is authorized to take the actions as deemed necessary to carry out the provisions of this section. Said secretary shall report annually to the house and senate committees on ways and means and the joint committee on transportation regarding the status of the program.

**SECTION 146.** Section 3 of chapter 15 of the acts of 1988 is hereby amended by striking out clause (g).

**SECTION 147.** Clause (o) of section 3 of said chapter 15 is hereby amended by inserting after the word "million", in line 1, the words:- six hundred thousand,- and by inserting after the word "improvements", in line 2, the words:- , including the testing, removal and encapsulation of lead-based paint.

**SECTION 148.** Said section 3 of said chapter 15 is hereby further amended by striking out clause (p).

**SECTION 150.** Said section 3 of said chapter 15 is hereby further amended by striking out clause (r) and inserting in place thereof the following clause:-

(r) a sum not to exceed twenty million dollars for projects to construct, reconstruct or otherwise improve water supply, drainage or sewerage facilities affected by or affecting on any highway or bridge of the department or any public use airport under the jurisdiction of the Massachusetts aeronautics commission or affected by any project undertaken by the department or said commission;

**SECTION 151.** Section 10 of said chapter 15 is hereby amended by striking out, in lines 6 and 7, the words "five hundred and thirty-seven million four hundred and forty-two thousand" and inserting in place thereof the following words:- five hundred sixty-three million four hundred thirty-two thousand three hundred eighty-two.

**SECTION 152.** Clause (d) of the first paragraph of section 16 of said chapter 15 is hereby amended by inserting after the word "program", in line 3, the words:- or for commission equipment or vehicles.

**SECTION 153.** The second paragraph of section 22 of said chapter 15 is hereby amended by inserting after the word "general", in line 2, the words:- or special.

**SECTION 154.** Said section 22 of said chapter 15 is hereby further amended by adding the following two paragraphs:-

Notwithstanding the foregoing sentence to the contrary, any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation revenue bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, however, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account (i) generally prevailing financial market conditions, (ii) the



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impact of each such approach on the overall capital financing plans and needs of the commonwealth, (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O; provided, further, that the aggregate amount of special obligation revenue bonds issued pursuant to this paragraph and general obligation bonds issued pursuant to the preceding two paragraphs shall not exceed nine million dollars.

All special obligation bonds issued pursuant to this section shall be designated on their face the words, Special Obligation Revenue Armed Services YMCA Functional Replacement Loan, Act of 1991 and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen. All interest and payments on account of principal of such obligations shall be payable from the Infrastructure Subfund established in section two O of said chapter twenty-nine. Special obligation revenue bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

**SECTION 155.** The provisions of section sixty-five of this act shall take effect as of July first, nineteen hundred and ninety.

*This bill was returned on May 10, 1991, by the Governor to the House of Representatives, the branch in which said bill originated, with his objections in writing to the following items therein:*

*Items Disapproved*

Sections 17, 67, 69, 70, 72, 78, 79, 80, 81, 120.

*Items disapproved by striking the wording:*

Section 3(k) "provided, further, that the secretary of environmental affairs shall develop recommended environmentally sound design and construction standards for said projects and shall submit these recommended standards in the form of a report to the joint committee on natural resources and agriculture and the house and senate committee on ways and means by September first, nineteen hundred and ninety-one;"

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Section 135 "The entire area to be covered by the Phase I park and the Phase II park, exclusive of the lobster facility, is hereby deemed to be public park land for purposes of Article XCVII of the Amendments to the Constitution. Any use of said area by the authority or any other person or entity for uses other than Phase I or Phase II park shall be deemed a purpose inconsistent with the use of public lands, and thereby subject to the terms and conditions of said Article XCVII. The foregoing shall include all associated buildings and facilities and improvements thereon contained on or within the Phase I or Phase II park areas. In the event that the lobster facility is at any time discontinued or is not constructed as a lobster facility, the area where the lobster facility was or would have been constructed shall also be deemed to be a public park land subject to the protection of said Article XCVII. The authority is hereby prohibited from undertaking any use to take place on the Phase I and Phase II parks and the lobster facility if same is not constructed or discontinued, as provided for in the previous sentence which is not a public park land use."

*Pursuant to Article 56 of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and House of Representatives setting forth recommended amendments to Sections 3(k), 17, 67, 69, 70, 72, 78-81, 120, 135.*

*The remainder of the bill was approved by the Governor on May 10, 1991.*

**Chapter 34. AN ACT RELATIVE TO THE FISCAL CONDITIONS OF THE CITY OF CHELSEA.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the commissioner of revenue is hereby authorized to approve the use of an amortization amount by the city of Chelsea in fixing its tax rate for the fiscal year ending on June thirtieth, nineteen hundred and ninety-one as an estimated receipt in addition to the estimated receipts approved under the provisions of section twenty-three of chapter fifty-nine of the General Laws, and to certify the city's tax rate for that fiscal year based upon the use of such an amortization amount.

**SECTION 2.** Notwithstanding any general or special law to the contrary, the

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city of Chelsea is hereby required to raise in its tax rate for each of the fiscal years nineteen hundred and ninety-two through nineteen hundred and ninety-five, inclusive, one-fourth of the amortization amount used as an estimated receipt by the city under the provisions of section one.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 10, 1991.

**Chapter 35.           AN ACT AUTHORIZING THE CITY OF NEWTON TO USE  
A CERTAIN PARCEL OF LAND FOR THE SITE OF A SEWER  
PUMPING STATION.**

*Be it enacted, etc., as follows:*

The city of Newton is hereby authorized to use a certain parcel of land for a municipal pumping station. Said land is shown on a plan entitled "City of Newton, Massachusetts, Private Land South of Concord Street, Land to be Used for Sewer Pump Station" dated April 10, 1990, signed by Paul W. Giunta, City Engineer, and designated City Plan #T44 38626.

Approved May 10, 1991.

**Chapter 36.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a certain marriage by Ed Shaw in the city of Newton on May eleventh, nineteen hundred and ninety-one between Adam Mare Lewis and Leiko Kiname, both of the city of Boston, and the state secretary shall issue to said Ed Shaw a certificate of such authorization.

Approved May 10, 1991.

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**Chapter 37.****AN ACT RELATIVE TO ESTABLISHING EMERGENCY FISCAL CONTROLS FOR FISCAL YEAR NINETEEN HUNDRED AND NINETY-ONE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately relieve the hardship placed on public employees by a temporary furlough, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 59 of chapter 6 of the acts of 1991 is hereby amended by striking out the sixth sentence and inserting in place thereof the following sentence:- In no event shall any action taken pursuant to this section alter the amount owed to, or due from, hospitals pursuant to section fifteen of said chapter one hundred and eighteen F or alter the amount of any Medicare payments due hospitals for exceptional low income disproportionate share adjustments.

**SECTION 2.** The first paragraph of subdivision (*d*) of section 90 of said chapter 6 is hereby amended by striking out the third sentence.

**SECTION 3.** Said section 90 of said chapter 6 is hereby further amended by striking out subdivision (*e*) and inserting in place thereof the following subdivision:-

(*e*) No employee shall be eligible to use vacation, personal, sick, disability time, compensatory time, or other such leave credits to make up the difference in their level of compensation on account of the temporary furlough program; provided, however, that those employees who return to work between April first, nineteen hundred and ninety-one and June thirtieth, nineteen hundred and ninety-one, after having been on military leave due to the conflict in the Persian Gulf, shall not be subject to the temporary furlough provisions of this section.

**SECTION 4.** Said section 90 of said chapter 6 is hereby further amended by striking out subdivision (*m*) and inserting in place thereof the following subdivision:-

(*m*) Notwithstanding the provisions of any general or special law or rule to the contrary, the state treasurer is hereby authorized and directed to establish an emergency loan program for furloughed public employees, consistent with the requirements of the United States Internal Revenue Code relative to tax-qualified pension plans, in accordance with the following provisions:-

(*i*) Every public employee who is a member of the state employees' retirement system pursuant to the provisions of chapter thirty-two of the General Laws and who is required to participate in the temporary furlough program in accordance

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with the provisions of this section is hereby authorized to borrow from such employee's account in the annuity savings fund of such retirement system an amount not to exceed the lesser of (1) the total amount of such employee's compensation which shall be reduced pursuant to the provisions of subdivision (c) of this section and (2) the total amount of accumulated deductions credited to such employee's account in said annuity savings fund as of March thirty-first, nineteen hundred and ninety-one; provided, however, that such employee must request such loan from the state treasurer on or before June thirtieth, nineteen hundred and ninety-one.

(ii) The investment committee established pursuant to the provisions of paragraph (a) of subdivision (1) of section twenty-three of said chapter thirty-two of the General Laws for the general supervision of the investment of the funds of the state employees' retirement system shall determine the rate of interest to be paid by such employees on such loans issued pursuant to this subdivision; provided, however, that such rate shall be commensurate with the prevailing rate of return for cash investments, taking into account the loan term. The state treasurer, as the custodian of the state employees' retirement system, shall disburse any such amounts loaned from said annuity savings fund pursuant to this subdivision directly to each such employee who elects to so borrow from his account in said annuity savings fund. The state treasurer shall determine reasonable schedules of repayment for such loans; provided, however, that the term of any such loan shall not exceed five years; and provided, further, that such schedule shall take into account the retirement intentions of any such employee. Payments of the principal of any such loan shall be credited to the borrower's account in said annuity savings fund and all interest paid on any such loan shall be credited to the investment income account of said state employees' retirement system.

(iii) Each such employee who so elects to borrow from his account in said annuity savings fund must repay to said account the entire amount of such loan, plus interest as determined by the investment committee pursuant to the provisions of paragraph (ii), in accordance with the schedule of payment determined by the state treasurer pursuant to said paragraph (ii); provided, however, that any such employee must repay to said retirement system the amount of any principal and accrued interest remaining unpaid on such loan prior to the date of such employee's retirement. The amount of any such loan shall be deducted from such employee's account in said annuity savings fund, and if any such employee with an outstanding balance on any such loan shall request a return of his accumulated total deductions in accordance with the provisions of chapter thirty-two of the General Laws, notwithstanding the provisions of the preceding sentence, he shall receive the amount of his accumulated total deductions less any principal and accrued interest remaining unpaid on such loan.

(iv) The state treasurer shall notify every public employee authorized by this

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subdivision to borrow from the annuity savings fund of the state retirement system of the provisions and terms of said loan program no later than April sixteenth, nineteen hundred and ninety-one.

**SECTION 5.** The provisions of this act shall take effect as of March twenty-second, nineteen hundred and ninety-one.

Approved May 10, 1991.

**Chapter 38.           AN ACT ESTABLISHING A SICK LEAVE BANK FOR AN  
EMPLOYEE OF THE PROBATE AND FAMILY COURT  
DEPARTMENT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a sick leave bank for a certain employee of the probate and family court department, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law or any rule or regulation to the contrary, the probate and family court department is hereby authorized and directed to establish a sick leave bank for secretary 1, Yong Suk Lawson of the Norfolk division of the probate and family court department. An employee of the probate and family court department may voluntarily contribute one or more of his sick days to said bank for use by Yong Suk Lawson.

Approved May 17, 1991.

**Chapter 39.           AN ACT PROVIDING FOR THE APPOINTMENT OF THE  
TAX COLLECTOR AND TREASURER IN THE TOWN OF  
NORTHBRIDGE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the tax collector of the town of Northbridge shall be appointed for a term not to exceed three years by the board of selectmen of said town, and the person so appointed shall have all the powers and duties by law vested in the office of tax collector. Any vacancy in such office shall be filled in like manner for the unexpired portion of the term.

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**SECTION 2.** Notwithstanding any general or special law to the contrary, the treasurer of the town of Northbridge shall be appointed for a term not to exceed three years by the board of selectmen of said town and the person so appointed shall have all the powers and duties by law vested in the office of town treasurer. Any vacancy in such office shall be filled in like manner for the unexpired portion of the term.

**SECTION 3.** Notwithstanding the provisions of sections one and two, the incumbents in the offices of tax collector and treasurer upon the effective date of this act shall continue to hold said offices and to perform the duties thereof until the expiration of the terms for which they were elected and the appointment and qualification of said tax collector and treasurer or until they otherwise vacate such offices.

**SECTION 4.** This act shall take effect upon its passage.

Approved May 17, 1991.

**Chapter 40.**

**AN ACT PROVIDING FOR THE ESTABLISHMENT AND  
ADMINISTRATION OF RENT REGULATIONS AND THE  
CONTROL OF EVICTIONS IN MOBILE HOME PARK AC-  
COMMODATIONS IN THE TOWN OF WALES.**

*Be it enacted, etc., as follows:*

**SECTION 1. Declaration of Emergency.** The general court finds and declares that a serious public emergency exists with respect to the housing of a substantial number of citizens in the town of Wales, which emergency has been created by excessive, abnormally high and unwarranted rental increases imposed by some owners of mobile parks located therein; that unless mobile home park rents and eviction of tenants is regulated and controlled, such emergency will produce serious threats to the public health, safety and general welfare of the citizens of said town, particularly the elderly; that such emergency should be met by the commonwealth immediately and with due regard for the rights and responsibilities of the town of Wales.

**SECTION 2. General Powers.** The town of Wales may, by its by-laws, regulate rents for the use or occupancy of mobile home park accommodations in said town, establish a rent board for the purpose of regulating rents, setting minimum standards for use or occupancy of mobile home park accommodations and regulating evictions of tenants therefrom and may by its by-laws, require registration by owners of mobile home park accommodations and under penalty of perjury, require information relating to the mobile home park accommodations. Such rents, standards and evictions may be regulated by the rent board so as to

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remove hardships or correct inequities for both the owner and the tenants of such mobile home park accommodations. Such rent board shall have all powers necessary or convenient to perform its functions. It may make rules and regulations, sue and be sued, compel the attendance of persons and the productions of papers and information, and issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park accommodations. Violations of any by-laws adopted pursuant to this act or any order of said rent board shall be punishable by a fine of not more than one thousand dollars.

**SECTION 3. *Standard for Adjusting Rents.*** (a) In regulating rents, for such mobile home park accommodations, the rent board established under section two may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for mobile home park accommodations in said town are established at levels which yield to owners a fair net operating income for such units. Fair net operating income shall be that income which will yield a return, after all reasonable operating expenses, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case. The fair market value of the property shall be the assessed valuation of the property or such other valuation as the board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

(b) Said town in its by-laws or said rent board by regulation may establish further standards and rules consistent with this act.

**SECTION 4. *Incorporation of Administrative Procedure Act.*** The provisions of chapter thirty A of the General Laws shall be applicable to the rent board, established under section two as if said rent board were an agency of the commonwealth, including these provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, and those provisions relating to judicial review of an agency order.

**SECTION 5. *Conference of Jurisdiction.*** (a) The eastern Hampden division of the district court department shall have original jurisdiction, concurrently with the superior court, of all petitions for review brought pursuant to section fourteen of chapter thirty A of the General Laws.

(b) The superior court shall have jurisdiction to enforce the provisions of this act and any by-laws adopted thereunder and may restrain violations thereof.

**SECTION 6. *Defense to Summary Process for Possession.*** The town of Wales may by by-law regulate the eviction of tenants and the rent board, established under section two, may issue orders which shall be a defense to an action of summary process for possession and such orders shall be reviewable pursuant to sections two and three.

**SECTION 7. *Exemption from Civil Service.*** The personnel of the rent board



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established under section two shall not be subject to the provision of section nine A of chapter thirty of the General Laws or chapter thirty-one of the General Laws.

**SECTION 8.** This act shall take effect upon its passage.

Approved May 17, 1991.

**Chapter 41.           AN ACT RELATIVE TO THE TRANSFER OF CERTAIN  
COMMONWEALTH LAND IN THE TOWN OF WALPOLE  
TO THE MASSACHUSETTS WATER RESOURCES AUTHOR-  
ITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws or any other general or special law to the contrary, the commissioner of the division of capital planning and operations is hereby authorized and directed to transfer by deed, in a form approved by the attorney general, to the Massachusetts Water Resources Authority hereinafter referred to as MWRA the land described in section two in the towns of Walpole and Norfolk, said land currently being used for public correctional purposes, for the public purpose of providing a landfill site, unless an alternative site is developed and approved by the Federal District Court, for disposal of grit, screenings, and, if necessary, sludge or sludge products from metropolitan Boston sewerage treatment facilities.

**SECTION 2.** The land to be the subject of such transfer is shown on a plan filed at the offices of MWRA and entitled "Plan of Land in Walpole, Mass. (Norfolk County) prepared for Massachusetts Water Resources Authority", Scale 1"=80', dated March 7, 1989 and Revised June 14, 1989, prepared by Bryant Associates Inc., and is more particularly described as follows:

Beginning at a point on the southwesterly streetline of Winter Street about 482 feet northwest of the intersection of the westerly streetline of Main Street with said southwesterly streetline of Winter Street;

Thence turning and running by land now or formerly of Kenneth W. Roberts and Marie V. Roberts S 12 Degrees 55'48"W a distance of 48.34 feet to a point;

Thence turning and running by land now or formerly of said Roberts S 10 Degrees 29'28"W a distance of 20.40 feet to a point;

Thence turning and running by land now or formerly of said Roberts S 05 Degrees 47'32"E a distance of 43.19 feet to a point;

Thence turning and running by land now or formerly of Lawrence C. Dolan and Deborah A. Dolan and said Roberts S 00 Degrees 53'12"E a distance of 211.53 feet to a point;

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Thence turning and running by land now or formerly of said Dolan, Frederick Burgess Walker and Lynda Kissell Burgess, Robert N. White and Helen S. White, and James M. Lamonica and Janet C. Lamonica S 25 Degrees 06'02"E a distance of 541.38 feet to a point;

Thence turning and running along said westerly streetline of Main Street S 18 Degrees 05'35"W a distance of 602.12 feet to a point;

Thence turning and running along said westerly streetline of Main Street S 19 Degrees 21'16"W a distance of 260.88 feet to a point;

Thence turning and running S 59 Degrees 21'16"W a distance of 183.06 feet to a point;

Thence turning and running N 70 Degrees 41'17"W a distance of 1145.69 feet to a point;

Thence turning and running N 20 Degrees 41'17"W a distance of 237.86 feet to a point;

Thence turning and running S 67 Degrees 18'43"W a distance of 345.10 feet to a point;

Thence turning and running by the line dividing the Towns of Walpole and Norfolk N 22 Degrees 35'34"W a distance of 2,323.01 feet to a point;

Thence turning and running by land now or formerly of the Commonwealth of Massachusetts S 88 Degrees 35'49"E a distance of 705.59 feet to a point;

Thence turning and running by land now or formerly of Joseph L. Benson and Rita E. Benson S 01 Degrees 24'11"W a distance of 568.77 feet to a point;

Thence turning and running by land now or formerly of said Benson N 74 Degrees 08'36"E a distance of 475.86 feet to a point;

Thence turning and running by land now or formerly of said Benson N 70 Degrees 08'36"E a distance of 502.78 feet to a point;

Thence turning and running along said southwesterly streetline of Winter Street S 58 Degrees 52'22"W a distance of 635.33 feet to a point;

Thence running along said southwesterly streetline of Winter Street by a curve to the right having a radius of 4,200.00 feet, a distance of 207.69 feet to a point;

Thence running along said southwesterly streetline of Winter Street S 56 Degrees 02'22"E a distance of 293.26 feet to the point of beginning.

The above described land contains an area of approximately 94.0+ acres.

**SECTION 3.** Said transferred land, if developed by the MWRA may be used only for the purposes of construction, operation, and maintenance of a landfill for grits and screenings from metropolitan Boston sewerage treatment facilities and as a back up site for the disposal of sludge or sludge products from said facilities if the MWRA proposed sludge pelletizing plant becomes non-operational or if the MWRA is unable to fully market the fertilizer pellets produced by the said facilities or otherwise dispose of such pellets for beneficial reuse or land application. Such transferred land shall not be used for any other purpose including but not limited

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to disposal of grit, screenings, sludge or other waste products from any source or project other than as provided in this act. If the transferred land ceases to be used for the purposes authorized herein, all right, title and interest in such transferred land shall revert to the commonwealth.

**SECTION 4.** The transfer authorized herein shall be subject to an easement in favor of the commonwealth through its department of environmental protection hereinafter referred to as DEP to enter onto the transferred land for the purpose of inspecting the construction, operation, and maintenance of any landfill constructed on the premises, and for the purpose of inspecting and sampling any material being deposited therein to ensure compliance with state and federal laws and regulations and the terms of this act; provided however that officials of the towns of Walpole and Norfolk shall be provided with copies of all inspection and sampling reports prepared or obtained by the DEP, and further provided that the DEP shall promptly conduct such inspections and samplings when and if requested to do so by officials of the towns of Walpole and Norfolk.

**SECTION 5.** The leachate collection system of the landfill shall be connected through the town of Walpole's sanitary sewer system to the MWRA's sewer service area, and the MWRA shall pay all costs associated with providing and operating such connection in order to dispose of any runoff and leachate generated at the facility.

**SECTION 6.** Monitoring wells shall be placed at locations reasonably selected by the DEP, after receipt of recommendations of the towns, so as to provide the maximum possible warning of the release of any leachate from the landfill into the groundwater under and about the proposed facility. The boards of health for the towns of Walpole and Norfolk shall be provided with results of all samples taken from monitoring wells. The MWRA shall take such steps as are reasonably required by DEP to remediate any contamination in violation of applicable state and federal laws and regulations.

**SECTION 7.** The MWRA shall be obligated to maintain the transferred land in a safe condition, and in accord with all applicable state and federal laws and regulations, in order to prevent damage, on-site and off-site, to the health and safety of persons and property. In the event of a reversion, MWRA shall be obligated to take all action necessary to return the transferred land to a safe condition in accord with all applicable state and federal laws and regulations.

**SECTION 8.** In consideration of such transfer, the MWRA shall pay the commonwealth the amount of one dollar.

**SECTION 9.** Notwithstanding any general or special law to the contrary, the MWRA shall not commence construction of the landfill on the transferred land prior to September, nineteen hundred and ninety-two, or as otherwise provided by order of the Federal District Court, unless otherwise agreed in writing by the secretary of administration and finance.

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**SECTION 10.** Notwithstanding any general or special law to the contrary, the MWRA board shall establish a program requiring its member cities and towns to accept for their own use, and in accord with any regulations and guidelines for land application and beneficial use of sludge developed by the DEP and the United States Environmental Protection Agency, fertilizer pellets produced by the Boston harbor residuals pelletizing plant that are not sold or otherwise marketed. The MWRA shall be authorized to negotiate with other agencies and authorities of the commonwealth to accept sludge fertilizer products, and the agencies and authorities of the commonwealth shall give priority to the purchase of such products in their procurement of fertilizers. No city or town that is a member of the MWRA district shall promulgate any law or ordinance that would prohibit the receipt or use of said fertilizer pellets. Said program shall be established by the MWRA at least ninety days prior to the operation of the landfill facility.

**SECTION 11.** Notwithstanding any general or special law to the contrary, if any well used by the town of Walpole or the town of Norfolk, or by the commonwealth, is fouled, contaminated or otherwise rendered unusable, as determined by applicable state drinking standards, due to the construction, operation, or maintenance of the MWRA landfill on the transferred land described herein, the MWRA shall, at its own expense, connect such town, or the commonwealth, to the MWRA water supply system, and provide an amount of water equivalent to that which has been fouled or rendered unusable to said town or commonwealth at an annual rate equivalent to the water rate charged by the town in the year prior to that in which the town or the commonwealth was connected to the MWRA system.

**SECTION 12.** Notwithstanding any general or special law to the contrary, the MWRA shall indemnify the commonwealth for any liability the commonwealth incurs as a result of the MWRA's use and occupation of the transferred land.

**SECTION 13.** Notwithstanding any general or special law to the contrary, the MWRA is hereby authorized and shall provide, within a reasonable time, mitigation to the property owners abutting the site of the potential residuals landfill in Walpole.

**SECTION 14.** The MWRA shall establish a flat fee to be paid to the towns of Walpole and Norfolk on an annual basis as long as the landfill is in operation. Such fee shall be negotiated between the MWRA and the board of selectmen in each town upon the transfer of such property described in this act.

**SECTION 15.** The MWRA shall, at its sole cost and expense, perform all additional field work required to redesignate the boundary of the head of Neponset sole source aquifer.

**SECTION 16.** The MWRA shall give job preference to Walpole and Norfolk residents for landfill construction and operation.

*Emergency Letter: May 21, 1991 @ 9:30 A.M.*

Approved May 20, 1991.

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**Chapter 42.****AN ACT RELATIVE TO RECALL ELECTIONS FOR THE  
TOWN OF NEW BRAINTREE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any holder of an elective office in the town of New Braintree may be recalled and removed therefrom by the qualified voters of said town as herein provided.

**SECTION 2.** Any qualified voter of the town of New Braintree may file with the town clerk of said town an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall. Said town clerk shall thereupon deliver to the voter making such affidavit a sufficient number of copies of printed recall petition blanks demanding such recall, a supply of which shall be kept on hand. The petition blanks shall be issued by the town clerk with his signature and official seal attached thereto; they shall be dated and addressed to the selectmen of said town, shall contain the name of the person to whom issued, the number of blanks so issued, the name of the person sought to be recalled and the office held by such person, the grounds of recall as stated in such affidavit, and shall demand the election of a successor to such office. The affidavit shall be kept in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with said town clerk not later than three o'clock in the afternoon on the twentieth day following the filing of the affidavit and shall be signed by a minimum of one hundred and fifty registered voters or fifteen percent of the registered voters of each precinct in the town of New Braintree, registered as of the date of the most recent town election whichever is greater, and to every signature shall be added the place of residence of the signer, including the street, number and precinct. The person to whom the petition forms were issued shall make an affidavit on each page that the statements therein contained are true and that each signature appended to the petition is the genuine signature of the person whose name it purports to be. Said town clerk shall, within one work day following the day of such filing in the office of the town clerk, submit the signed petitions to the board of registrars which shall, within five work days, certify in writing thereon the number of signatures on said petition in each precinct which are names of qualified voters as of the date of the most recent town election. Signatures of persons who registered to vote after the date of the most recent town election shall not be certified. The certified petitions shall be returned to the town clerk by the board of registrars as soon as completed, but no later than three o'clock in the afternoon of the fifth work day following receipt of the petitions.

**SECTION 3.** If the town clerk determines that the certified petitions meet the requirements as described in the previous sections, he shall immediately give

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notice, in writing by certified mail, to the elected officer whose recall is being sought, a copy of the affidavit and the recall petition form together with a certification as to the number of signatures certified on such petitions. If the officer sought to be removed does not resign within five days, said town clerk shall notify the board of selectmen without delay, and said board of selectmen shall, within seven working days, order an election to be held on a Monday fixed by them not less than sixty and not more than ninety days after receipt of the town clerk's notification; provided, however, that if any other town election is to occur within one hundred days after the date of said notification said selectmen may, in their discretion, postpone the holding of said election to the date of such other election. If a vacancy occurs in said office for any reason after a recall election has been ordered by the board of selectmen, the recall election shall nevertheless proceed as provided for herein, but only the ballots for candidates need be counted.

**SECTION 4.** Any officer whose recall is sought may be a candidate to succeed himself and, unless he requests otherwise in writing to the town clerk, said town clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and conduct of the same, shall be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then reelected he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in section seven. If not reelected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office for the remainder of the unexpired term. If the successor fails to qualify within seven days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** Ballots used in a recall election in said town shall submit the following propositions in the order indicated:

For the recall of (name of officer and office held)

Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square by which the voter by making a cross mark (X) may vote for either of such propositions. Under the propositions shall appear the word "Candidates" and directions to voters as required by the General Laws regulating elections. Beneath the word "Candidates" shall be the names of candidates nominated in accordance with the provisions of law relating to elections. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes cast upon the question of recall is in the negative, the ballots for candidates need not be counted. Ballots shall be prepared in the same manner as those provided for town elections.

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**SECTION 7.** No recall petition shall be filed against an officer of the town within six months after he takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least six months after such recall election.

**SECTION 8.** No person who has been recalled from an office in said town, or who has resigned from office while recall proceedings were pending against him, shall be appointed to any office within two years after such removal by recall or resignation.

**SECTION 9.** This act shall be submitted for acceptance to the voters of the town of New Braintree at the next annual town meeting in the form of the following question, which shall be placed on the official ballot to be used for the election of town officers at said meeting:- "Shall an act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act relative to recall elections for the town of New Braintree', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, this act shall take full effect, but not otherwise.

**SECTION 10.** This act shall take effect upon its passage.

Approved May 21, 1991.

**Chapter 43.           AM ACT AUTHORIZING THE TOWN OF NORTH  
ATTLEBOROUGH TO REMOVE GRAVEL FROM CERTAIN  
FOREST LAND.**

*Be it enacted, etc., as follows:*

The town of North Attleborough, acting by and through its town forest committee, is hereby authorized to remove earth and gravel from certain land in the town forest to be used for municipal purposes. Said land is shown as parcels A, B and C on a plan of land dated July nineteenth, nineteen hundred and ninety drawn by W. T. Whalen Engineering which is on file with the planning board and clerk of said town.

Approved May 22, 1991.

**Chapter 44.           AN ACT DESIGNATING A PORTION OF STATE HIGHWAY  
ROUTE 12 IN THE TOWN OF WEBSTER AS THE SAMUEL  
SLATER MEMORIAL HIGHWAY.**

*Be it enacted, etc., as follows:*

That portion of the state highway Route 12 in the town of Webster beginning

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at the Webster-Oxford town boundary and extending southerly to its southernmost intersection with Old Worcester road shall be designated and known as the Samuel Slater Memorial Highway to commemorate his contribution to the start of the industrial revolution in America on December twentieth, seventeen hundred and ninety, and to honor the working people of America.

Suitable markers bearing such designation shall be erected by the department of public works in compliance with the standards of said department.

Approved May 22, 1991.

**Chapter 45.            AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable David E. Harrison, as he is a justice in the district court department of the trial court of the commonwealth, in the city of Beverly on June twenty-third, nineteen hundred and ninety-one, between Diane Lisa Kaplan and John William Bucco, both of the city of Beverly, and the state secretary shall issue to said Honorable David E. Harrison in his capacity as aforesaid a certificate of such authorization.

Approved May 22, 1991.

**Chapter 46.            AN ACT RELATIVE TO DENTAL INSURANCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 176E of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "state", in line 28, the words:- and may also enter into contracts with such agency or corporation or with a corporation owned by such agency or corporation for the joint or



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cooperative administration of business or for the joint or cooperative writing and issuing of subscription certificates to residents of the commonwealth or of any other state.

**SECTION 2.** The fourth paragraph of said section 3 of said chapter 176E, as so appearing, is hereby amended by adding the following sentence:- Any dental service corporation may join with or contract with any person for the purpose of providing or receiving administrative or other services relating to the providing of dental services or reimbursement therefor.

Approved May 22, 1991.

**Chapter 47.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Gerald F. Fountain in the town of Warren on May twenty-fifth, nineteen hundred and ninety-one, between Karen Marie Plante of the town of Warren and David W. Cambura of the town of Ware, and the state secretary shall issue to said Gerald F. Fountain a certificate of such authorization.

Approved May 24, 1991.

**Chapter 48.           AN ACT RELATIVE TO THE INCINERATOR LOCATED IN  
THE CITY OF FALL RIVER.**

*Be it enacted, etc., as follows:*

Chapter 233 of the acts of 1988 is hereby amended by striking out, in line 5, the word "ninety-one" and inserting in place thereof the word:- ninety-four.

Approved May 24, 1991.

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**Chapter 49.            AN ACT RELATIVE TO SEWER BETTERMENTS IN THE TOWN OF WAREHAM.**

*Be it enacted, etc., as follows:*

The town of Wareham is hereby authorized to assess betterments for sewer work projects known as Route 6 & 28, C-250679-01 "88-1, 88-2, 88-5, and 88-6", Point Independence, 557-CS-309 "88-3", Indian Mound Beach, 557-CS-310 "88-4", and Pine Tree Estates, 557-CS-308 "89-1", pursuant to a fixed uniform rate based upon the total sewerage construction cost including pumping station, trunks and force mains, according to the frontage of such land on any way in which a sewer is constructed; but no assessments with respect to any such land, which by reason of its grade or level or any other cost cannot be drained into the sewer, shall be made until such incapacity is removed.

Approved May 24, 1991.

**Chapter 50.            AN ACT RELATIVE TO THE CHARTER OF THE CITY OF NEWTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The first paragraph of section 2-7 of the charter of the city of Newton, which is on file in the office of the archivist of the commonwealth as provided by section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- As soon as practicable after the board of aldermen has been organized, it shall elect, by ballot or otherwise, a city clerk and a comptroller of accounts as officers of the city to hold office for the term of two years and until their successors are qualified, unless they are removed by vote of a majority of the full board, taken by ballot.

**SECTION 2.** Said section 2-7 of said charter is hereby further amended by striking out subparagraph (c).

**SECTION 3.** Said charter is hereby further amended by striking out section 3-3 and inserting in place thereof the following section:-

*Section 3-3. Appointments by Mayor.*

(a) The mayor shall appoint all city officers, department heads and members of the city agencies for whom no other method of appointment or selection is provided by the charter or by law. Appointments made by the mayor shall become effective sixty days after the date on which notice of the proposed appointment is

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filed with the city clerk, as provided in section 3-4, unless the board of aldermen shall within the said sixty days reject such appointment. Rejection by the board of aldermen shall require a two-thirds vote of the full board, except that an appointment to a multiple member body may be rejected by a majority vote of the full board.

(b) The mayor shall appoint a collector-treasurer for a term coterminous with the mayor's term and until a successor for the position of collector-treasurer is qualified unless he is removed by the mayor prior to the expiration of such term. The mayor shall submit the proposed appointment to the board of aldermen as soon as possible after the mayor's term commences or as soon as possible after a vacancy occurs in the collector-treasurer's office. The board of aldermen must approve this appointment by majority vote of the full board within ninety days from the date on which notice of the proposed appointment is filed with the city clerk as provided in section 3-4, or the proposed appointment shall not take effect. Removal of the collector-treasurer by the mayor prior to expiration of the collector-treasurer's term in office shall not take effect until approved by majority vote of the full board of aldermen. The collector-treasurer shall receive and pay out all money belonging to the city according to the order of its authorized officers. No other person shall have authority to pay any bill of any municipal department. He shall have such other powers and perform such other duties as the mayor may prescribe in addition to such duties as may be prescribed by law.

(c) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in section 2-9(c).

**SECTION 4.** This act shall take effect upon its passage.

*Emergency Letter: May 24, 1991 @ 4:03 P.M.*

Approved May 24, 1991.

## **Chapter 51.**

### **AN ACT AUTHORIZING THE METROPOLITAN DISTRICT COMMISSION TO NAME A CERTAIN ROTARY IN THE WEST ROXBURY SECTION OF THE CITY OF BOSTON IN HONOR OF FRANK R. KELLEY.**

*Be it enacted, etc., as follows:*

The metropolitan district commission is hereby authorized and directed to name the rotary at the intersection of the West Roxbury parkway and Veterans of Foreign Wars parkway in the West Roxbury section of the city of Boston in honor of Frank R. Kelley and to erect a suitable marker thereon.

Approved May 24, 1991.

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**Chapter 52.           AN ACT PROHIBITING THE USE OF FLASHING BLUE  
LIGHTS ON CERTAIN VEHICLES.**

*Be it enacted, etc., as follows:*

Section 7E of chapter 90 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "vehicle", in line 45, the first time it appears, the words:- or trailer.

Approved May 24, 1991.

**Chapter 53.           AN ACT AUTHORIZING THE CITY OF TAUNTON TO  
LEASE A CERTAIN PARCEL OF LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The municipal council of the city of Taunton is hereby authorized, without taking any other preliminary steps and without seeking bids or proposals, and notwithstanding the provisions of any general or special law to the contrary, to execute and deliver in the name and on behalf of said city of Taunton one or more instruments to lease a certain parcel of land located in said city of Taunton to a nonprofit educational corporation organized under the laws of the commonwealth whose principal place of business is located within the city of Taunton and which qualifies to operate a head start program under Public Law 97-35 of the United States Code in compliance with the educational objectives of such program. Said parcel of land is shown on a plan by Bay Colony Surveying, Inc., dated October 2, 1990 entitled "Plan of Land in Taunton, MA To Be Leased For Head Start Facility.", which is on file with said city.

The lease shall be for a period to be determined by said municipal council not to exceed twenty-five years, and may provide for an extension of the said lease for two consecutive terms of up to ten years each, provided, however, that any such extension shall be subject to the approval of said municipal council. The consideration for the said lease shall be the lessee's agreement to staff, operate, and conduct a head start childhood program in accordance with the educational objectives and guidelines set forth in the regulations therefor and in section three, which program shall be for the benefit of children residing within the city of Taunton and surrounding communities otherwise qualifying for enrollment therein. The lease shall provide that the lessee shall indemnify the city for all claims, demands, actions, and lawsuits resulting from the condition of the leased premises and shall contain such other clauses defining the rights and duties of the parties thereto as the city and the lessee may agree. Before executing the lease, it shall

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be submitted to the inspector general for his review and comments. The inspector general shall within fifteen days of receipt of the lease provide the city with his written comments and recommendations, if any.

A comprehensive general liability insurance policy issued by a company or companies licensed in the commonwealth and acceptable to the city shall be purchased and maintained by the lessee and shall list the city as insured against personal injuries and property damage occurring as a result of any condition of the leased premises. Said policy limits shall be as required by the city and shall be no less than one million dollars per person and three million dollars per occurrence.

The lessee shall cause to be erected at the lessee's costs on the leased premises such buildings, fixtures, and improvements as shall be necessary for said head start program. The design and construction of any such buildings, fixtures, and improvements shall not be deemed a public building or public work for the purposes of chapters seven, thirty B, and one hundred and forty-nine of the General Laws. Plans for all buildings, fixtures, and improvements shall first be submitted to said municipal council and to the school committee of said city for approval prior to any construction. In like manner, any alteration, additions, or demolition of buildings, improvements, or fixtures shall require the prior written approval of said municipal council and said school committee.

The premises, buildings, and improvements shall not be subject to municipal assessment or taxation, but the lessee shall be responsible for and pay for all utilities.

The lease shall contain appropriate restrictions prohibiting discrimination by the lessee, contractors, employees, or other persons dealing with the lessee with respect to the leased portions of the property described herein on the basis of race, creed, color, sex, age, national origin, religion, physical or mental handicap, political application, or inability to speak or understand the English language.

The lessee shall not lease, sublease or convey any interest in the land or buildings, fixtures and improvements thereon without prior written approval of said municipal council. Any such disposition shall be subject to the provisions of chapter thirty B of the General Laws as they would apply to a governmental body, and section forty J of chapter seven of the General Laws. The lease described herein shall contain language which shall set forth in detail the uses and activities permitted on the leased premises. Said school committee shall have first refusal for use of the premises or any part thereof when not utilized or otherwise required by said head start program.

**SECTION 2.** Said head start program shall provide early childhood activities for children ages three and four residing in the city of Taunton and surrounding communities. The program shall be designed to meet the following objectives:

(1) The improvement of the child's health and physical abilities, including appropriate steps to correct present physical and mental problems and to enhance

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every child's access to an adequate diet. The improvement of the family's attitude toward future health care and physical abilities.

(2) The encouragement of self-confidence, spontaneity, curiosity, and self-discipline which will assist in the development of the child's social and emotional health.

(3) The enhancement of the child's mental processes and skills with particular attention to conceptual and communications skills.

(4) The establishment of patterns and expectations of success for the child, which will create a climate of confidence for present and future learning efforts and overall development.

(5) An increase in the ability of the child and the family to relate to each other and to others.

(6) The enhancement of the sense of dignity and self-worth within the child and his family.

The program shall accommodate a minimum of one hundred and fifty students and shall provide a well-balanced program that supports the development needs of all children served, including the following:

(a) a reasonable regularity in routine, with sufficient flexibility to respond to the needs of individual children;

(b) opportunity for a child to have a free choice among a variety of activities or to play alone or with one or several chosen peers if desired for at least two periods a day for full-day centers; and one period a day for half-day centers;

(c) daily indoor and outdoor time periods, weather permitting, which include both small and large musical activities;

(d) opportunities for the child to participate in a variety of creative activities, such as art, music, literature, dramatic play, and science;

(e) provision for privacy through arranging a small, quiet area that is inviting to children and is easily accessible to the child who seeks or needs time alone;

(f) experiences which are in harmony with the life style and cultural background of the children enrolled. Cultural diversity shall be reflected through the incorporation of different language, foods, celebrations, activities, and life style where appropriate;

(g) opportunity for infants and toddlers to crawl freely for the major part of the day, with certain times specified for individual talking to, handling, and playing with by the assigned teacher;

(h) opportunities for all children to learn self-help skills such as dressing and undressing, buttoning, tying shoes, and using eating utensils appropriately.

**SECTION 3.** The lessee shall be responsible for the maintenance of the premises and for construction of a facility with minimum capacity for one hundred and fifty students. Said facility shall be constructed to meet the regulatory requirements of licensing by the office for children and all other applicable building

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code requirements, and all agencies regulating the operation and funding of said head start program. The lessee shall pay for constructing the facility, maintaining the building and property, and providing head start programming and staffing.

Prior to the construction of any building, the lessee shall provide the city of Taunton with the detailed components of said head start program, its hours of operation, resumes of all staff, and financial statements which shall include the following: previous two-year audited statements and operating budgets, revenue projections, and evidence of committed financing for building construction. Said city may agree to be the guarantor of any construction or development loan negotiated by the lessee. Upon the termination of the lease and any extension thereof, the premises and all buildings, improvements, and fixtures thereon shall be the property of said city. In the event of a default by the lessee, said city may at its option terminate the lease and may take over possession of all or any part of the leased premises.

Approved May 24, 1991.

**Chapter 54.           AN ACT FURTHER REGULATING LEAVES OF ABSENCE  
FOR CERTAIN SCHOOL PERSONNEL.**

*Be it enacted, etc., as follows:*

The second paragraph of section 41A of chapter 71 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in lines 38 to 43, inclusive, the words “; provided, however, that any such leaves subsequent to the effective date of this act shall not exceed six years in the aggregate except upon the further written request of such teacher, registered nurse, principal, supervisor, director, school librarian, school business administrator, superintendent or assistant superintendent and upon the approval thereof by said school committee”.

Approved May 24, 1991.

**Chapter 55.           AN ACT AUTHORIZING THE LICENSING AUTHORITY OF  
THE TOWN OF ATHOL TO ISSUE AN ADDITIONAL LI-  
CENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES  
TO BE DRUNK ON THE PREMISES TO DOROTHY  
WILLHITE, D/B/A ATHOL STEAK HOUSE.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority in the town of Athol is hereby authorized to issue a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight to Dorothy Willhite, d/b/a Athol Steak House. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight, except said section seventeen; provided, however, that the licensing authority of said town shall not approve the transfer of said license to any other persons, organization, corporation or location for not less than one year; and provided, further, that the issuance of said license shall reduce by one any increase in licenses issued due to census reapportionment under the provisions of said section seventeen.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 24, 1991.

**Chapter 56.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, or any other general or special law to the contrary, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Richard J. Chin, as he is a justice of the Boston municipal court, in the town of Whitman, on June first, nineteen hundred and ninety-one between Wanda M. Brown and George F. Cunningham, III both of the city of Brockton, and the state secretary shall issue to said Honorable Richard J. Chin, in his capacity as aforesaid, a certificate of such authorization.

Approved May 30, 1991.



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**Chapter 57.**

**AN ACT MAKING APPROPRIATIONS FOR THE FISCAL  
YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED  
AND NINETY-ONE TO PROVIDE FOR SUPPLEMENTING  
CERTAIN EXISTING APPROPRIATIONS AND FOR CER-  
TAIN OTHER ACTIVITIES AND PROJECTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items and the sum set forth in section two C of this act is hereby appropriated from the Intragovernmental Service Fund, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and fifty of the acts of nineteen hundred and ninety, for the fiscal year ending June thirtieth, nineteen hundred and ninety-one or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

## SECTION 2.

Item

### DISTRICT ATTORNEYS.

0340-0200 Northern, including not more than one hundred and sixty-six positions		\$105,536
General Fund	25.0%	
Local Aid Fund	75.0%	

### EXECUTIVE OFFICE FOR ADMINISTRATION & FINANCE.

#### *Bureau of State Buildings.*

1102-3301 For the administration of the bureau of state buildings and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings; provided, however, that not less than fifty thousand dollars be available for the restoration and preservation of the historic flags displayed in the state house hall of flags, including not more than one hundred and fifty-two positions		\$1,812,171
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#### *Group Insurance Commission.*

1108-5400 For the group insurance premium for certain retired municipal teachers and their dependents, and the audit of said premium; provided, however, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother		\$112,000
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#### *Miscellaneous.*

1599-0008 For a reserve for tort claims		\$210,000
1599-2038 For the payment of deficiencies in certain appropriations for previous fiscal years based upon schedules provided to the house and senate committees on ways and means; provided, however, that the comptroller is hereby authorized to charge such payments to other items of appropriation and allocations thereof and to transfer from the amount appropriated herein to said items and allocations such amounts as are necessary to meet the cost of said charges; and, provided, further, that said comptroller is authorized to allocate the amounts of such payments to the several state or other funds to which said payments would have been chargeable if appropriations had been available thereof		\$4,000,000
1599-3384 For a reserve for the payment of certain court judgements, settlements and legal fees, in accordance with regulations promulgated by the comptroller, filed with the house and senate committees on ways and means, which were ordered to be paid in fiscal year nineteen hundred and ninety-one or a prior fiscal year and which derive from causes of action initiated in said fiscal year or a prior fiscal year; provided, however, that the comptroller is hereby authorized to charge such payments to this item		\$4,000,000

Item

1599-3407	For the purpose of municipal reimbursement to be paid according to the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three; provided, however, that of the sum appropriated herein, not less than two hundred thousand dollars shall be available to reimburse cities and towns for the school breakfast act	\$64,796
	Local Aid Fund	100.0%
1599-3726	For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth of Massachusetts and the State Police Association of Massachusetts (Unit 5A); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement; provided, however, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided, further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and ninety-one such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year and for prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided, further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers shall be made from this item without prior notice provided to the house and senate committees on ways and means	\$600,000
1599-3728	For a reserve to meet the cost of salary adjustments for commissioned officers of the state police pursuant to section nine T of chapter twenty-two of the General Laws; provided, however, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and ninety-one such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year and for prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided, further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that an analysis of all cost items shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfer shall be made from this item without prior notice provided to the house and senate committees on ways and means	\$745,000

Item

**EXECUTIVE OFFICE OF HUMAN SERVICES.**

**DEPARTMENT OF CORRECTION.**

4349-0001 For the administration and operation of the commonwealth's correctional facilities, including not more than four thousand seven hundred positions \$5,898,446

**DEPARTMENT OF PUBLIC WELFARE.**

4402-5000 For a medical assistance program, including a program of special education medical services provided to medicaid children; provided, however, that no expenditures or commitment made pursuant to these items or to any agreements authorized by chapter eight hundred of the acts of nineteen hundred and sixty-nine for the purpose of complying with the provisions of Public Law 89-97, Title XIX, shall be incurred in excess of available funds which have been appropriated therefor; provided, further, that an amount not to exceed six hundred million dollars may be expended from this item for expenses incurred in the prior fiscal year; provided, further, that the department of public welfare is hereby authorized to provide certain primary and supplementary medical care and assistance for families and individuals who, due to increased income from employment, lose eligibility for the program of medical care and assistance administered by the department in accordance with Title XIX of the Social Security Act, as provided in section one B of chapter one hundred and eighteen E of the General Laws; provided further, that funding may be expended from this account for administrative costs associated with cost containment efforts; provided, further, that requests for funding for cost containment projects shall be accompanied with projections of total spending on the project, explanations of any increase over the previous fiscal year and estimates of savings resulting from said project; provided, further, that up to one million dollars shall be expended from this item for early screening and treatment necessary to reduce hospitalizations and to avoid medicaid costs by delaying the onset of fully symptomatic AIDS; provided further, that said funds shall be expended through a request for proposals process and may be expended even in the absence of federal reimbursement; and provided, further, that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother \$150,000,000

4403-2000 For a program of aid to families with dependent children; provided, however, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided, further, that a forty dollar per month rent allowance shall be paid to all households not residing in public housing or subsidized housing, subject to federal reimbursement; provided, further, that a nonrecurring clothing allowance in the amount of one hundred and fifty dollars be provided to each child eligible under this program in September, nineteen hundred and ninety, subject to federal reimbursement; provided, further, that such clothing allowance shall be included in the standard of need for the month of September, nineteen hundred and ninety; provided, further, that a program of assistance, including medical assistance, be provided to families otherwise eligible for aid to families with dependent children but for the temporary removal of a dependent child from the home by the department of social services in accordance with department procedures;

Item

	provided, further, that benefits under this program shall not be available to families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse; provided, further, that child support payments collected pursuant to Title IV-D of the Social Security Act, not to exceed an amount of seventy-five million dollars, shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided, further, that certain families which will suffer a reduction in benefits due to their loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for this loss; and provided, further, that no funds from this item shall be expended by the department for the transportation services for the employment and training program or voucher day care program	\$45,000,000
4405-2000 For	the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, however, that the expenses of special grants recipients residing in rest homes, as provided in section seven A of chapter one hundred and eighteen A of the General Laws, may be paid from this item; and provided, further, that the expenses of a program to aid applicants in becoming eligible for said supplemental security income program may be paid from this item	\$5,200,000
4406-2000	For a program of general relief, including a program of emergency relief; provided, however, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided, further, that the payment standard shall be equal to the need standard; provided, further, that a nonrecurring clothing allowance in the amount of one hundred and fifteen dollars be provided to each recipient of the program eligible in September, nineteen hundred and ninety; provided, further, that a thirty-five dollar per month rent allowance shall be paid to all households not residing in public housing or subsidized housing; and provided, further, that no funds from this account shall be expended for homeless shelters without the prior approval of the house and senate committees on ways and means	\$3,379,460

**DEPARTMENT OF SOCIAL SERVICES.**

4800-0020 For	the delivery of permanency services to children in the care of the department, including the provision of adoption and guardianship subsidies; provided, however, that the department shall make assessment of all the children in its care longer than twelve months for the appropriateness of adoption; provided further, that the department shall maintain a central registry and tracking system to monitor the progress of such children in the adoption process; and provided, further, that no funds shall be expended to provide subsidies to adoptive parents for children no longer in their care; including not more than twenty-seven positions	\$1,257,000
4800-0030 For	the delivery of foster care services to children in the care of the department, including the provision of foster care subsidies, services to foster families and reimbursements to foster parents for extraordinary expenses incurred; provided, however, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund	\$8,974,000
4800-0041 For	the delivery of group care services to children in the care of the department; provided, however, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General	

Item		
	Fund	\$8,793,779
4800-1100 For	social workers and their expenses, including not more than one thousand nine hundred and eighty positions	\$5,591,259

#### **DEPARTMENT OF MENTAL HEALTH.**

5095-0000 For	the maintenance of the state hospitals, the Gaebler Children's Center, and the treatment center at the Massachusetts correctional institute at Bridgewater; provided, however, that the department transfer a total of fourteen medically involved clients from Worcester state hospital and Westboro state hospital to Rutland Heights public health hospital; and, provided further, that said transfers shall take place on or before October first, nineteen hundred and ninety, including not more than four thousand eight hundred positions	\$1,551,017
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#### **DEPARTMENT OF MENTAL RETARDATION.**

5948-0000 For	mental retardation services; provided, however, that a maintenance of effort be made to continue services to retarded persons in the community who are not eligible for services through chapter seventy-one B of the General Laws or consent decrees; and, provided further, that not less than one million five hundred thousand dollars be expended for new respite care services; including six million six hundred thousand dollars for turning twenty-two clients funded through item 5911-0006 in fiscal year nineteen hundred and ninety, including not more than six hundred and fifty-one positions	\$535,000
5983-0100 For	the operation of facilities for the mentally retarded, including not more than one million six hundred thousand dollars for prior year's expenses, including not more than ten thousand four hundred and fifty positions	\$13,765,627

#### **EXECUTIVE OFFICE OF PUBLIC SAFETY.**

##### *Office of the Secretary.*

8000-0106 For	a reserve for certain commonwealth police administration expenses; provided, however, that the secretary of public safety is hereby authorized to transfer funds from the sum appropriated herein to items 2440-0015, 8312-0100 and 8400-0010	\$1,780,000
	General Fund	7.0%
	Local Aid Fund	13.0%
	Highway Fund	80.0%

##### *Registry of Motor Vehicles.*

8400-0001 For	the administration and operation of the registry of motor vehicles; provided, however, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar, and the director of employee relations shall not be subject to civil service laws and rules; provided, further that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the office of management information	
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Item

systems and pursuant to schedules by said office; and provided further, that forty percent of the costs of personnel services associated with the computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section one hundred and eighty-three of chapter six of the General Laws; including not more than seven hundred and thirty positions

\$859,364

Highway Fund

100.0%

**SECTION 2C.**

Item

**EXECUTIVE OFFICE FOR ADMINISTRATION & FINANCE.**

*Office of Management Information Systems.*

1101-2310 For the cost of computer resources and services provided by the bureau of computer services; provided, however, that the commissioner of administration shall charge, pursuant to section thirty-two of chapter one hundred and fifty of the acts of nineteen hundred and ninety, to other items of appropriation for the purchase or lease of data processing and data communication goods and services for the bureau of computer services data center and data communications network

\$250,000

**SECTION 3.** This act shall take effect upon its passage.

Approved May 31, 1991.

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**Chapter 58.**

**AN ACT PROVIDING THAT THE HONOR ROLL ERECTED ON THE U.S.S. MASSACHUSETTS INCLUDE A SECTION HONORING THE CITIZENS OF THE COMMONWEALTH WHO DIED IN THE PERSIAN GULF WAR.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 124A of chapter 6 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the Roman numeral "II", in line 17, the following words:- and the Persian Gulf War, also known as Operation Desert Storm,.

**SECTION 2.** Said section 124A of said chapter 6, as so appearing, is hereby further amended by striking out, in said line 17, the word "war" and inserting in place thereof the word:- wars.

Approved May 30, 1991.

**Chapter 59.**

**AN ACT AUTHORIZING THE SOUTH HADLEY HOUSING AUTHORITY TO CONVEY CERTAIN LAND IN THE TOWN OF SOUTH HADLEY TO THE JAMES RIVER CORPORATION OF VIRGINIA, JAMES RIVER GRAPHICS GROUP-SOUTH HADLEY, NOW KNOWN AS THE GRAPHICS TECHNOLOGY INTERNATIONAL, INC.**

*Be it enacted, etc., as follows:*

**SECTION 1.** In consideration of the conveyance of a certain parcel of land by the James River Corporation of Virginia, James River Graphics Group-South Hadley, now known as the Graphics Technology International, Inc., a corporation, incorporated under the laws of the state of Virginia, to the South Hadley Housing Authority, said Authority is hereby authorized to convey to said Corporation, a certain parcel of land with buildings thereon in the town of South Hadley. Said parcel is shown on a plan recorded at the county registry of deeds in the county of Hampshire, entitled "Property Survey for South Hadley Housing Authority, South Hadley, Hampshire County, MA. Scale 1"=50', Dated September 24, 1987 drawn by Pharmed Engineering Corporation of Holyoke, MA."

**SECTION 2.** This act shall take effect upon its passage.

*Emergency Letter: May 31, 1991 @ 11:43 A.M.*

Approved May 31, 1991.



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**Chapter 60.**

**AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF PLYMOUTH AS THE GEORGE FRANCIS, ROBERT FRANCIS AND HAROLD ANTHONY MEMORIAL BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge located on state highway route 3 over Cherry street in the town of Plymouth shall be designated and known as the George Francis, Robert Francis and Harold Anthony Memorial Bridge, in memory of George Francis, Robert Francis and Harold Anthony who were residents of the town of Plymouth and died in the service of their country during World War II. The department of public works shall erect a suitable marker thereat bearing said designation in compliance with the standards of said department.

Approved May 31, 1991.

**Chapter 61.**

**AN ACT DESIGNATING CERTAIN BRIDGES ON MARTHA'S VINEYARD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The so-called "Draw bridge" on Beach road between the town of Tisbury and the town of Oak Bluffs crossing Lagoon pond and the harbor shall be designated and known as the Korean and Vietnam Veterans Memorial bridge. The department of public works shall erect suitable markers thereat bearing such designation and in compliance with the standards of said department.

**SECTION 2.** The so-called "Little bridge" on State road in the town of Oak Bluffs crossing Sengekontacket pond and Nantucket sound shall be designated and known as the Veterans of Foreign Wars Memorial bridge. The department of public works shall erect a suitable marker thereat bearing such designation and in compliance with the standards of the department.

**SECTION 3.** The so-called "Big bridge" between the town of Oak Bluffs and the town of Edgartown crossing Sengekontacket pond and Nantucket sound shall be designated and known as the American Legion Memorial bridge. The department of public works shall erect a suitable marker thereat bearing such designation and in compliance with the standards of said department.

Approved May 31, 1991.

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**Chapter 62.            AN ACT ESTABLISHING A TRUST AND CEMETERY COMMISSION IN THE TOWN OF WILLIAMSBURG.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, there is hereby established in the town of Williamsburg a trust and cemetery commission to consist of three members to be elected at-large by official ballot. Initially the recent members of the board of trust fund commissioners shall serve as commissioners of the trust and cemetery commission until the expiration of their terms.

Said commission shall have all the powers and duties as commissioners of trust funds and boards of cemetery commissioners under the General Laws and shall manage the Town of Williamsburg, Massachusetts, Investment Fund under the provisions of chapter three hundred and sixty-eight of the acts of nineteen hundred and eighty-nine.

Approved May 31, 1991.

**Chapter 63.            AN ACT PROVIDING FOR AN ACCELERATED TRANSPORTATION DEVELOPMENT AND IMPROVEMENT PROGRAM FOR THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an accelerated transportation development and improvement program for the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the department of public works, hereinafter referred to as the department, is hereby authorized and directed to take all necessary actions to secure federal highway or mass transportation assistance which is or may become available to the department including, but not limited to, actions authorized under or in compliance with the provisions of Title 23 of the United States Code and section one hundred and forty-five of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 110-17, and actions such as filing applications

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for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements, and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by any department, agency or other instrumentality of the commonwealth other than the department, such other department, agency or instrumentality is hereby authorized and directed to take such action.

In furtherance of the foregoing purposes, the department shall apply for and accept any federal funds available for projects authorized in section one of chapter thirty-three of the acts of nineteen hundred and ninety-one, and such federal funds when received shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by said section one, there is hereby appropriated from the Federal Highway Construction Program Fund a sum of two billion four hundred twenty-four million eight hundred fifty-nine thousand four hundred eighty-nine dollars which shall be expended, subject to the limitations contained in Article LXXVIII of the Amendments to the Constitution of the Commonwealth and which shall be in addition to the amounts appropriated in section one of chapter fifteen of the acts of nineteen hundred and eighty-eight.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 31, 1991.

**Chapter 64.            AN ACT DESIGNATING THE PEDESTRIAN FOOTBRIDGE  
ON MORRISSEY BOULEVARD AS THE LIEUTENANT THOMAS F. FOLEY FOOTBRIDGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately designate the footbridge on Morrissey boulevard at Pope's Hill street as the Lieutenant Thomas F. Foley footbridge, therefore it is hereby declared an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

The metropolitan district commission footbridge located on Morrissey boulevard at Pope's Hill street in the Neponset section of the Dorchester district of the city of Boston shall be designated and known as the Lieutenant Thomas F. Foley footbridge. A suitable marker bearing such designation shall be attached thereto by said commission.

Approved May 31, 1991.

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**Chapter 65.**

**AN ACT AUTHORIZING THE CITY OF LAWRENCE TO  
ABATE AND REFUND CERTAIN PROPERTY TAXES.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the city of Lawrence, acting through its board of assessors, is hereby authorized to abate real estate taxes assessed in the name of James Tarshi in the amount of five hundred ten dollars and twenty-eight cents in fiscal year nineteen hundred and eighty-eight and to refund said amount to said James Tarshi.

Approved June 3, 1991.

**Chapter 66.**

**AN ACT ESTABLISHING A BOARD OF HEALTH IN THE  
CITY KNOWN AS THE TOWN OF AGAWAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established a board of health in the city known as the town of Agawam which shall consist of three persons, one of whom shall be a physician. No member of the city council shall be eligible to be a member of the board of health. One member shall be appointed in January of each year commencing with nineteen hundred and ninety-two. The members shall be appointed by the mayor, subject to city council confirmation, and may be removed by the mayor for cause, and vacancies shall be filled in a like manner for the remainder of the unexpired term. The terms of the existing members of the board of health shall continue uninterrupted, with future appointments to be made in accordance with this section.

**SECTION 2.** The board of health shall organize annually and choose a chairperson. It may make rules and regulations for its own operation.

**SECTION 3.** There shall be a health agent appointed by the mayor, who shall be the chief administrative officer of the department. Said health agent shall be responsible for the enforcement of the health laws and regulations promulgated by said board. Any other officers, employees and assistants shall be appointed by the mayor. The health agent and all other officers, employees and assistants shall work under the general supervision and direction of the mayor. Said board shall advise and assist the health agent and all other officers, employees and assistants in the performance of their duties. The compensation of the health agent and all other officers, employees and assistants shall be set in accordance with city ordinances.

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**SECTION 4.** The board of health shall have all other powers and duties granted to it under the laws of the commonwealth, to the extent they are not inconsistent with the provisions of this act.

**SECTION 5.** This act shall take effect upon its passage.

Approved June 3, 1991.

**Chapter 67.           AN ACT PROVIDING THAT THE TOWNS OF  
BELCHERTOWN AND GRANBY BE MEMBERS OF THE  
WESTOVER METROPOLITAN DEVELOPMENT CORPO-  
RATION.**

*Be it enacted, etc., as follows:*

Chapter 672 of the acts of 1974 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

*Section 3.* There is hereby created a body politic and corporate to be known as the Westover metropolitan development corporation, which shall be governed by a board of eleven directors, all residents of the Springfield-Chicopee-Holyoke standard metropolitan statistical area, one of whom shall be appointed chairman by a majority vote of the other directors, three of whom shall be appointed by the mayor of the city of Chicopee, with the approval of the board of aldermen of the city of Chicopee, two of whom shall be appointed by the first selectman of the town of Ludlow, with the approval of the board of selectmen of the town of Ludlow, one of whom shall be appointed by the board of selectmen of the town of Belchertown by a majority vote of said board, one of whom shall be appointed by the board of selectmen of the town of Granby by a majority vote of said board, and three of whom shall be experienced in industry, manufacturing, or commerce, shall not be residents of the city of Chicopee or the town of Ludlow, and shall be appointed by a majority vote of the other directors; provided, however, that the initially appointed chairman shall be one of three nominees of the Westover task force created by the joint commission on federal base conversion and those three members initially appointed on the basis of experience and nonresidency shall be appointed by the chairman, each from among three nominees of said task force. The chairman and other directors shall serve for terms of three years; provided, however, that of those initially appointed by the mayor of the city of Chicopee, two shall be for terms of two years, of those initially appointed by the first selectman of the town of Ludlow, one shall be for a term of two years, and of those initially appointed by the chairman of the board of directors, two shall be for terms of two years. Vacancies arising other than from the expiration of a term shall be filled for the remainder of the unexpired term in the same manner as regularly provided for

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such appointments. Directors shall receive no compensation for the performance of their duties hereunder, but each director may be reimbursed for expenses actually incurred in the performance of his duties.

A majority of the eleven directors shall constitute a quorum for the transaction of any business, but the action of a majority of the entire board shall be required for any transaction. For the purposes of section eleven A of chapter thirty A of the General Laws, the corporation shall be deemed to be an authority established by the general court to serve a public purpose in the commonwealth.

Approved June 3, 1991.

**Chapter 68.        AN ACT AUTHORIZING THE TOWN OF HOLDEN TO  
DESIGNATE SEPARATE CHIEF PROCUREMENT OFFICERS  
FOR THE GENERAL GOVERNMENT AND THE  
SCHOOL DEPARTMENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The charter of the town of Holden which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 14A and inserting in place thereof the following section:-

Section 14A. Chief Procurement Officers. Notwithstanding the provisions of section two of chapter thirty B of the General Laws, the town manager shall be the chief procurement officer for the town and all its boards, agencies, departments and instrumentalities, excepting only the school department, and the superintendent of schools shall be the chief procurement officer for the school department; and, subject to the provisions of this section, the town manager and the superintendent of schools shall each have all the powers and authority of a chief procurement officer under said chapter thirty B.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 3, 1991.

**Chapter 69.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Hilary Conant Bacon in the town of Manchester-by-the-Sea on June eighth, nineteen hundred and ninety-one between Jane Dysart Bradley of the city of Boston and Richard Newton Blau of the town of Hamilton, and the state secretary shall issue to said Hilary Conant Bacon a certificate of such authorization.

Approved June 4, 1991.

**Chapter 70.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Elizabeth Butler, as she is an associate justice of the superior court, in the city of Boston on June eighth, nineteen hundred and ninety-one between David E. Stein and Elizabeth March, both of the city of Newton, and the state secretary shall issue to said Honorable Elizabeth Butler, in her capacity as aforesaid, a certificate of such authorization.

Approved June 4, 1991.

**Chapter 71.           AN ACT AUTHORIZING THE LICENSING BOARD OF THE  
CITY OF NEW BEDFORD TO GRANT AN ALL ALCOHOLIC  
BEVERAGES LICENSE TO THE MERCHANT MARINERS  
SOCIAL CLUB, INC. AND AUXILIARY.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority in the city of New Bedford is hereby authorized to issue a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight to the Merchant Mariners Social Club, Inc. and Auxiliary. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight, except said section seventeen; provided, however, that the licensing authority shall not approve the transfer of said license to any other persons, organization, corporation or location for not less than one year; and provided further, that the issuance of this license shall reduce by one any increase in licenses issued due to census reapportionment under the provisions of said section seventeen.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 4, 1991.

**Chapter 72.**

**AN ACT AUTHORIZING THE LICENSING BOARD OF THE CITY OF NEW BEDFORD TO GRANT AN ALL ALCOHOLIC BEVERAGE LICENSE TO THE VERDEAN VETERANS MEMORIAL FOUNDATION, INC.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority in the city of New Bedford is hereby authorized to issue a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight to the Verdean Veterans Memorial Foundation, Inc. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight, except said section seventeen; provided, however, that the licensing authority shall not approve the transfer of said license to any other persons, organization, corporation or location for not less than one year; and provided further, that the issuance of this license shall reduce by one any increase in licenses issued due to census reapportionment under the provisions of said section seventeen.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 4, 1991.



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**Chapter 73.**

**AN ACT AUTHORIZING THE TAKING OF CERTAIN LAND  
BY THE MASHPEE WATER DISTRICT WITHOUT THE  
APPROVAL OF THE DEPARTMENT OF ENVIRONMEN-  
TAL QUALITY ENGINEERING.**

*Be it enacted, etc., as follows:*

Section 2 of chapter 136 of the acts of 1987 is hereby amended by striking out clause (b) and inserting in place thereof the following clause:-

(b) may take by eminent domain under the provisions of chapter seventy-nine or chapter eighty A of the General Laws, or acquire, by lease, purchase, gift, or otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any groundwater sources of supply by means of driven, artesian or other wells, within the territorial limits of the town of Mashpee, or towns adjoining thereto, not already appropriated for the purposes of a public water supply by another governmental body, and the water and flowage rights connected with any such water sources; may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of the district, provided, however, that the location and arrangement of dams, reservoirs, springs, wells, pumping, purification and filtration plants and such other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of the department of environmental protection or any successor state agency.

Approved June 7, 1991.

**Chapter 74.**

**AN ACT AUTHORIZING THE CITY OF NEW BEDFORD TO  
USE CERTAIN PARK LAND FOR OTHER MUNICIPAL  
PURPOSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of New Bedford is hereby authorized to use certain land in said city, portions of which may have been or were acquired or used for public park, recreational or educational purposes, for educational, park, public health and other municipal purposes.

Said parcels are described as follows:

(1) A parcel of land described in a deed recorded with the Bristol Southern District Registry of Deeds in Book 1670, Page 496, from the United States of America, Secretary of Health, Education and Welfare, Regional Director, Region I, or its successor.

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(2) A parcel of land described in a deed recorded with the Bristol Southern District Registry of Deeds in Book 1673, Page 208, from the United States of America, Deputy Regional Director, Northeast Region, Bureau of Outdoor Recreation, or its successor.

(3) A parcel of land described in a deed recorded with the Bristol Southern District Registry of Deeds in Book 1675, Page 1128, from United States of America, Administrator of General Services, or its successor.

(4) A parcel of land owned by the United States of America and described in a deed recorded with the Bristol Southern District Registry of Deeds in Book 34, Page 431, from the United States of America, Department of the Army, or its successor.

(5) A parcel of land described in a deed without warranty recorded with the Bristol Southern District Registry of Deeds in Book 1552, Page 433, from the United States of America, Secretary of Health, Education and Welfare, Regional Director, Region I, or its successor.

(6) A parcel of land approximately described as follows: beginning at a point in the southerly sideline of Rodney French Boulevard (South) distant westerly 80.05 feet from the westerly boundary of a parcel of land owned by the United States of America, then South 17° 50' 38" East a distance of 170.10 feet to a point, then South 70° 09' 52" West a distance of 69.04 feet to a point, then proceeding on or near the northerly side of the battery milliken approximately North 61° 15' 33" West a distance of 113 feet, more or less, to a point, then approximately North 88° 51' 43" West a distance of 64 feet, more or less, to a point, then approximately South 67° 02' 03" West a distance of 256 feet, more or less, to a point, then approximately South 32° 03' 53" West a distance of 335 feet, more or less, to a point, then approximately North 53° 48' 19" West a distance of 82 feet, more or less, to a point, then North 30° 50' 01" West a distance of 219.02 feet to a point, then North 70° 09' 52" East a distance of 817.55 feet to the point of beginning, containing approximately 2.3 acres of land, more or less, being a portion of a parcel of land described in a deed recorded with the Bristol Southern District Registry of Deeds in Book 1673, Page 208, from the United States of America, Deputy Regional Director, Northeast Region, Bureau of Outdoor Recreation.

Shown as parcels 1, 3, 4, 5, 6, 7 and 8 on a plan entitled "Plan of Land in New Bedford, Massachusetts for the City of New Bedford-Sewage Treatment Plant Site at Fort Rodman", dated February 11, 1991, prepared by Tibbetts Engineering Corp, New Bedford, Massachusetts, scale 1"=100', to be recorded with Bristol Southern District Registry of Deeds (the "Plan").

**SECTION 2.** This act shall take effect upon its passage.

The foregoing was laid before the Governor on the 28th day of May, 1991 and after ten days it had the force of a law, as prescribed by the Constitution, as it was not returned by him with his objection thereto within that time.

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**Chapter 75.           AN ACT VALIDATING CERTAIN ACTIONS BY THE TOWN  
OF LONGMEADOW RELATIVE TO A CERTAIN ZONING  
BY-LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings of the town of Longmeadow at its special town meeting held on September twenty-fifth, nineteen hundred and ninety relative to Article 14 at said town meeting and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if the warrant for such special town meeting had been published and posted as required by law.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 11, 1991.

**Chapter 76.           AN ACT AUTHORIZING THE TOWN OF HOPEDALE TO  
LEASE CERTAIN SPACE IN THE TOWN HALL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter thirty B of the General Laws, the town of Hopedale is hereby authorized to enter into leases for space in the town hall with the current tenants thereof who leased such space prior to May first, nineteen hundred and ninety.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 11, 1991

**Chapter 77.           AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO  
PAY A CERTAIN SUM OF MONEY TO CAMP DRESSER &  
McKEE INC.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Springfield is hereby authorized to execute a change order and make payment to Camp Dresser & McKee Inc., for design services rendered in relation to a pilot bio-filter designed for and utilized at the Springfield waste-water treatment plant, in the amount of two hundred fifteen thousand dollars.

**SECTION 2.** The city of Springfield is hereby further authorized to take any and all steps necessary to accept and expend funds due from the department of environmental protection division of water pollution control amounting to a ninety

percent reimbursement grant for said engineering services as previously approved by the division of water pollution control pursuant to the provisions of chapter twenty-one of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 13, 1991.

**Chapter 78.           AN ACT RELATIVE TO THE TERMS OF CERTAIN NOTES  
TO BE ISSUED BY THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately facilitate the issuance of notes to finance certain payments to the Massachusetts Bay Transportation Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section twelve of chapter one hundred and sixty-one A of the General Laws, authorizing temporary borrowings by the commonwealth to finance certain payments required to be made to the Massachusetts Bay Transportation Authority, shall be issued for terms not exceeding two and one-half years in the calendar year nineteen hundred and ninety-one, as recommended by the governor, in a message to the general court, dated May fourteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved June 13, 1991.

**Chapter 79.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth in said section thirty-nine, the solemnization of a marriage by Douglas Pope of the state of New York, in the town of Stockbridge, on June twenty-second,

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nineteen hundred and ninety-one between Catherine B. Deely and Patrick M. Stansfield both of the town of Sherman Oaks in the state of California and the state secretary shall issue to said Douglas Pope a certificate of such authorization.

Approved June 20, 1991.

**Chapter 80.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Maria I. Lopez, as she is a justice of the district department of the trial court in the city of Chelsea, on June twenty-ninth, nineteen hundred and ninety-one between Lisa Lewis and Nicholas Cudahy, both of the city of Boston, and the state secretary shall issue to said Honorable Maria I. Lopez in her capacity as aforesaid a certificate of such authorization.

Approved June 20, 1991.

**Chapter 81.           AN ACT RELATIVE TO VOCATIONAL EDUCATION.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the department of education may include in the curriculum of each vocational high school a course in barbering.

Approved June 20, 1991.

**Chapter 82.           AN ACT FURTHER REGULATING THE POSSESSION OF  
FIREARMS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 128A of chapter 140 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The provisions of section one

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hundred and twenty-eight shall not apply to any person who, without being licensed as provided in section one hundred and twenty-two, sells or transfers a firearm, rifle or shotgun to a person licensed under said section one hundred and twenty-two, or to a federally licensed firearms dealer or to a federal, state or local historical society, museum or institutional collection open to the public.

**SECTION 2.** Section 129C of said chapter 140, as so appearing, is hereby amended by striking out, in line 114, the word "handling," and inserting in place thereof the following word:- handling,;

**SECTION 3.** Said section 129C of said chapter 140, as so appearing, is hereby further amended by adding the following clause:-

(t) the possession of firearms, rifles, shotguns, machine guns and ammunition, by banks or institutional lenders, or their agents, servants or employees, when the same are possessed as collateral for a secured commercial transaction or as a result of a default under a secured commercial transaction.

**SECTION 4.** Section 131B of said chapter 140, as so appearing, is hereby amended by inserting after the word "both", in line 4, the following words:- ; provided, however that nothing herein shall prohibit a bank or other institutional lender from loaning money secured by a mortgage, deposit, or pledge of a firearm, rifle, shotgun or machine gun to a manufacturer, wholesaler, or dealer of firearms, rifles, or shotguns. The provisions of section one hundred and twenty-three shall not be applicable to any such mortgage, deposit or pledge unless or until the lender takes possession of the collateral upon default or the collateral is removed from the premises of the debtor.

Approved June 20, 1991.

**Chapter 83.           AN ACT AUTHORIZING THE MARTHA'S VINEYARD REGIONAL HIGH SCHOOL DISTRICT TO MAKE APPROPRIATIONS FOR THE PAYMENT OF ADMINISTRATIVE COSTS OF THE UNION 19 SCHOOL DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the Martha's Vineyard Regional High School District committee may make payments to defray administration costs for which expenditures would otherwise be prorated and paid by the member towns in the Union 19 School District.

**SECTION 2.** The treasurer of the Martha's Vineyard Regional High School District is hereby authorized to pay the liabilities incurred under the provisions of section one, after such payment is received from each member town of the Union

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19 School District for its pro-rata share. Such payments received by said treasurer from such member towns shall be credited to the estimated receipts account.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 20, 1991.

**Chapter 84.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the state secretary to authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Ellen Flatley, as she is a justice of the Gloucester division of the district court department of the trial court of the commonwealth in the town of Manchester-by-the-Sea on June twenty-second, nineteen hundred and ninety-one between Arianna Knapp and James Anthony Alberghini, both of the city of Beverly, and the state secretary shall issue to said Honorable Ellen Flatley in her capacity as aforesaid a certificate of such authorization.

Approved June 20, 1991.

**Chapter 85.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred

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and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by George L. Sacco in the town of Harvard on June twenty-second, nineteen hundred and ninety-one, between Miriam Ilene Bowman of the town of Maynard and Gary Adriaen Hegeman of the city of Warwick in the state of Rhode Island, and the state secretary shall issue to said George L. Sacco a certificate of such authorization.

Approved June 20, 1991.

**Chapter 86.           AN ACT DIRECTING THE CITY OF GLOUCESTER TO  
REIMBURSE WHITMAN & HOWARD, INC. FOR CERTAIN  
SERVICES PERFORMED IN SAID CITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city treasurer of the city of Gloucester is hereby authorized and directed to pay, from available funds to Whitman & Howard, Inc., the sum of ten thousand thirty-two dollars and seventy-four cents for costs incurred for the performance of certain consulting work, notwithstanding the failure of said city to comply with appropriate provisions of law relative to competitive bidding in the awarding of the contract.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 20, 1991.

**Chapter 87.           AN ACT AUTHORIZING THE CITY OF LEOMINSTER TO  
BORROW MONEY TO RENOVATE CERTAIN CITY OWNED  
BUILDINGS AND TO LEASE SPACE FOR USE AS A COURT-  
HOUSE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Leominster is hereby authorized to borrow such sums as may be necessary, not exceeding, in the aggregate, three million nine hundred thousand dollars, and may issue bonds or notes of the city therefor, for the purposes of: renovating a certain city owned building known as the May A. Gallagher junior high school building, located in said city of Leominster so as to make it suitable for use as a courthouse and municipal offices, and lease to any other public entities or private persons; renovating a certain city owned building located in said city of Leominster to accommodate the Leominster police department; to renovate the



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roof at the South East elementary school building, and for architectural fees for a new elementary school. Each authorized issue of bonds and notes shall constitute a separate loan and shall be payable in not more than twenty years from their dates. Indebtedness incurred under this act shall, except as provided herein, be subject to the applicable provisions of chapter forty-four of the General Laws.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the chief administrative justice of the trial court with the approval of the chief justice of the supreme judicial court and the commissioner of the division of capital planning and operations and the mayor of the city of Leominster, with the approval of the city council, are hereby authorized to enter into a lease by which a portion of said May A. Gallagher junior high school building may be used as a courthouse for the Leominster division of the district court department of the trial court. The lease entered into shall, except as provided herein, be subject to the applicable provisions of section four of chapter twenty-nine A of the General Laws. The mayor of said city of Leominster, with the approval of the city council, is also hereby authorized to lease to any other public entities or private persons any space within said building not being utilized for the foregoing purposes. Notwithstanding the provisions of any general or special law to the contrary, proceeds received by said city of Leominster pursuant to any of said leases, together with funds so appropriated annually by said city of Leominster, shall be applied to the payment of the indebtedness incurred and costs of maintaining the premises.

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, the maturities of bonds or notes issued by the city of Leominster authorized under section one shall either be arranged so that for each issue the annual combined installments of principal and interest payable in each year be as nearly equal as practicable in the opinion of the city treasurer and the city council, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal.

**SECTION 4.** This act shall take effect upon its passage.

Approved June 24, 1991.

## **Chapter 88. AN ACT RELATIVE TO V-NOTCHED LOBSTERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The program established under the provisions of section forty-four A of chapter one hundred and thirty of the General Laws shall allow the taking of V-notched lobsters in Massachusetts waters.

**SECTION 2.** The provisions of section one of this act shall expire on December thirty-first, nineteen hundred and ninety-three.

*Emergency Letter: June 24, 1991 @ 3:44 P.M.*

Approved June 24, 1991.

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**Chapter 89.                   AN ACT RELATIVE TO EXEMPTIONS FOR NONRESIDENT PURCHASERS OF CERTAIN FIREARMS AND AMMUNITION.**

*Be it enacted, etc., as follows:*

The fourth paragraph of section 129C of chapter 140 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause (q) and inserting in place thereof the following clause:-

(q) Any nonresident who is eighteen years of age or older when acquiring a rifle, shotgun or ammunition from a licensed firearms dealer, provided that such nonresident is in compliance with the law of the state where he resides and has the proper firearms license if required.

Approved June 24, 1991.

**Chapter 90.                   AN ACT RELATIVE TO SPECIAL RAILWAY POLICE.**

*Be it enacted, etc., as follows:*

Chapter 159 of the General Laws is hereby amended by striking out section 92, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 92. Special police officers appointed by the department of public safety under section nine L of chapter twenty-two shall, when on duty except as detectives, wear in plain sight a metallic badge, inscribed with the words, "Railroad Special Police", "Street Railway Special Police", "Railway Express Special Police" or "Steamboat Special Police", as the case may be, and the name or initials of the corporation or company for which they are appointed; and the presence of any such officer on the cars, vehicles, steamboats or premises of the corporation or company upon whose petition he was appointed, wearing such badge, shall be prima facie evidence that he is lawfully upon duty.

Approved June 24, 1991.

**Chapter 91.                   AN ACT DESIGNATING A CERTAIN PEDESTRIAN BRIDGE IN THE CITY OF LYNN AS THE JAN ERNEST MATZELIGER MEMORIAL BRIDGE.**

*Be it enacted, etc., as follows:*

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The metropolitan district commission is hereby authorized and directed to designate the pedestrian bridge over the Michael J. Carroll parkway in the city of Lynn as the Jan Ernest Matzeliger Memorial Bridge, in memory of Jan Ernest Matzeliger. A suitable marker bearing such designation shall be attached thereto by the metropolitan district commission in compliance with the standards of said commission.

Approved June 24, 1991.

**Chapter 92.           AN ACT FURTHER REGULATING THE ASSESSMENT OF A  
DEFICIT OF THE JOINT UNDERWRITING ASSOCIATION.**

*Be it enacted, etc., as follows:*

The seventh paragraph of section 6 of chapter 362 of the acts of 1975, as amended by chapter 333 of the acts of 1980, is hereby further amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, no deficit shall be recouped against any person in the doctor of dental science category of insured except at a proportional rate in satisfaction of that portion of the deficit directly related to that category of insured, any deficit directly related to the doctor of dental science category of insured shall be recouped at a proportional rate only against persons in that category of insured, any profit or surplus directly related to any non-doctor of dental science category of insured shall not be used to offset any deficit directly related to the doctor of dental science category of insured and no profit or surplus directly related to the doctor of dental science category of insured shall be used to offset any deficit not directly related to such category of insured.

Approved June 24, 1991.

**Chapter 93.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

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Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Joan M. Menard, as she is a state representative from the fifth Bristol district in the city of Fall River on July fourteenth, nineteen hundred and ninety-one, between Betty-Ann Costa of the town of Swansea and James P. Mullins of the town of Somerset and the state secretary shall issue to said Joan M. Menard in her capacity as aforesaid, a certificate of such authorization.

Approved June 24, 1991.

**Chapter 94.            AN ACT RELATIVE TO REDUCTION IN RANK FOR EMPLOYEES OF THE FIRE FORCE OF THE CITY OF QUINCY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section thirty-three of chapter thirty-one of the General Laws or the first sentence of section thirty-nine of chapter thirty-one of the General Laws or any other general or special law or rule to the contrary, if a permanent employee of the fire force of the city of Quincy serving in any position in a title above the lowest title on such force is to be separated from such position because of lack of money or the abolition of such position, each such employee shall be separated from his position according to his seniority in such title based on his length of service after permanent promotion in such force and shall be reinstated to such position held by him according to such seniority; provided, however, that this section shall apply only to reductions in force resulting in demotions from titles above the lowest title on such force to the next lower title or titles in succession in such force and shall not affect the seniority of any employee in service for any other purpose, including but not limited to, the separation of any permanent employee from service on such force.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 28, 1991.

**Chapter 95.            AN ACT AUTHORIZING CERTAIN MUNICIPAL LIGHT COMPANIES TO PURCHASE OIL AND OTHER FUEL SUPPLIES WITHOUT BIDS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize certain purchases of oil and other fuel supplies without bids, therefore it is hereby declared to be an emergency law, necessary for

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the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Chapter 234 of the acts of 1985 is hereby amended by striking out section 3, as amended by chapter 184 of the acts of 1989, and inserting in place thereof the following section:-

*Section 3.* This act shall be inoperative on July first, nineteen hundred and ninety-five.

Approved June 29, 1991.

**Chapter 96.            AN ACT EXTENDING THE BOUNDARIES OF THE  
                             MASHPEE WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 136 of the acts of 1987 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

*Section 1.* The inhabitants of the town of Mashpee, liable to taxation in said town and residing in the territory comprised within the territorial limits of the town of Mashpee, shall constitute a water district and are hereby made a body corporate by the name of the Mashpee Water District, hereinafter called the "District", for the purpose of supplying themselves and others, for fair consideration, with water for the extinguishing of fires and for domestic and other purposes, with the power to lay water mains, establish a water distribution system, establish fountains and hydrants, and to relocate and discontinue the same, regulate the use of such water and fix and collect rates to be paid therefore, construct and finance such water treatment works and facilities as may be necessary to deliver pure, healthful drinking water, assess and raise taxes as provided hereinafter for the payment of such services and for defraying the necessary expenses of and to carry on the business of the District, subject to the General Laws relating to such districts, except as otherwise provided herein. For these purposes, the District may seek, obtain, and accept any available capital and operating funds from the commonwealth or the federal government or any authority or entity created by either of said governments and accept any donation or gift of capital, operating funds, land, easements, equipment or easements, equipment or facilities from private sources. The District shall have the power to prosecute and defend all actions relating to its property and affairs.

**SECTION 2.** All inhabitants of the town of Mashpee liable to taxation in said town shall be liable to taxation by the Mashpee Water District on July first, nineteen

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hundred and ninety-one.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 29, 1991.

**Chapter 97.            AN ACT ESTABLISHING A SPECIAL WATER AND SEWER  
AND DRAINAGE REHABILITATION FUND IN THE CITY  
OF QUINCY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 598 of the acts of 1986 is hereby amended by striking out sections 1 and 2 and inserting in place thereof the following two sections:-

*Section 1.* Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, the city of Quincy is hereby authorized to establish a special account to be known as the City of Quincy Sewerage and Drainage Rehabilitation Fund. The purpose of such fund is to provide revenue for the funding of engineering, testing, construction and rehabilitation of sewerage drainage pipes, lines, facilities and systems located within the city of Quincy and to provide revenues to do all things necessary to correct, remedy, repair, prevent and prohibit any and all forms of infiltration or inflow from ground water and other sources of water into sewage and drainage pipes, lines, facilities and systems. Such special account shall be maintained by the city treasurer of said city in a banking institution doing business in the commonwealth, and expenditures from said special account shall be made subject to appropriation initiated by the mayor of said city upon the recommendation of the commissioner of public works or the planning director of said city and approved by a majority vote of the city council of said city.

*Section 2.* Contributions to such account shall be made by applicants for building permits for the construction, erection, improvement, reuse or rehabilitation of land or the buildings thereon for industrial, commercial and multi-family uses over three units. Excluded from the requirements of this act shall be one, two, and three family residences if the owner occupies such as his primary residence for at least one year. The method and amount of such contributions from such private sources shall be determined by ordinance, but not to exceed one percent of estimated construction cost. Said ordinance shall provide for the method of determining the amount of each contribution from such applicants based upon their anticipated water and sewer use by each and for the particular kind of development contemplated.

**SECTION 2.** Section 3 of said chapter 598 is hereby amended by inserting after the word "sewage", in line 4, the words:- and drainage.

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**SECTION 3.** Said chapter 598 is hereby further amended by striking out section 5 and inserting in place thereof the following section:-

*Section 5.* The commissioner of public works for the city of Quincy may make applications for available state and federal government grants for the construction, improvements, engineering, rehabilitation and repair of the sewerage and drainage pipes, lines, facilities and systems and to pledge any and all sums of money in said special account with the approval of said city for any such matching grants for the construction, improvements, repair and rehabilitation of said sewerage and drainage pipes, lines, facilities and systems.

**SECTION 4.** This act shall take effect upon its passage.

Approved July 1, 1991.

**Chapter 98.                    AN ACT RELATIVE TO A CERTAIN COURT OFFICER OF  
THE TRIAL COURT.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a sick leave bank for a certain court officer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law or any rule or regulation to the contrary, the trial court of the commonwealth is hereby authorized and directed to establish a sick leave bank for court officer Fernando Paniss. Each employee in the bargaining unit represented by Local 254 S.E.I.U. may voluntarily contribute one or more of his personal or vacation days to said bank for use by court officer Paniss.

Approved July 2, 1991.

**Chapter 99.                    AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine the solemnization of a marriage by the Honorable Elizabeth B. Donovan, as she is a judge of the superior court department of the trial court in the city of Beverly on September fourteenth, nineteen hundred and ninety-one between Teresa Ann Gorka and Jonathan Mark Ettinger, both of the city known as the town of Watertown, and the state secretary shall issue to said Honorable Elizabeth B. Donovan in her capacity as aforesaid a certificate of such authorization.

Approved July 2, 1991.

**Chapter 100.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Joseph P. Warner, as he is the chief justice of the appeals court, in the town of Mashpee on July twenty-seventh, nineteen hundred and ninety-one between Marilyn Ann Morris and Carl Lee Meyer, both of the state of Illinois, and the state secretary shall issue to said Honorable Joseph P. Warner in his capacity as aforesaid a certificate of such authorization.

Approved July 2, 1991.



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**Chapter 101.****AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS AND THE TOWN OF NEEDHAM TO GRANT EASEMENTS OVER CERTAIN PARK AND CONSERVATION LAND IN THE TOWNS OF DOVER AND NEEDHAM TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations and the town of Needham to grant easements over certain park and conservation land in the towns of Dover and Needham to the Massachusetts Water Resources Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey three permanent sewer easements in certain parcels of land in the town of Needham, acquired by the metropolitan district commission for park purposes, to the Massachusetts Water Resources Authority for the purpose of installing, maintaining and operating a sewer line, subject to such additional terms and conditions as said commissioner may prescribe, in consultation with the metropolitan district commission.

The first permanent sewer easement is located in the town of Needham, containing an area of four thousand two hundred and forty-seven square feet as shown as Parcel No. 70 on a plan entitled "Plan of Wellesley Extension Sewer Replacement, Land Taking Plan Nos. 3-7 and 3-8, in Dedham, Dover, Needham and Wellesley, To Be Taken by Massachusetts Water Resources Authority", Scale 1" = 40', dated September, 1987 and updated March 14, 1988, prepared by Harry R. Feldman, Inc., Land Surveyors.

Said permanent sewer easement being over land of the commonwealth of Massachusetts, Metropolitan District Commission, described in the following order of taking: Certificate No. 93300, Registration Book 467, Page 100, Norfolk County Registry District.

The second permanent sewer easement is located in the town of Needham, containing an area of three hundred and sixty-seven square feet as shown as Parcel No. 75 on a plan entitled "Plan of Wellesley Extension Sewer Replacement, Land Taking Plan No. 3-8, in Dedham, Dover, Needham and Wellesley, To Be Taken by Massachusetts Water Resources Authority", Scale: 1" = 40', dated September, 1987,

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updated March 14, 1988, and revised March 20, 1989, prepared by Harry R. Feldman, Inc., Land Surveyors.

The third permanent sewer easement is located in the town of Needham, containing an area of six thousand five hundred and eighty-three square feet as shown as Parcel No. 76 on a plan entitled "Plan of Wellesley Extension Sewer Replacement, Land Taking Plan No. 3-8, in Dedham, Dover, Needham and Wellesley, To Be Taken by Massachusetts Water Resources Authority", Scale: 1" = 40', dated September, 1987, updated March 14, 1988, and revised March 20, 1989, prepared by Harry R. Feldman, Inc., Land Surveyors.

Said second and third permanent sewer easements being over land of the commonwealth, described in the deed recorded in the registry of deeds in the county of Norfolk, Book 5076, Pages 599-600.

**SECTION 2.** The board of selectmen of the town of Needham, acting for and on behalf of the town of Needham, is hereby authorized pursuant to the provisions of section three of chapter forty of the General Laws to grant two permanent sewer easements in a certain parcel of land in the town of Needham, acquired by the town of Needham for conservation purposes, to the Massachusetts Water Resources Authority for the purposes of installing, maintaining and operating a sewer line.

The grant of easement shall be upon such terms and conditions as mutually agreed between the board of selectmen of the town of Needham and said Authority.

One permanent sewer easement is located in the town of Needham containing an area of four thousand one hundred square feet as shown as Parcel No. 93A on a plan entitled "Plan of Wellesley Extension Sewer Replacement, Land Taking Plan No. 3-11, in Dedham, Dover, Needham and Wellesley, To Be Taken by Massachusetts Water Resources Authority", Scale: 1" = 40', dated September, 1987 and updated March 14, 1988, prepared by Harry R. Feldman, Inc., Land Surveyors.

The second permanent sewer easement is located in the town of Needham, containing an area of eleven thousand and ten square feet as shown as Parcel No. 103 on a plan entitled "Plan of Wellesley Extension Sewer Replacement, Land Taking Plan Nos. 3-15 and 3-16, in Dedham, Dover, Needham and Wellesley, To Be Taken by Massachusetts Water Resources Authority", Scale: 1" = 40', dated September, 1987 and updated March 14, 1988, prepared by Harry R. Feldman, Inc., Land Surveyors.

Said permanent sewer easements being over land of the town of Needham, described in the deed recorded in the registry of deeds in the county of Norfolk, Book 5833, Page 1.

**SECTION 3.** The commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey a permanent sewer easement in a certain parcel

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of land in the town of Dover, acquired by the division of capital planning and operations for park purposes, to the Massachusetts Water Resources Authority for the purpose of installing, maintaining and operating a sewer line, subject to such additional terms and conditions as the said commissioner may prescribe, in consultation with the metropolitan district commission.

The permanent sewer easement is located in the town of Dover, containing an area of three thousand seven hundred and seventy-seven square feet as shown as Parcel No. 109 on a plan entitled "Plan of Wellesley Extension Sewer Replacement, Land Taking Plan No. 3-18, in Dedham, Dover, Needham and Wellesley, To Be Taken by Massachusetts Water Resources Authority", Scale 1" = 40', dated September, 1987 and updated March 14, 1988, prepared by Harry R. Feldman, Inc., Land Surveyors.

Said permanent sewer easement being over land of the commonwealth described in the deed recorded in the registry of deeds in the county of Norfolk, Book 5197, Pages 372-374.

**SECTION 4.** The more precise configuration of the parcels described in sections one, two and three, shall be as shown on that plan of land referenced in said sections, as such plan is further revised, if necessary, and recorded with the registry of deeds in the county of Norfolk. In the event that the land so described in this act contradicts or is inconsistent with such parcels as shown upon said plan of record, then said plan of record and any subsequent plans of record shall control as to the accuracy and correctness of such description.

Approved July 2, 1991.

**Chapter 102.        AN ACT ABOLISHING THE LYNN PORT AUTHORITY IN  
                         THE CITY OF LYNN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter ninety of the acts of nineteen hundred and thirty-four is hereby repealed.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 2, 1991.

**Chapter 103.        AN ACT RELATIVE TO CERTAIN FINANCIAL CONDI-  
                         TIONS IN THE CITY OF HOLYOKE.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** The second paragraph of section 1 of chapter 139 of the acts of 1988 is hereby amended by striking out, in line 1, the word "ten" and inserting in place thereof the word:- twenty.

**SECTION 2.** This act shall take effect on July first, nineteen hundred and ninety.

Approved July 2, 1991.

**Chapter 104.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Lawrence J. Branigan in the town of Brookline on October thirteenth, nineteen hundred and ninety-one, between Jodi Beth Lane of the town of Natick and Michael Patrick Reilly of the town of Marlboro and the state secretary shall issue to said Lawrence J. Branigan a certificate of such authorization.

Approved July 3, 1991.

**Chapter 105.        AN ACT PROVIDING FOR CONFORMITY IN CERTAIN  
SHELLFISH REGULATIONS.**

*Be it enacted, etc., as follows:*

Chapter 130 of the General Laws is hereby amended by striking out section 69, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 69. Whoever takes or has in his possession quahaugs or soft shelled clams or oysters smaller than the minimum size established by the director through regulations, hereinafter referred to as seed quahaugs, seed clams and seed oysters, to the amount of more than five percent of any batch, shall be punished in accordance with section two; provided, however, that it shall not be unlawful to take seed quahaugs, seed clams or seed oysters or have the same in possession under authority of a permit therefor, which the director is hereby authorized to grant, for a replanting in waters or flats within the commonwealth.

Approved July 3, 1991.

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**Chapter 106.**

**AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-TWO PRIOR TO FINAL ACTION ON THE GENERAL APPROPRIATION BILL FOR SAID FISCAL YEAR.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the amount of two hundred sixty-four million five hundred twenty-five thousand dollars is hereby made available in the fiscal year ending June thirtieth, nineteen hundred and ninety-two, to meet necessary expenditures prior to the enactment into law of the general appropriations act for the nineteen hundred and ninety-two fiscal year, for the maintenance and operations of the several departments, boards, commissions, and institutions, for other necessary services, and for meeting certain requirements of law; provided, that said sum may be expended, without further appropriation, pursuant to schedules prepared by the secretary of administration and finance and filed prior to expenditure with the house and senate committees on ways and means; provided further, that the authorization contained herein shall cease to be operative as of the effective date of the general appropriations act for the nineteen hundred and ninety-two fiscal year and all actions taken under this section shall apply against said general appropriations act.

**SECTION 2.** This act shall take effect upon its passage.

*Emergency Letter: July 3, 1991 @ 4:03 P.M.*

Approved July 3, 1991.

**Chapter 107.**

**AN ACT RELATIVE TO THE BORROWING PROCEDURES OF THE CITY OF BOSTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 642 of the acts of 1966 is hereby amended by inserting after section 7A the following section:-

*Section 7B.* The city may borrow from time to time sums, in addition to those authorized in section seven and section seven A, not exceeding, in the aggregate, one hundred and fifteen million dollars, for the purpose of planning, designing, acquiring land for, constructing and originally equipping structures and facilities it is authorized to construct and for remodeling, reconstructing or making major alterations, additions and major repairs to existing facilities owned by the city,

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except as otherwise provided in section eight, including original equipment and landscaping, paving and other site improvements incidental or directly related to such remodeling, reconstruction or repair.

**SECTION 2.** Paragraph (f) of section 3 of chapter 643 of the acts of 1983 is hereby amended by striking out the second sentence.

**SECTION 3.** Said paragraph (f) of said section 3 of said chapter 643 is hereby further amended by inserting after the third sentence the following sentence:- For purposes of calculating the principal amount of bonds on the date of their issuance to determine the amount available for issuance under any bond authorization as provided in the preceding sentence, the principal amount shall be an amount equal to the net proceeds of such bonds plus any discount representing cost of issuance thereof.

**SECTION 4.** Paragraph (b) of section 4 of said chapter 643 is hereby amended by striking out the second sentence.

**SECTION 5.** Section 14 of said chapter 643 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of any general or special law to the contrary, and without any other proceedings or the happening of any other conditions or things other than those expressly required in this section, but subject to any agreement securing bonds, the collector-treasurer of the city may, in his sole discretion, on such terms, and selected in such manner as he may deem advisable, invest funds over which the city has exclusive control, including without limitation the proceeds of bonds, revenues pledged for the payment of bonds and other revenue cash of the city, in any investments which are legal investments for funds of the commonwealth under chapter twenty-nine or chapter thirty-two of the General Laws, and may in his sole discretion, on such terms, with such counterparties, and selected in such manner as he may deem advisable, enter into such agreements with respect to bonds, notes, investments, program of investments of the city or the carrying thereof, with the approval of the mayor, as are permitted for the commonwealth under said chapters twenty-nine or thirty-two, after giving due consideration where applicable, to the selection criteria for counterparties set forth in said chapter twenty-nine.

*Emergency Letter: July 3, 1991 @ 4:03 P.M.*

Approved July 3, 1991.

## **Chapter 108.        AN ACT REORGANIZING THE SCHOOL COMMITTEE OF                              THE CITY OF BOSTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter 605 of the acts of 1982, as amended by chapter 343 of the acts of 1986, chapter 452 of the acts of 1948, as

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amended by chapter 376 of the acts of 1951 and as further amended by chapter 190 of the acts of 1952, and further notwithstanding sections one hundred and twenty-eight to one hundred and thirty-four, inclusive, of chapter forty-three of the General Laws or any other general or special law to the contrary, the school committee of the city of Boston as presently constituted is hereby abolished as of the date of expiration of the terms of the incumbent members thereof and no election for school committee shall be held in 1991 or thereafter.

**SECTION 2.** Subject only to the provisions of this act, the school committee of the city of Boston shall consist of seven appointed members. The mayor of Boston shall have the power to appoint the seven members of the school committee subject to the provisions governing the nominating panel as set forth in this act. The members of the school committee shall at all times during their terms of office be Boston residents. The mayor shall strive to appoint individuals who reflect the ethnic, racial and socioeconomic diversity of the city of Boston and its public school population.

**SECTION 3.** All existing powers and duties hitherto exercised by the Boston school committee, including the powers and duties set forth in chapter 613 of the acts of 1987, shall henceforth be exercised by the seven member appointed school committee.

**SECTION 4.** The term of office of the members of the school committee shall be four years and shall commence on the first day of the municipal year; provided, however, that of the members initially appointed one shall be appointed for a term of one year, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and two shall be appointed for a term of four years. Upon the appointment of all seven members by the mayor, the city clerk shall administer the oath of office to the school committee and they shall subscribe in the book kept by the city clerk in accordance with the provisions of St.1948, c.452, s.11A, as amended by St.1983, c.342, s.1. The office of each member shall expire upon the expiration of the term of said member and shall become vacant. Any member whose term of office shall expire may be considered for reappointment, but only if renominated by the nominating panel. A president of the school committee shall be elected annually by its members at the first meeting in each municipal year.

**SECTION 5.** Notwithstanding any special or general law to the contrary, the members of the school committee appointed pursuant to this act shall not have the authority to hire personal staff; provided, however, that a paid administrative assistant may be appointed by the president of the school committee.

**SECTION 6.** There shall be in the city of Boston a nominating panel composed of thirteen members whose sole function shall be to nominate persons for consideration by the mayor for appointment to the school committee. Representation on the panel and the selection of said members shall be as follows:

(a) Four parents of children in the Boston public school system as follows: (i)

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one parent who shall be selected by the citywide parents council; (ii) one parent who shall be selected by the citywide educational coalition; (iii) one parent who shall be selected by the Boston special needs parent advisory council; and (iv) one parent who shall be selected by the bilingual education citywide parent advisory council.

(b) One teacher in the Boston public school system who shall be selected by the Boston teachers union from its membership.

(c) One headmaster or principal in the Boston public school system who shall be selected by the Boston association of school administrators and supervisors from its membership.

(d) One representative from the Boston business community as follows: one representative each shall be selected by the private industry council, the Boston municipal research bureau, and Boston chamber of commerce from their respective memberships. Such representatives shall serve on a rotating basis as follows: the representative from the private industry council shall serve for the first year of the first term of the nominating panel; the representative from the Boston municipal research bureau shall serve for the second year of the first term of the nominating panel; the representative from the Boston chamber of commerce shall serve for the first year of the second term of the nominating panel; and so forth.

(e) One president of a public or private college or university who shall be selected by the chancellor of higher education of the commonwealth.

(f) One person shall be the commissioner of education of the commonwealth.

(g) Four persons who shall be appointed by the mayor. The members of the nominating panel shall be selected from time to time no later than September thirtieth and shall serve for a term of two years, except as otherwise provided in this section. In the event that any member does not complete his or her term for any reason, the person or entity who selected such member shall select another person in like manner to complete the unexpired term.

**SECTION 7.** (a) The nominating panel annually shall from among its membership elect a chairman who shall forthwith file a list of the names and addresses of the members of the panel with the city clerk. The panel shall meet in public for the sole purpose of deliberating upon, hearing public comment with respect to, and finally selecting a list of nominees to be presented to the mayor from time to time. Each nominee shall be a resident of Boston at the time of such nomination. The panel shall strive to nominate individuals who reflect the ethnic, racial and socioeconomic diversity of the city of Boston and its public school population.

(b) The first nominating panel shall convene itself in a municipal building within thirty days after the effective date of this act. It shall hold such meetings as it deems necessary and shall present to the mayor a list containing the names and addresses of not fewer than twenty-one nominees not later than December 2, 1991, from which the mayor shall appoint seven persons to serve as members of the



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school committee; provided, however, should the panel fail to present said list to the mayor by December 2, 1991, the mayor shall have the power to appoint any person he deems suitable to the office of school committee for the terms to commence in the following January.

(c) In 1992 and thereafter, on the first Wednesday of October of every year the nominating panel shall convene to select not fewer than three but not more than five nominees for each office of school committee member that shall become vacant on the first day of the next municipal year. No later than the first Monday in December of each year, the panel shall present to the mayor a list containing the names and addresses of the said nominees for each term of office to commence on the first day of the next municipal year; provided, however, should the panel fail to present said list to the mayor by said first Monday in December, the mayor shall have the power to appoint any person he deems suitable to the office of school committee for the term to commence in the following January.

(d) Upon notice provided by the city clerk that a vacancy exists in the office of any school committee member due to death or resignation, the panel shall convene within ten days of such notice and shall, within thirty days after so convening, select and present to the mayor a list containing the names and addresses of not fewer than three but not more than five nominees. Within fifteen days after such presentment, the mayor shall appoint a school committee member to serve the unexpired term of the vacant office; provided, however, should the panel fail to present said list within said thirty days, the mayor shall have the power to appoint any person he deems suitable to the vacant office to serve said unexpired term.

**SECTION 8.** The state secretary shall cause to be placed on the official ballot to be used in the city of Boston at the regular general state election in the year nineteen hundred and ninety-six the following binding question: "Shall an act passed in the General Court in 1991, entitled 'An Act Reorganizing the School Committee of the City of Boston' be repealed as of January 1998 and in place thereof the school committee structure as existing in 1991 be reconstituted after an election held in 1997?" If a majority of the votes cast on this question is in the affirmative, this act shall cease to be effective as of the first Monday in January, 1998, and the incumbent members of the school committee serving pursuant to this act shall cease to hold office, provided, however, that in place thereof a school committee shall be elected under existing law in the year 1997 and the members so elected shall take office on the first Monday in January, 1998.

**SECTION 9.** The nominating panel and the mayor shall carry out their respective powers and duties conferred and imposed by the provisions of this act in a manner that shall allow the appointed school committee to assume their powers and perform their duties on the first day of the municipal year in 1992.

**SECTION 10.** This act shall not be amended or repealed except by the vote of

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the people as provided in section 8 or by special act passed in conformance with art.89 of the amendments to the constitution of the commonwealth.

**SECTION 11.** This act shall take effect upon its passage.

Approved July 5, 1991.

**Chapter 109.           AN ACT RELATIVE TO BENEFITS FOR CERTAIN WAR-TIME VETERANS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Clause Forty-third of section 7 of chapter 4 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the definition of "Wartime service" and inserting in place thereof the following definition:-

"Wartime service" shall mean service performed by a "Spanish War veteran", a "World War I veteran", a "World War II veteran", a "Korean veteran", a "Vietnam veteran", a "Lebanese peace keeping force veteran", a "Grenada rescue mission veteran", a "Panamanian intervention force veteran", a "Persian Gulf veteran", or a member of the "WAAC" as defined in this clause during any of the periods of time described herein or for which such medals described below are awarded.

**SECTION 2.** Said clause Forty-third of said section 7 of said chapter 4, as so appearing, is hereby further amended by inserting after the definition of "Grenada rescue mission veteran" the following two definitions:-

"Panamanian intervention force veteran" shall mean any person who performed such wartime service and received a campaign medal for such service during the period commencing December twentieth, nineteen hundred and eighty-nine and ending January thirty-first, nineteen hundred and ninety.

"Persian Gulf veteran" shall mean any person who performed such wartime service during the period commencing August second, nineteen hundred and ninety and ending on a date to be determined by presidential proclamation or executive order and concurrent resolution of the Congress of the United States.

*Emergency Letter: July 8, 1991 @ 11:34 A.M.*

Approved July 7, 1991.

**Chapter 110.           AM ACT RELATIVE TO BENEFITS FOR MEMBERS OF THE RESERVES AND NATIONAL GUARD CALLED TO ACTIVE DUTY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide certain benefits to certain persons who are reservists in the armed forces of the United States or the national guard called to

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active service, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The third paragraph of section 8 of chapter 32A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the second sentence the following sentence:- If an employee has been granted a military leave of absence because said employee is a member of the army national guard or air national guard, or a reservist in the armed forces of the United States called to active service in the armed forces of the United States subsequent to August second, nineteen hundred and ninety, for purposes of this chapter he shall be deemed to have been granted leave without pay, and subject to the rules and regulations of the commission, said employee shall make payment of the portion of the total monthly premium or rate that would otherwise have been deducted from his salary, wages or other compensation.

**SECTION 2.** Said third paragraph of said section 8 of said chapter 32A, as so appearing, is hereby further amended by adding the following sentence:- For purposes of this section, the term "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States.

**SECTION 3.** Chapter 32B of the General Laws is hereby amended by inserting after section 9H, as so appearing, the following section:-

Section 9I. A governmental unit which has accepted the provisions of section ten and which accepts the provisions of this section as hereinafter provided, shall consider an employee on a military leave of absence because said employee is a member of the army national guard or air national guard or a reservist in the armed forces of the United States called to active service in the armed forces of the United States, for the purposes of this chapter, to be deemed to have been granted leave without pay, and subject to the rules and regulations of the appropriate public authority, said employee shall make payment of the portion of the total monthly premium or rate that would have otherwise been deducted from his salary, wages or other compensation.

For purposes of this section, the term "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States.

This section shall take effect in a county, except Worcester county, city, town or district upon its acceptance in the following manner:- in a county by vote of the county commissioners; in a city having a Plan D or Plan E charter by majority vote of its city council; in any other city by vote of its city council, approved by the mayor; in a district, except as hereinafter provided, by vote of the registered voters

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of the district at a district meeting; in a regional school district by vote of the regional district school committee; in a veterans' services district by vote of the district board; in a health district established under section twenty-seven A of chapter one hundred and eleven by vote of the joint committee; and in a town by vote of the town meeting or town council.

**SECTION 4.** Notwithstanding the provisions of chapter one hundred and twelve of the General Laws or any other general or special law to the contrary which governs registration of professions or occupations, a professional or occupational license, registration or certificate held by a member of the army national guard or air national guard or a reservist in the armed forces of the United States called to active service in the armed forces of the United States since August second, nineteen hundred and ninety which has expired or shall expire while the holder thereof is on such active service shall continue in force as a valid license, registration or certificate under which the holder thereof shall be authorized to exercise all rights until the expiration of three months after such holder is released from such active service; provided, however, that the holder shall provide written proof of such active service upon request by an appropriate authority. After said three month extension period the holder of any such license, registration or certificate shall have an additional three month period to renew such license, registration or certificate to the same extent as though the application for such renewal were made upon the expiration of such license, registration or certificate; and, provided further, that such license, registration or certificate shall no longer be valid and the holder thereof shall not exercise any rights thereunder during said period.

No fee shall be charged or collected for said extension period. In order to renew such license, registration, or certificate the holder thereof shall comply with all applicable requirements for such renewal and shall provide written proof of such active service to the appropriate licensing authority.

For purposes of this section, the term "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States.

**SECTION 5.** A student at a state institution of higher education unable to complete a term because he is a member of the army national guard, or air national guard, or a reservist in the armed forces of the United States called to active service in the armed forces of the United States since August second, nineteen hundred and ninety, shall:

(1) be granted the option by the institution he was attending to make up the credits he lost for the term in which he was called to active service at no additional expense or be granted a full refund of tuition for said term;

(2) be granted the option of either non-punitive withdrawals or withdrawals without record in all courses from which he is required to withdraw;

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(3) be entitled if he resided in student housing to receive refunds on a pro rata basis for the remainder of the semester. In order to receive such refund he shall notify the appropriate authorities of the institution that he has been called to active service. The notification date, or the date that he leaves student housing for active service, whichever is the later, shall be used to determine the pro rata reduction;

(4) be entitled to receive refunds on a pro rata basis for the remainder of the semester for any campus fees he has paid to the institution, including, but not limited to, meal plans;

(5) provide to the registrar or dean of students, as soon as possible, but not later than three months from the date of his release from active service, a copy of the order to active service in order to receive any of the benefits provided in this section; and

(6) be given priority in enrollment in the program of his choice upon return to the institution for the two semesters immediately following his discharge from active service or from hospitalization due to his active service.

The president of such institution may waive or suspend in regard to a student covered by this section any institutional policy or regulation that negatively impacts a student in his withdrawal or subsequent readmission to the institution due to a call to active service.

For purposes of this section, the term "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States.

**SECTION 6.** Nothing contained in this act shall be deemed to affect or impair any other rights which a person eligible under this act may have pursuant to any other general or special law or any federal law.

**SECTION 7.** Sections one and two and sections four to six, inclusive shall take effect as of August second, nineteen hundred and ninety.

Approved July 7, 1991.

**Chapter 111.        AN ACT DESIGNATING A PORTION OF STATE HIGHWAY  
ROUTE 107 IN THE CITY OF REVERE IN MEMORY OF  
RICHARD STANCHI.**

*Be it enacted, etc., as follows:*

The portion of state highway route 107 in the city of Revere, beginning at Brown circle and extending to the Saugus line, shall be designated and known as the Richard Stanchi Memorial Highway, in memory of Richard Stanchi, a state department of public works employee who was killed in the line of duty. Suitable markers bearing such designation shall be erected thereat by the department of public works in compliance with the standards of said department.

Approved July 8, 1991.

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**Chapter 112.           AN ACT AUTHORIZING THE TOWN OF NORTH READING TO IMPLEMENT AN INCREASE IN AN EXISTING INTERBASIN TRANSFER OF WATER FOR THE PURPOSE OF MUNICIPAL WATER SUPPLY.**

*Be it enacted, etc., as follows:*

The town of North Reading may, with the approval of the water resources commission, implement an increase in the existing transfer of water from the Merrimack river basin to the Ipswich river basin.

Approved July 8, 1991.

**Chapter 113.           AN ACT AUTHORIZING THE TOWN OF HUDSON TO CONVEY CERTAIN PARCELS OF LAND USED FOR WATER SUPPLY PURPOSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Hudson is hereby authorized to sell, transfer and convey two parcels of land located in said town and presently used for water supply purposes to a purchaser selected in accordance with the provisions of chapter thirty B of the General Laws. Parcel one is shown as Lot 1 on a plan entitled "Plan of Land, Hudson and Berlin, Mass." dated Sept. 22, 1967 prepared by Veo & Wheeler, Inc. of Hudson, Mass.

Parcel two is shown as Lot B-2 on a plan entitled "Subdivision Plan of Land in Hudson, Mass." dated August 21, 1981 prepared by Whitman & Howard Inc., Engineers & Architects of Wellesley, Mass. Said plan is on file with the town of Hudson.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 8, 1991.

**Chapter 114.           AN ACT FURTHER REGULATING THE CONDUCT OF HORSE RACING.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 128 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:-

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(g) Promote, develop and encourage through the Massachusetts Thoroughbred Breeding Program, the breeding of thoroughbred horses in the commonwealth by offering cash prizes to breeders of such horses in the following manner: the Massachusetts Thoroughbred Breeders Association, Inc. shall from time to time in consultation with the chairman of the racing commission and the program manager for the equine division in the department of agriculture set the percentages for bonuses to be awarded to the breeder of a Massachusetts bred thoroughbred horse, of the purse monies won by said thoroughbred horse in any pari-mutuel running horse race if said horse finishes first, second or third; the percentage for a cash prize to the owner of the stallion, at the time of service to the dam of such purse winner; provided, however, that (i) the stallion stood the breeding season of February through June in the commonwealth, (ii) the horse finishes first, second or third, and (iii) said stallion is registered with the department of food and agriculture; the percentage for a cash prize for the purse monies won by said thoroughbred horse in any unrestricted pari-mutuel running horse race to the owner of a Massachusetts bred horse if said horse finishes first, second, or third.

The Massachusetts Thoroughbred Breeders Association, Inc. is further authorized to pay cash purses for stakes races to be limited to Massachusetts bred thoroughbred race horses from the Massachusetts thoroughbred breeding program at licensed pari-mutuel race meetings authorized by the state racing commission. Such races may be betting or non-betting races and may or may not be scheduled races by the licensee conducting the racing meeting. Purse monies paid by the association under this section may be in such amounts as the association shall determine and may be the sole cash purse for such races or may be supplemental to the cash purses established by the licensee; provided, however, that no person, partnership, corporation or group of persons may receive more than five thousand dollars as a cash prize breeder's award from the association for an individual horse race within the commonwealth. For the purposes of this section a horse race shall mean a thoroughbred race of any kind held within the commonwealth except at fairs.

No person shall be eligible for the prizes provided herein unless the following standards are met:

(1) The foal of a thoroughbred mare that drops said foal in the commonwealth and is bred back to the Massachusetts registered stallion shall be Massachusetts bred; or

(2) The foal of a thoroughbred mare who resides in the commonwealth from the fifteenth day of October of the year prior to foaling, and continues such residence until foaling and foals in the commonwealth shall be Massachusetts bred.

(3) In either the case of subparagraph (1) or (2) each thoroughbred foal dropped in the commonwealth shall be registered with the Jockey Club and the department of food and agriculture.

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(4) Prior to the first day of September of each year, each person standing a thoroughbred stallion in the commonwealth at either private or public service shall file with the department of food and agriculture: (a) a list of all thoroughbred mares bred to such stallion in that year; and (b) a verified statement representing that said stallion stood the entire breeding season in the commonwealth.

The Massachusetts Thoroughbred Breeders Association, Inc. is hereby further authorized to expend up to eight percent of the amount received each fiscal year for said program for advertising, marketing, promotion, and administration of the thoroughbred breeding program in the commonwealth.

The state auditor shall annually audit the books of the Massachusetts Thoroughbred Breeders Association, Inc., to insure compliance with this section.

**SECTION 2.** Chapter 494 of the acts of 1978 is hereby amended by striking out section 13, as most recently amended by section 3 of chapter 428 of the acts of 1990, and inserting in place thereof the following section:-

*Section 13.* Notwithstanding the provisions of clause (5) of the first paragraph of section two and of clauses (a) to (q), inclusive, of the third paragraph of section three of chapter one hundred and twenty-eight A of the General Laws during the calendar years nineteen hundred and ninety-two through nineteen hundred and ninety-five, licenses to conduct racing meetings shall only be issued under the following conditions:-

(a) no license shall be issued for more than an aggregate of two hundred and seventy-five days in any one year at all running horse racing meetings combined, not including running horse racing meetings held in connection with state or county fairs; provided, however, that up to two hundred days may be awarded in Suffolk county only; provided, further, that up to seventy-five days may be awarded in Norfolk county only.

(b) no license shall be issued for more than an aggregate of one hundred and twenty-five racing days in any one year at all harness horse racing meetings combined, including harness horse racing meetings at state or county fairs.

(c) no license shall be issued for more than an aggregate of one thousand one hundred and ninety racing days in one year at all dog racing meetings combined, excluding dog racing meetings conducted at a racetrack owned and operated by a state or county fair in Essex county; provided, however, that two hundred and ten such days may be awarded only for racing in Hampden county during the period between the fifteenth of April and the twenty-first day of October, and five hundred and twenty of the remaining such days may be awarded only in Bristol county; provided, further, that the remaining four hundred and sixty days may be awarded only in Suffolk county; provided, further, that up to sixty additional days may, in the discretion of the commission, be awarded only in Suffolk county; provided, further, that in addition to the total number of racing days provided above the commission may issue a license for an additional sixty days of racing in



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Bristol county.

(d) licenses shall permit racing meetings only between the hours of ten o'clock antemeridian and twelve o'clock midnight. The state racing commission shall grant authorized dates at such times that are consistent with the best interests of racing and the public; provided, however, that dates for racing meetings held in connection with a state or county fair may only be awarded during the period between the fifteenth day of June and the fifteenth day of October; provided, further, that the state racing commission shall not allow harness horse racing meetings to be held at the same time of day as a running horse racing meeting. Said commission may, in its discretion, on written application from a racing licensee made at least seven days prior to the date or dates of any proposed change of time stated in said racing license and without necessity for further public hearing, change the hours of conducting such race meeting between any of the aforesaid hours, notwithstanding the hours set forth on the license; provided, however, that if by reason of national emergency, night illumination is forbidden by public authority, then said commission may in its discretion, issue a license to permit racing at such hours as said commission may determine between the hours of ten o'clock antemeridian and twelve o'clock midnight. For the purpose of imposing the fee provided for in section four of chapter one hundred and twenty-eight A of the General Laws, computing the sums payable to the racing commission pursuant to section fourteen of this chapter, and counting the number of days authorized by clause (a), (b) or (c) of this section, any racing held after seven o'clock post meridian on the same day on which racing is held at the same racetrack prior to seven o'clock post meridian shall be considered a separate day of racing.

(e) no licenses shall be issued to permit running horse race meetings to be held or conducted at the same time of day at more than one racetrack within the commonwealth except in connection with a state or county fair located at a distance greater than seventy-five miles from Suffolk county; provided, however, that in no case shall more than two such licenses be issued for meetings to be held or conducted at the same time of day.

(f) no licenses shall be issued to permit dog racing meetings to be held or conducted at more than four racetracks within the commonwealth, excluding dog racing meetings held in connection with a state or county fair at a racetrack owned and operated by said fair, nor at a dog track having a racing strip of less than three-sixteenths of a mile for outdoor tracks and one-fifth of a mile for indoor tracks, nor at any location where racing has not been conducted for at least five years prior to the effective date of this act and where the surrounding property is substantially of a residential character, as determined by or defined by a zoning ordinance or by-law, if any, controlling such location; provided, however, that one such license may be issued only for racing in Hampden county; provided, further, that any such licenses issued in Bristol county shall require that racing shall be held

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or conducted at a single location which has winterized spectator areas and which has a heated racing surface, if the applicants for such licenses agree that any such races be held or conducted at a single location.

(g) no license shall be issued to any person who is in any way in default, under the provisions of this act, in the performance of any obligation or in the payment of any debt to the racing commission; provided, however, that no license shall be issued to any person who has, within ten years of the time of filing the application for such license been convicted of violating the provisions of section five of chapter one hundred and twenty-eight A of the General Laws.

(b) in granting authorized dates hereunder the state racing commission shall take into consideration, in addition to any other appropriate and pertinent factors, the following: the financial ability of an applicant to operate a racetrack, the maximization of state revenues, the suitability of racing facilities for operation at the time of the year for which dates are assigned; the circumstances that large groups of spectators require safe and convenient facilities; the interest of members of the public in racing competition honestly managed and of good quality; the necessity of having and maintaining proper physical facilities for racing meetings and the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities. Notwithstanding the foregoing provisions of this section, the racing commission shall have the right to review and reconsider without further notice or public hearing any application made prior to October first for which racing dates have been requested for the following year; provided, however, that such application has had a public hearing prior to November fifteenth; provided, further, that any applicant who has been denied said racing dates makes a written request for review and reconsideration within ninety days of receiving notice of such denial; provided, further, that said commission shall reconsider and review said request within one hundred and eighty days of such denial.

**SECTION 3.** During the calendar years nineteen hundred and ninety-two through nineteen hundred and ninety-five, each running horse track licensee under section three of chapter one hundred and twenty-eight A of the General Laws, other than a licensee holding a racing meeting in connection with a state or county fair, shall daily pay: (a) the total sum of the so-called breaks, as defined in section five of said chapter one hundred and twenty-eight A, less one hundred thousand dollars, into the trust fund known as the Running Horse Capital Improvements Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust; provided, however, that the aforementioned sum of one hundred thousand dollars shall be allocated, subject to appropriation, to the Massachusetts council on compulsive gambling and (b) a sum equal to one-quarter of one percent of the total amount wagered by patrons so wagering into a trust fund known as the Running Horse Promotional

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Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust. Said trustees shall deposit all monies in said trust funds in one or more banks, at interest, within the commonwealth.

Said trustees may expend without appropriation all or any part of the Running Horse Capital Improvements Trust Fund to a running horse track licensee in proportion to the amount deposited in said fund by said running horse track licensee for use as all or part of a capital expenditure for alterations, additions, replacements, changes, improvements or major repairs to or upon the property owned or leased by such licensee and used by it for the conduct of racing, but not for the costs of maintenance or of other ordinary operations, whether such costs have been incurred or not; and said trustees may expend without appropriation all or any part of the Running Horse Promotional Trust Fund to such licensee in proportion to the amount deposited in said fund by said licensee for use in promotional marketing, to reduce the costs of admission, programs, parking and concessions, and to offer other entertainment and giveaways. Said trustees may expend to a licensee all amounts accumulated in such trust funds which are attributable to racing operations conducted at a running horse track.

Said trustees shall prescribe terms and conditions for such grants and may designate specific capital improvements or promotions to be undertaken by a licensee; provided, however, that, prior to approving any expenditures from said trust funds for purposes not designated by the trustees, the trustees shall require the licensee to submit to them detailed business plans describing the specific promotions and capital improvements contemplated by the licensee and shall formally vote to permit such expenditures; provided, further, that under no circumstances shall the trustees permit the expenditure of trust funds for purposes not directly related to the improvement of running horse racing or for the raising of handles and attendance; and provided, further, that such terms and conditions for capital improvement projects shall include schedules of periodic payments to be prepared by the trustees in accordance with schedules contained in construction contracts for such capital improvement projects. Such licensee shall comply with all applicable provisions of chapter one hundred and forty-nine of the General Laws unless such compliance is waived by the commission for cause.

No such expenditure for such capital improvements or for such promotions shall be approved by the trustees if such improvements or promotions are to be accomplished pursuant to a contract with a person, corporation, partnership, trust or any combination of the same or any other entity owned wholly or in part by a person, corporation, partnership, trust or any combination of the same or any other entity which owns or operates or holds any interest in any racetrack in the commonwealth.

The trustees shall hire the services of such architectural and engineering consultants or the services of such other consultants as they deem appropriate to

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advise them generally and to evaluate proposed capital improvement and promotional projects submitted to them for their approval.

Nothing herein contained shall preclude a running horse track from making capital improvements or undertaking promotional operations not funded in whole or in part from such funds; provided, however, that all sums approved by said trustees hereunder shall be expended in their entirety for capital improvements or for promotions; provided, further, that any revision by said licensee in the making of capital improvements or in promotional plans as hereinbefore provided, shall require separate written approval by the trustees therefor. All financial statements required under section six of chapter one hundred and twenty-eight A of the General Laws shall be accompanied by a statement signed under the pains and penalties of perjury by the chief financial officer of the licensee, setting forth the capital improvements made and the promotions completed with funds obtained under this section and further certifying that such expenditures are treated as capital expenditures and promotional expenditures in the accompanying financial statements.

The trustees shall require from a running horse racetrack such vouchers, cancelled checks or other documents as said trustees deem necessary to verify that the expenditures from said funds were carried out in accordance with the provisions of this section.

Funds paid by licensees and deposited by the commission in the Running Horse Capital Improvements Trust Fund and in the Running Horse Promotional Trust Fund shall remain in said funds until expended under this section; provided, however, that any amount in said accounts as of December thirty-first, nineteen hundred and ninety-five which has not been so expended or as to which no binding commitment has been made by said trustees shall thereupon be deposited in the General Fund.

**SECTION 4.** During the calendar years nineteen hundred and ninety-two through nineteen hundred and ninety-five, each harness horse track licensee under section three of chapter one hundred and twenty-eight A of the General Laws, other than a licensee holding a racing meeting in connection with a state or county fair shall daily pay: (a) the total sum of the so-called breaks, as defined in section five of said chapter one hundred and twenty-eight A, and a sum equal to one percent of the total amount wagered by patrons wagering on the speed or ability of a combination of more than one harness horse in a single pool, exotic wagering, so-called, into the trust fund known as the Harness Horse Capital Improvements Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust; and (b) a sum equal to one percent of the total amount wagered by patrons so wagering on said exotic races into a trust fund known as the Harness Horse Promotional Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees

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of said trust. Said trustees shall deposit all monies in said trust funds in one or more banks, at interest within the commonwealth.

Said trustees may expend without appropriation all or any part of the Harness Horse Capital Improvements Trust Fund to a harness horse track licensee for use as all or part of a capital expenditure for alterations, additions, replacements, changes, improvements or major repairs to or upon the property owned or leased by such licensee and used by it for the conduct of racing, but not for the costs of maintenance or of other ordinary operations, whether such costs have been incurred or not; and said trustees may expend without appropriation all or any part of the Harness Horse Promotional Trust Fund to such licensee for use in promotional marketing, to reduce the costs of admission, programs, parking and concessions, and to offer other entertainment and giveaways. Said trustees may expend to a licensee all amounts accumulated in such trust funds which are attributable to racing operations conducted at a harness horse track.

Said trustees shall prescribe terms and conditions for such grants and may designate specific capital improvements or promotions to be undertaken by the licensee; provided, however, that prior to approving any expenditures from said trust funds for purposes not designated by the trustees, the trustees shall require the licensee to submit to them detailed business plans describing the specific promotions and capital improvements contemplated by the licensee and shall formally vote to permit such expenditures; provided, further, that under no circumstances shall the trustees permit the expenditure of trust funds for purposes not directly related to the improvement of harness horse racing or for the raising of handles and attendance; provided, further, that such terms and conditions for capital improvement projects shall include schedules of periodic payments to be prepared by the trustees in accordance with schedules contained in construction contracts for such capital improvement projects. Such licensee shall comply with all applicable provisions of chapter one hundred and forty-nine of the General Laws unless such compliance is waived by the commission in writing for cause.

No such expenditure for capital improvements or for promotions shall be approved by the trustees if such improvements or promotions are to be accomplished pursuant to a contract with a person, corporation, partnership, trust or any combination of the same or any other entity owned wholly or in part by a person, corporation, partnership, trust or any combination of the same or any other entity which owns or operates or holds any interest in any racetrack in the commonwealth.

The trustees shall hire the services of such architectural and engineering consultants or the services of such other consultants as they deem appropriate to advise them generally and to evaluate capital improvement and promotional projects submitted to them for their approval.

Nothing herein contained shall preclude a harness horse track from making

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capital improvements or undertaking promotional operations not funded in whole or in part from such funds; provided, however, that all sums approved by said trustees hereunder shall be expended in their entirety for capital improvements or for promotions; provided, further, that any revision by said licensee in the making of capital improvements or in promotional plans as hereinbefore provided, shall require separate written approval by the trustees therefor. All financial statements required under section six of chapter one hundred and twenty-eight A of the General Laws shall be accompanied by a statement signed under the pains and penalties of perjury by the chief financial officer of the licensee, setting forth the capital improvements made and the promotions completed with funds obtained under this section and further certifying that such expenditures are treated as capital expenditures and promotional expenditures in the accompanying statements.

The trustees shall require from a harness racetrack such vouchers, cancelled checks or other documents as said trustees deem necessary to verify that the expenditures from said funds were carried out in accordance with the provisions of this section.

Funds paid by licensees and deposited by the commission in the Harness Horse Capital Improvements Trust Fund and in the Harness Horse Promotional Trust Fund shall remain in said funds until expended under this section; provided, however, that any amount in said accounts as of December thirty-first, nineteen hundred and ninety-five which has not been so expended or as to which no binding commitment has been made by said trustees shall thereupon be deposited in the General Fund.

**SECTION 5.** Notwithstanding the provisions of section five of chapter one hundred and twenty-eight A of the General Laws, during the calendar years nineteen hundred and ninety-two through nineteen hundred and ninety-five, each licensee conducting a running horse or a harness horse racing meeting shall return to the winning patrons wagering on the speed or ability of any one harness horse or any one running horse in a race or races all sums so deposited as an award or dividend, according to the acknowledged and recognized rules and method under which such pari-mutuel or certificate system has been operated, less the so-called breaks, as defined in section five of chapter one hundred and twenty-eight A of the General Laws, and less an amount not to exceed nineteen percent of the total amount so deposited by patrons wagering on the speed or ability of any one harness horse or of any one running horse, and less the so-called breaks; and each licensee conducting a running horse or a harness horse racing meeting shall return to the winning patrons wagering on the speed or ability of a combination of more than one horse in a single pool, exotic wagering, so-called, all sums so deposited as an award or dividend, according to the acknowledged and recognized rules and method under which such pari-mutuel or certificate system has been operated, less the so-called breaks and less an amount not to exceed twenty-five percent of the

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total amount so deposited, and less the so-called breaks; provided, however, that a sum equal to one-half of one percent of the total amount deposited on said exotic wagering pool at a running horse racing meeting shall be sent on a daily basis to Tufts University School of Veterinary Medicine for equine research scholarships and loans.

Each person licensed to conduct a running horse racing meeting, other than a licensee holding a racing meeting in connection with a state or county fair, shall pay to the state racing commission on the day following each day of such running horse racing meeting, a sum equal to three-quarters of one percent of the total amount deposited on the preceding day by the patrons so wagering at such meeting, said percentage to be paid from the nineteen percent and twenty-five percent withheld, as provided in this section, from the total amount wagered. A sum equal to one percent of the total amount deposited by the patrons, less the so-called breaks, and taken from the nineteen percent withheld, and from the twenty-five percent withheld from so-called exotic wagers, shall be on a daily basis sent to the Massachusetts Thoroughbred Breeders Association, Inc. for the purposes of the provisions of subsection (g) of section two of chapter one hundred and twenty-eight of the General Laws.

Each licensee conducting a running horse racing meeting, other than a licensee holding a racing meeting in connection with a state or county fair, shall allocate a sum equal to eight and one-half percent of the total amount deposited daily by the patrons wagering at such meeting. Said percentage shall be used for the payment of purses to the horseowners in accordance with the rules and established customs of conducting running horse racing meetings and said eight and one-half percent shall be paid from the nineteen percent or twenty-five percent withheld as provided in this section from the total amount wagered.

Each such licensee may retain as its commission on the total of all sums so deposited, a sum not exceeding the balance of the nineteen or twenty-five percent withheld as provided in this section from the total amount wagered after deducting therefrom the amount hereinbefore required to be paid to said commission, after deducting therefrom the amount required to be paid from purses at running horse racing meetings, and after deducting therefrom the amounts required to be paid into the Running Horse Capital Improvements Fund, the Running Horse Promotional Trust Fund, the Massachusetts Thoroughbred Breeding Association, Inc., the Tufts University School of Veterinary Medicine and the Massachusetts council on compulsive gambling.

Each person licensed to conduct a harness horse racing meeting, including a licensee holding a harness horse racing meeting in connection with a state or county fair, shall pay to the state racing commission on the day following each day of such horse racing meeting, a sum equal to one and one-quarter percent of the total amount deposited on the preceding day by the patrons so wagering at such

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meeting, said percentage to be paid from the nineteen percent withheld as provided in this section from the total amount wagered, or from the twenty-five percent withheld as provided in this section from the total amount wagered on exotic races, excluding races conducted in connection with a state or county fair.

Each licensee conducting a harness racing meeting, including a licensee holding a racing meeting in connection with a state or county fair, shall allocate a sum equal to eight percent of the total amount deposited daily by the patrons wagering at such meeting, and a sum equal to ten percent of the total amount deposited daily by patrons wagering on the speed or ability of a combination of more than one harness horse in a single pool, exotic wagering, so-called, said percentages to be used for the payment of purses to the horseowners in accordance with the rules and established customs of conducting harness horse racing meetings. Said eight percent is to be paid from the nineteen percent withheld, as provided in this section from the total amount wagered. Said ten percent is to be paid from the twenty-five percent withheld, as provided in this section, from the total amount wagered on exotic races.

Each such licensee may retain as its commission on the total of all sums so deposited, a sum not exceeding the balance of the nineteen or twenty-five percent withheld as provided in this section from the total amount wagered after deducting therefrom the amount hereinbefore required to be paid to the racing commission, after deducting therefrom the applicable amount required to be paid for purses at harness racing meetings, and after deducting therefrom, as applicable, the amounts required to be paid into the Harness Horse Capital Improvements Trust Fund and into the Harness Horse Promotional Trust Fund.

Notwithstanding the foregoing, upon the legalization of off-track pari-mutuel wagering at locations in Massachusetts other than licensed racetracks, "OTB" so-called, within the commonwealth, the amount withheld from exotic wagers shall be twenty-three percent.

**SECTION 6.** The provisions of the third paragraph of section five of chapter one hundred and twenty-eight A of the General Laws shall not apply to any licensee who is licensed pursuant to the provisions of this act.

**SECTION 7.** Notwithstanding the provisions of section thirteen of chapter four hundred and ninety-four of the acts of nineteen hundred and seventy-eight as amended by section two of this act, any person may, after seven days of the effective date of this act, make application for a license to conduct racing meetings on such thoroughbred and harness horse racing dates as the state racing commission shall award in calendar year nineteen hundred and ninety-one; provided, however, that no license shall be granted to licensees to conduct harness horse or running horse racing meetings before November first, nineteen hundred and ninety-one.

Procedures for granting any such license for calendar year nineteen hundred



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and ninety-one shall be the same procedures as those required by this act and chapter one hundred and twenty-eight A of the General Laws for racing dates for subsequent years.

If the state racing commission shall award licenses for racing dates for nineteen hundred and ninety-one, the provisions of this act shall apply to such licenses.

**SECTION 8.** In all other respects the laws of the commonwealth regulating racing shall apply to licensees and to any racing meetings held by licensees pursuant to the provisions of this act.

**SECTION 9.** The provisions of section seven of this act shall apply to licenses applied for or granted for harness horse or horse racing meetings during nineteen hundred and ninety-one. All other provisions of this act shall apply to licenses applied for or granted for racing to commence on or after January first, nineteen hundred and ninety-two.

**SECTION 10.** The provisions of clause (b) of the first paragraph of section three of this act shall take effect on November first, nineteen hundred and ninety-two.

*Emergency Letter: July 9, 1991 @ 9:37 A.M.*

Approved July 8, 1991.

**Chapter 115.        AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO  
GRANT AN EASEMENT IN CERTAIN PARK LAND IN SAID  
CITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Pittsfield is hereby authorized to convey by deed temporary and permanent easements on land within Brattlebrook park, said land currently being used for public park, recreation and conservation purposes, located in the city of Pittsfield to the Berkshire Gas Company.

Said easement runs in a north northeasterly direction through the easterly portion of said Brattlebrook park parallel and adjacent to an existing Tennessee Gas Pipeline Company easement as shown on a plan of land entitled "Tennessee Gas Pipeline Company, proposed right-of-way crossing, the city of Pittsfield Prop. Berkshire County, Massachusetts, TA-LI2-E2565C-100-1" and as described in the Order of the city council recorded on August third, nineteen hundred and ninety with the middle district registry of deeds in the county of Berkshire in Book 1307, Page 1034. Said easement includes the total temporary and permanent easement area, fifty feet in width, and after the completion of construction, the easement is to be reduced to a permanent easement twenty-five feet in width and said twenty-five foot easement is to be the most westerly twenty-five feet of the above-described easement area immediately adjacent to and easterly of the existing Tennessee Gas Pipeline Company right-of-way.

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**SECTION 2.** Notwithstanding the provisions of chapter thirty B of the General Laws to the contrary, the city of Pittsfield is hereby authorized to convey by deed, a temporary and permanent easement to the Berkshire Gas Company. Said easement is generally shown on a plan entitled "Berkshire Gas Company, Richmond Feedline, Right-of-way crossings, Lot E4-1-1." prepared by HMM Associates, Inc., Engineers, Environmental Consultants and Planners, 196 Baker Avenue, Concord, Massachusetts, dated January, 1991, said plan being on file in the office of the commissioner of public works in the city of Pittsfield.

**SECTION 3.** Notwithstanding the provisions of chapter thirty B of the General Laws to the contrary, the city of Pittsfield may acquire from Altresco Pittsfield, L.P., in exchange for the easements described in sections one and two, an approximately forty acre tract of land adjacent to Brattlebrook park in said city which tract is generally shown on a plan entitled "Berkshire Gas Company Richmond Feedline Right-of-Way Crossings Lot K09-1-1" prepared by HMM Associates, Inc., Engineers, Environmental Consultants and Planners, 196 Baker Avenue, Concord, Massachusetts, said plan being on file in the office of the commissioner of public works in the city of Pittsfield.

**SECTION 4.** This act shall take effect upon its passage.

Approved July 8, 1991.

**Chapter 116.            AN ACT PROVIDING FOR RECALL ELECTIONS IN THE  
                             TOWN OF ASHBURNHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any holder of an elected office in the town of Ashburnham may be recalled therefrom by the registered voters of said town as herein provided.

**SECTION 2.** Any twenty-five registered voters of the town may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which printed forms he shall keep available. Such blanks shall be issued by the town clerk, with his signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all the persons to whom they are issued, the number of blanks so issued, the name of the person whose recall is sought, the office from which removal is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within twenty days after the filing of the affidavit, and shall have been signed by at least fifteen percent of the registered

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voters of the town, who shall add to their signatures the street and number, if any, of their residences.

The town clerk shall submit said recall petition at or before five o'clock in the afternoon of the Monday preceding the day on which it must be filed, to the registrars of voters in said town, and the registrars shall forthwith certify thereon the number of signatures which are names of registered voters in said town.

**SECTION 3.** If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the selectmen within five working days, and the selectmen shall within five working days give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than sixty and not more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within one hundred days after the date of the certificate the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided in this section.

**SECTION 4.** Any officer sought to be removed may be a candidate to succeed himself. The nomination of all candidates, the publication of the warrant for the recall election and any election to fill a vacancy caused by a recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided herein. A majority of those voting at the recall election shall be sufficient to recall such elected officer.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If said incumbent is not recalled, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in section seven. If recalled in the election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** Ballots used in a recall election in said town shall submit the following propositions in the order indicated:

- For the recall of (name of officer).

- Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter by making a cross mark (x), may vote for either of said propositions. Under the propositions shall appear the word "Candidates", and the direction "Vote for One" and beneath this the name of candidates nominated as hereinbefore provided. In case of machine voting or punch card balloting, appropriate provision

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shall be made to allow the same intent of the voter.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate that received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes on the question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.

**SECTION 7.** No recall petition shall be filed against an officer within ninety days after he takes office nor in the case of an officer subjected to a recall election and not removed thereby, until at least ninety days after such election.

**SECTION 8.** No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within one year after such recall or such resignation.

**SECTION 9.** This act shall take effect upon its passage.

Approved July 8, 1991.

**Chapter 117.           AN ACT AUTHORIZING THE TOWN OF STOUGHTON TO  
PAY A CERTAIN UNPAID BILL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town treasurer of the town of Stoughton is hereby authorized to pay from available funds to Cubellis & Associates, Inc. the sum of seventy-five thousand, eight hundred and forty-eight dollars and one cent for architectural and consulting services notwithstanding the failure of said town to comply with the appropriate provisions of law relative to competitive bidding in the awarding of contracts.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 8, 1991.

**Chapter 118.           AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO  
CONVEY CERTAIN PARCELS OF CONSERVATION LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Arlington, acting by and through its board of selectmen, is hereby authorized to convey two certain parcels of conservation land to a private individual.

Said parcels are shown on a plan entitled "Plan of Land in Arlington, Massachusetts, May 1990, revised June 6, 1990, revised January 9, 1991, Scale 1"

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= 20' by Robert C. Courmoyer and Associates Inc." and are more particularly bounded and described as follows:

**PARCEL "A"**

Beginning at a point on the westerly line of said Brand Street, said point being the most northeasterly corner of land now or formerly of Steve M. and Janice Cohen, and being the most southeasterly corner of the parcel hereby described: thence: N 89° -26'-17", along said Cohen land, ninety-eight and twenty two one hundredths (98.22) feet to a drill hole (fnd) at land now or formerly of Louis A. and Joan H. DeLuca;

thence: N 00° -22'-09" E, along said DeLuca land, fifty and zero one hundredths (50.00) feet to Parcel "B" as shown on the above-mentioned plan;

thence: S 89° -26'-17" E, along said Parcel "B" as shown on the above-mentioned plan, ninety eight and thirty nine one hundredths (98.39) feet to the westerly line of said Brand Street;

thence: S 00° -33'-43" W, along the westerly line of said Brand Street, fifty and zero one hundredths (50.00) feet to the point of beginning. Containing 4,915 square feet.

**PARCEL "B"**

Beginning at a point on the westerly line of said Brand Street, said point being the most southeasterly corner of land now or formerly owned by Joan T. Spencer and being the most northeasterly corner of the parcel hereby described:

thence: S 00° -33'-43" W, along the westerly line of said Brand Street, fifty and zero one hundredths (50.00) feet to Parcel "A" as shown on the above-mentioned plan;

thence: N 89° -26'-17" W, along said Parcel "A" as shown on the above-mentioned plan, ninety eight and thirty nine one hundredths (98.39) feet to land now or formerly of Louis A. and Joan H. DeLuca;

thence: N 00° -22'-09" E, along said DeLuca land and land now or formerly of Margaret S. Laird, fifty and zero one hundredths (50.00) feet to land of said Spencer;

thence: S 89° -26'-17" E, along said Spencer land, ninety eight and fifty six one hundredths (98.56) feet to point of beginning.

Containing 4,924 square feet.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 8, 1991.

**Chapter 119.            AN ACT MERGING THE PINECROFT WATER DISTRICT  
                             OF WEST BOYLSTON WITH THE WEST BOYLSTON WA-  
                             TER DISTRICT OF WEST BOYLSTON.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Section 4 of chapter 239 of the acts of 1932 is hereby amended by striking out, in line 5, the word "ten" and inserting in place thereof the words:- one hundred.

**SECTION 2.** Section 1 of chapter 352 of the acts of 1933 is hereby amended by striking out, in lines 2 to 4, the words "and residing in the territory not included in the Pineroft Water District of said town as at present constituted".

**SECTION 3.** Section 4 of said chapter 352 is hereby amended by striking out, in line 6, the words "one hundred and thirty-five" and inserting in place thereof the words:- five hundred.

**SECTION 4.** Said chapter 352 is hereby further amended by inserting after section 12 the following section:-

*Section 12A.* The Pineroft Water District of West Boylston, established under the provisions of chapter two hundred and thirty-nine of the acts of nineteen hundred and thirty-two, is hereby dissolved and, without further conveyance or other act, all the assets, liabilities, obligations and indebtedness as well as the powers and duties of said Pineroft Water District of West Boylston are hereby merged and transferred to the West Boylston Water District of West Boylston; and provided, further, that the board of water commissioners of said Pineroft Water District of West Boylston is hereby abolished and the tenure of the incumbent members of said board shall terminate on the effective date of this section.

**SECTION 5.** Sections one and three shall take effect upon its passage. Sections two and four shall take effect on December thirty-first, nineteen hundred and ninety-one.

Approved July 8, 1991.

**Chapter 120.            AN ACT AUTHORIZING THE TOWN OF STOUGHTON TO  
PAY CERTAIN UNPAID BILLS.**

*Be it enacted, etc., as follows:*

The town treasurer of the town of Stoughton is hereby authorized to pay from available funds to Kalwell the sum of eleven thousand one hundred and eighty dollars, to Lessard Electric the sum of ten thousand seven hundred and ninety-five dollars, Ledgewood Construction Company Inc. the sum of one thousand four hundred dollars and to Aluminum and Glass Concepts the sum of twenty thousand two hundred dollars for certain labor and materials rendered by them to the school committee notwithstanding the failure of said town to comply with the appropriate provisions of law relative to competitive bidding in the awarding of these contracts.

Approved July 8, 1991.

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**Chapter 121.            AN ACT RELATIVE TO CERTAIN CONSUMER PRODUCT  
PRICING PRACTICES.**

*Be it enacted, etc., as follows:*

Chapter 94 of the General Laws is hereby amended by striking out section 184C, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 184C. Except as hereinafter provided, every item in a food store and every grocery item in a food department offered for sale, whether edible or not, shall have each unit individually marked with the correct selling price. All prices represented to the consumer for the same item shall be consistent with each other and to the price rung up and charged for the item. The seller shall be responsible for the completeness and accuracy of all price marking.

The following classes of items are exempt from the price marking requirement of this section; provided, however, that the cashier can readily discern the price of the exempted item, that no exempted item is marked with an incorrect price, that the exempted item is on a current price list maintained by the seller as hereinafter provided and that a clear and conspicuous separate sign, or a single sign in the case of similar items all priced the same, larger than the seller's regular unit price label with the price no smaller than one inch high, is placed at the point of display of each exempted item containing the name of the item, the correct price, and, if appropriate, the size or other distinguishing information:-

(1) unpackaged: produce, meat, fish, poultry, delicatessen, bakery items, and any other unpackaged items offered from a bulk display, except that any such item weighted or wrapped to order by the food store or food department but paid for at a place other than at the point of such weighing or wrapping shall have the correct price marked on the item;

(2) gallons and half gallons of milk;

(3) eggs;

(4) cigarettes, cigars, tobacco and tobacco products;

(5) individual units within a multi-unit package if the package is correctly price marked;

(6) snack foods such as cakes, gum, candy, chips, and nuts if offered for sale individually, weigh less than three ounces, cost seventy-five cents or less, and are located at the checkout area;

(7) individual greeting cards; provided, however, that such cards are marked with a price code readily understandable by the consumer;

(8) individual glass jars of baby food of the same brand and price where vegetable or fruit is the predominant ingredient other than water, but not including juices; provided, however, that if offered for sale by a seller with an automatic

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checkout system they are coded, or if offered by a seller without such system, they are on an easily referenced price list at each cash register;

(9) soft drink bottles and cans; provided, however, that items are fully and accurately price marked at their regular shelf location and the seller maintains a list of such items as required by section one hundred and eighty-four D;

(10) not more than sixty items that are located in end-aisle displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily referenced price list at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D. Said sixty item limit shall be reduced by seventy-five percent in the case of a food department. For the purpose of determining whether a seller has exceeded said sixty item limit, units of an item which differ only by color, flavor or scent shall be considered the same item if they are otherwise identical in all respects including price, size, and brand, unless in a particular case the director of standards determines that such units are different items.

Approved July 8, 1991.

**Chapter 122.        AN ACT DESIGNATING THE HEADQUARTERS BUILDING  
AT THE SOLDIERS' HOME IN MASSACHUSETTS LOCATED  
IN THE CITY OF CHELSEA AS THE ALFRED R. VOKE  
HEADQUARTERS BUILDING.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately designate the headquarters building at the Soldiers' Home in Massachusetts located in the city of Chelsea as the Alfred R. Voke headquarters building, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

The headquarters building at the Soldiers' Home in Massachusetts located in the city of Chelsea shall be designated and known as the Alfred R. Voke headquarters building, in memory of the former mayor of Chelsea and former representative of the twenty-third district of the Massachusetts house of representatives from the city of Chelsea.

Approved July 8, 1991.



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**Chapter 123.        AN ACT RELATIVE TO THE ERECTION OF A MONUMENT  
                              COMMEMORATING KOREAN WAR VETERANS.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, or a moratorium affecting construction of monuments, so-called, on Castle Island, in the South Boston section of the city of Boston, the deputy commissioner of capital planning and operations, after consultation with the metropolitan district commission and the South Boston Korean War Memorial Committee, Inc., hereinafter referred to as the committee, is hereby authorized and directed, forthwith, to set aside an area on said Castle Island sufficient for the erection of a monument commemorating the bravery and heroism of those who served their country in the armed services during the Korean conflict. Said area shall be located in the southeast corner of said Castle Island in accordance with a plan to be provided by the committee.

The committee shall cause said monument to be erected by December first, nineteen hundred and ninety-one.

The committee shall be solely responsible for the maintenance of said monument and, for such purposes, shall have access to said monument at all reasonable times.

Approved July 8, 1991.

**Chapter 124.        AN ACT AUTHORIZING THE TOWN OF BOLTON TO  
                              CONVEY CERTAIN CONSERVATION LAND.**

*Be it enacted, etc., as follows:*

The town of Bolton is hereby authorized to transfer the care, custody and control of a certain parcel of conservation land from the conservation commission to the board of selectmen of said town. Said board of selectmen is hereby authorized to dispose of said parcel by sale, gift or lease for nominal or other consideration for the purpose of affordable housing to a developer whose plans for affordable housing are accepted by the Bolton Housing Partnership.

Said parcel of land is shown as drawing SP-3 by C.M.A. Architects, Inc., 793 Center Street, Jamaica Plain, Boston, MA., dated May 22, 1991 and is part of Lot #33, as shown on subdivision plan 33731-J prepared by Clyde Wheeler, Inc., 110 Old Bay Road, Bolton, MA., dated January 27, 1987 and filed in the land registration office of the land court.

Approved July 9, 1991.

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**Chapter 125.           AN ACT RELATIVE TO PUBLIC ACCESS TO THE DAILY LOGS OF COLLEGE AND UNIVERSITY POLICE DEPARTMENTS.**

*Be it enacted, etc., as follows:*

Section 98F of chapter 41 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "department", in line 1, the following words:- and each college or university to which officers have been appointed pursuant to the provisions of section ten G of chapter one hundred and forty-seven.

Approved July 9, 1991.

**Chapter 126.           AN ACT RELATIVE TO THE NEW BEDFORD HARBOR DEVELOPMENT COMMISSION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 8 of chapter 762 of the acts of 1957 is hereby amended by striking out subsection (f).

**SECTION 2.** Said chapter 762 is hereby further amended by inserting after section 9 the following four sections:-

*Section 9A.* The commission may, by its own rule or regulation, impose and collect on a daily, monthly or annual basis the following: user fees relative to piers and wharves and parking, dockage, landing, launching and mooring fees in such amounts and under such conditions and to such extent as the commission determines to be necessary, useful or convenient in connection with the leasing supervision or operation of any pier, wharf, dock or waters under the jurisdiction of the city of New Bedford, through its commission. Said fees shall be set at a reasonable rate.

*Section 9B.* For the purpose of sections nine A to nine C, inclusive, and any subsequent commission rules or regulations, the following words, shall have the following meaning:-

"Bulkhead", a structure or partition to retain or prevent sliding of the land into the water, or to protect the fast land from wave or tidal action.

"Business", any activity engaged in by a person or caused to be engaged in by him, with the object of gain, benefit or advantage either direct or indirect.

"Conduct business", commences, conducts or continues business.

"Conduct business on the piers and wharves", having a business with regular solicitation of orders for the sale of tangible personal property or services or

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regularly engaging in the delivery of services or property on the piers and wharves, other than by common carrier.

"Harbor", New Bedford harbor.

"Harbor lines", the line marking the boundary beyond which wharves and other structures may not extend.

"Launching", launching of recreational vessels.

"Mooring", all means of securing a vessel to a particular location, other than temporarily by anchor for a period of less than one week, or by attaching her to the shore, to a wharf, float, dock or pier, and shall include year rounds and seasonal moorings.

"New Bedford harbor", the entire harbor and tidal waters in the limits of New Bedford harbor, including the estuary and tidal waters of the Acushnet river and about the islands within the city of New Bedford, and also southerly and westerly of the lines of the harbor, as far as the jurisdiction of the harbor development commission extends, including all channels and entrances into the harbor as far as the same are not under the exclusive control of the United States, and also including all coves, inlets and other parts where the tide runs and flows, within the limits of the city of New Bedford.

"Person", an individual, partnership, trust or association, with or without transferable shares, joint stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee, any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

"Piers and wharves", all piers, wharves and bulkheads from Wamsutta Street to Hassey Street, exclusive of the New Bedford State pier.

"Restricted mooring area", shall include all waters of New Bedford harbor.

"Services", any activities engaged in by a person for consideration, whether or not such activities are the primary activity of the person providing the service.

"Tangible personal property", personal property of any nature consisting of any produce, goods, wares, merchandise and commodities whatsoever, brought onto, produced or manufactured on said piers and wharves.

"User", those private individuals or corporations who conduct business on the piers and wharves owned by the city of New Bedford and under the general administration and control of the commission.

"Vessel", any water craft, self-propelled or nonself-propelled, used or capable of being used for transportation and craft which is made fast to a wharf or bulkhead or another vessel, moored or berthed, or any facility under the jurisdiction of the harbor development commission.

*Section 9C.* The commission shall from time to time adopt such rules as it deems necessary and proper including, without limitation, procedures, standards and fees; to limit the speed of vessels within the harbor; to permit moorings, and to

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cause the removal of derelict and abandoned vessels. The commission may impose reasonable penalties by rule for violation of the rules, which penalties shall not exceed five hundred dollars a day for each violation. Each day that a violation continues shall be a separate offense. Continuing violation of the rules of the commission by any permittee shall be grounds for suspension or revocation of any permit or permits issued by the commission. For the purpose of sections nineteen to twenty-eight, inclusive, of chapter ninety-one of the General Laws, the rules and regulations of the commission shall be considered regulations of the harbor master of the city of New Bedford.

The commission shall hold a public hearing, preceded by publication, as to the subject matter of the rule and the time and place of the public hearing, at least seven days prior to the hearing. The rules shall be effective thirty days from the date on which notice of such rule making is sent to the mayor and city council of the city of New Bedford. When the commission determines that an emergency involving the public health, safety or welfare requires that rule take effect immediately, it may promulgate such rule with effect upon notice to the mayor and city council of the city of New Bedford and such findings shall be conclusive, provided that the reasons constituting the emergency are set forth therein. Such emergency shall be effective for not more than fourteen days, unless extended after a public hearing after seven days prior published notice. In no case shall such rule be extended for a period in excess of sixty days from the date originally promulgated.

*Section 9D.* The commission shall annually deliver to the mayor of the city of New Bedford a copy of a report addressed to the city council of the city of New Bedford, which report shall include statements as to its activities hereunder; any recommendations with respect to legislation by the city, the commonwealth or the federal government which may be necessary or expedient to improve the harbor and access thereto or to enable the commission to more efficiently regulate its affairs; and a detailed budget for the next fiscal year.

Approved July 9, 1991.

**Chapter 127.           AN ACT RELATIVE TO THE BOUNDARY LINES BETWEEN  
THE TOWNS OF GRAFTON AND WESTBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The following described line shall hereafter comprise certain portions of the boundary line between the town of Grafton and the town of Westborough:-

Beginning at the corner of Grafton, Upton and Westborough (GUW), a point being marked by a stone monument having coordinates x=560749.99 y=446977.14

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and extending thence following the existing boundary line between the towns of Grafton and Westborough north 8° 59' 57.57" west 6845.52 feet to a stone monument marking corner G W 4 having coordinates x=559679.19 y=453738.39 thence north 26° 11' 37.68" west 1062.95 feet to corner G W 3A having coordinates x=559210.00 y=454692.18 thence following the existing boundary line between Grafton and Westborough south 78° 46' 46.39" west 5735.46 feet to a stone monument G W 2 having coordinates x=553584.17 y=453576.15.

Coordinates, bearings and distances used in this section are based on the Massachusetts Co-ordinate System, Mainland Zone, as described in sections eight to thirteen, inclusive, of chapter ninety-seven of the General Laws.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 9, 1991.

**Chapter 128.           AN ACT FURTHER EXTENDING THE PERIOD OF TIME  
FOR WHICH CERTAIN LAND IN NORFOLK COUNTY  
MAY BE USED AS A TEMPORARY MINIMUM SECURITY  
ALTERNATIVE CORRECTIONAL CENTER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 109 of the acts of 1987 is hereby amended by striking out the second paragraph, as amended by section 1 of chapter 47 of the acts of 1989, and inserting in place thereof the following paragraph:-

Said center shall remain in operation until December thirty-first, nineteen hundred and ninety-one.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 9, 1991.

**Chapter 129.           AN ACT RELATIVE TO THE OPERATION OF MOTOR  
FREIGHT CARRIERS ON AND OFF THE NATIONAL NET-  
WORK.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the definition of "Specific business locations".

**SECTION 2.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Routes of reasonable access" and

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inserting in place thereof the following definition:-

"Routes of reasonable access", routes of access, as designated by the department as provided in section nineteen G, between the National Network, as defined in section nineteen F, and such terminals, facilities for food, fuel, repair and rest as are located more than one road-mile in distance from the National Network.

**SECTION 3.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Terminal" and inserting in place thereof the following two definitions:-

"Terminal", any location where: freight either originates, terminates, or is handled in the transportation process; or commercial motor carriers maintain operating facilities.

"Truck-trailer boat transporter", a boat transporter combination consisting of a truck towing a trailer using typically a ball and socket connection and where the trailer axle is located substantially at the trailer center of gravity, rather than at the rear of the trailer, but so as to maintain a downward force on the trailer tongue.

**SECTION 4.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "B-train assembly" the following definition:-

"B-train assembly unit", a motor vehicle composed of a tractor, semitrailer and semi-trailer with the semi-trailers connected by a B-train assembly.

**SECTION 4A.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Heavy duty platform trailer" the following definition:-

"House trailer", a vehicle having no motive power of its own, originally designed or permanently altered and equipped for human habitation which is not used to transport property other than property used for human habitation or camping purposes. A trailer designed primarily to transport property which has been temporarily altered or equipped for human habitation shall not be deemed to be a house trailer.

**SECTION 5.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Automobile transporter" the following definition:-

"Boat transporter", any vehicle combination including a stinger-steered boat transporter and a low-boy boat transporter, designed and used specifically for the transport of assembled boats and boat hulls. The boats may be partially disassembled to facilitate transportation. Boats may be carried on the tractor so long as the length and width restrictions of the vehicle and load are not exceeded.

**SECTION 6.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Specific manufacturing facility".

**SECTION 7.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Stinger-steered automobile trans-

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porter" the following definition:-

"Stinger-steered boat transporter", a boat transporter configured as a semi-trailer combination wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

**SECTION 8.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Low-boy automobile transporter" the following definition:-

"Low-boy boat transporter", a semi-trailer unit in which the trailer is designed and used specifically for the transport of assembled boats and hulls. The top surface of the deck platform of such semi-trailer shall not be more than thirty-six inches above the surface on which the wheels of the vehicle rest.

**SECTION 8A.** The second paragraph of section 7 of said chapter 90, as so appearing, is hereby amended by adding the following sentence:- For the purpose of this paragraph, the term commercial motor vehicle or trailer shall mean a bulk tank carrier delivering gasoline or other flammable material.

**SECTION 8B.** Section 19 of said chapter 90, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Except as otherwise provided in sections nineteen F and nineteen G, or when a vehicle has been authorized by permit to transport an irreducible load, the following provisions shall apply:

No motor vehicle or trailer, the outside width of which is more than one hundred and two inches or the extreme overall length of which is more than thirty-three feet, or in the case of a truck, auto home, house trailer, or motor bus, forty feet, or in the case of a stinger-steered automobile or stinger-steered boat transporter, sixty-five feet not including load overhang which shall not exceed three feet beyond the foremost part of the front transporting vehicle or more than four feet beyond the rear bed of the body, or in the case of a semi-trailer in a semi-trailer unit or a trailer in a tractor-trailer unit, forty-eight feet, or in the case of a semi-trailer or trailer in a tandem unit, twenty-eight feet, shall be operated on any way without a special permit so to operate from the board or officer having charge of such way or, in the case of a state highway or a way determined by the department of public works to be a through route, from said department. The lengths of semi-trailers or trailers operating in semi-trailer or tandem units, as specified above, shall be inclusive of load-holding devices and exclusive of safety devices without load-holding capacity. The overall length of any vehicle and trailer combination or semi-trailer combination or any house trailer and tow vehicle combination authorized to travel under this section shall not exceed sixty feet except as otherwise specifically authorized by this section or authorized by a special permit as aforesaid; provided, however, that no overall length limitation shall apply to semi-trailer units or tractor-trailer units, when the trailer or

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semi-trailer in such units does not exceed forty-eight feet, or to tandem units, when the semi-trailer or trailer in such units does not exceed twenty-eight feet. The one hundred and two inches width provided in this section shall be exclusive of load-induced tire bulge, rearview mirrors, turn signal lamps, hand-holds for cab entry and egress and splash and spray suppressant devices; provided, however, that such mirrors and other devices are so mounted as not to constitute a hazard to pedestrians on or adjacent to any public way. Other safety devices which the department determines are necessary for the safe and efficient operation of motor vehicles shall not be included in the calculation of the one hundred and two inch width specified in this section; provided, however, that such other safety devices may be so mounted and so extend beyond the permitted widths only in such manner and to such extent as determined by the department, but in no event shall such safety devices extend more than three inches beyond the maximum vehicle width on each side. For the purpose of this section, all appurtenances at the front or rear of a commercial motor vehicle, semi-trailer, or trailer, whose functions relate to the safe and efficient operation of such semi-trailer or trailer, shall be excluded from the length computation of such vehicles; provided, however, that such appurtenances shall not be designed or used for carrying cargo. Notwithstanding the other provisions of this section, the combined overall length of a pole dolly or pole dinky and the load being carried thereon may, while being used for the transportation of poles or single units of lumber or metal, exceed forty-eight feet, but the overall length when considered in combination with the motor vehicle accompanying it shall not exceed sixty-five feet or, in the case of an electric company as defined in chapter one hundred and sixty-four, seventy-five feet, without a special permit as provided for in this paragraph.

**SECTION 9.** Said chapter 90, as so appearing, is hereby further amended by striking out section 19F and inserting in place thereof the following section:-

Section 19F. Notwithstanding any other provision of law to the contrary, the following vehicles may operate on the National Network, as hereinafter defined, and for the purpose of travel to a terminal or services for food, fuel, repair or rest, on any public way for a distance of one road-mile from the National Network, except on individual ways declared unavailable by the department for specific safety reasons, and on routes of reasonable access as designated by the department under the provisions of section nineteen G: semi-trailers not exceeding forty-eight feet in length when operating in semi-trailer units; semi-trailers and trailers not exceeding twenty-eight feet in length when operating in tandem units; and semi-trailers and trailers not exceeding twenty-eight and one-half feet in length in tandem units; provided however, that such semi-trailer or trailer was in actual and lawful operation on December first, nineteen hundred and eighty-two. No overall length limitations shall apply to motor vehicles comprised of semi-trailers or trailer of lengths operating as specified above.



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The National Network shall consist of the Interstate System of Massachusetts and of the following portions of the Federal-Aid Primary System: Route 2 from I-90 in Leominster to I-495 in Littleton; U.S. Route 3 from I-95 in Burlington to the New Hampshire State Line; Route 24 from I-195 in Fall River to I-93 in Randolph; Route 140 from I-195 in New Bedford to Route 24 in Taunton. Temporary restrictions may be applied to portions of the National Network during actual construction in accordance with the provisions of 23 Code of Federal Regulations 658.11(d)(4).

Notwithstanding the provisions of section nineteen C or any other provision of law to the contrary, the following specialized vehicles may operate on the National Network, as herein defined, and for the purpose of travel to a terminal or services for food, fuel repair or rest, on any public way for a distance of one road-mile from the National Network, except on individual ways declared unavailable by the department for specific safety reasons, and on routes of reasonable access as designated by the department under the provisions of section nineteen G: automobile transporters, boat transporters, driveway saddlemount vehicle transporter combinations, including both double and triple saddlemount combinations, and driveway saddlemount with fullmount vehicle transporter combinations, and B-train assembly units; provided, however, that traditional automobile and boat transporters such as those with the fifth wheel located on a tractor frame over the rear axle, including low-boy automobile and boat transporters and truck-trailer boat transporters, shall not exceed sixty-five feet in overall length, and stinger-steered automobile and boat transporters, shall not exceed seventy-five feet in length, such lengths being exclusive of front and rear overhang, not to exceed three feet in front or four feet in the rear; provided, further, that driveway saddlemount vehicle transporter combinations and fullmount vehicle transporter combinations conforming to safety regulations at 49 CFR 393.71 shall not exceed seventy-five feet in overall length; provided, further, that in B-train assembly units the semi-trailer length shall not exceed twenty-eight feet, or twenty-eight and one-half feet, if the semi-trailer was in legal operation on December first, nineteen hundred and eighty-two, in a B-train assembly unit, both lengths being exclusive of the B-train assembly when being used between the first and second semi-trailer in the B-train assembly unit, but the B-train assembly is to be included in the length measurement of the semi-trailer when no second semi-trailer is mounted on the B-train assembly, the length limitation of the trailer to be forty-eight feet in that instance.

The length limitations described in this section shall be inclusive of loads and load-holding devices, but shall be exclusive of safety and energy conservation devices, such as refrigeration and air compressors, heating units, wind deflectors, flexible fender extensions, mudflaps and splash and spray suppressant devices, and other devices which the department may determine are necessary for safe and efficient operation of commercial motor vehicles; provided, however, that no device excluded under this section shall have by its design or use the capability

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to carry cargo. Any other safety or conservation devices shall be allowed only in such manner and to such extent as may be determined by the department.

Notwithstanding any law to the contrary, household goods carriers may operate on public ways between the National Network and points of loading or unloading without the need of any permit to so operate.

Notwithstanding any law to the contrary, vehicles with dimensions which were legal in the commonwealth on December first, nineteen hundred and eighty-two, may, with such dimension, and tractors containing a dromedary box in legal operation on December first, nineteen hundred and eighty-two, may, during their useful existence, operate on the National Network, and, for the purpose of travel to a terminal or services for food, fuel, repair or rest, on any public way for a distance of one road-mile from the National Network, except on individual ways declared unavailable by the department for specific safety reasons, and on routes of reasonable access as designated by the department under the provisions of section nineteen G.

The department may issue permits to allow other specialized equipment or vehicles to operate on the National Network, on public ways for a distance of one road-mile from the National Network and on routes of reasonable access.

**SECTION 10.** Said chapter 90 is hereby further amended by striking out section 19G, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 19G. A motor vehicle authorized to operate on the National Network under the provisions of section nineteen F may also operate on routes of reasonable access, as defined in section one and determined by the department as provided herein.

The operator of any terminal may apply to the department for, and the department may issue, a special permit designating a route of reasonable access.

Any route of reasonable access to a terminal is hereby deemed to be a route of reasonable access to any facilities for food, fuel, repair or rest which abut said route. As to facilities for food, fuel, repair and rest which do not abut a designated route of reasonable access to a terminal, the department may, at the request of the operator of any such facility, designate a route of reasonable access to the facility. The department shall deny a requested route of reasonable access only on the basis of safety and engineering analysis of the requested access route. If an application for a permit for a route of reasonable access is not acted upon within ninety days of receipt by the department it shall be deemed automatically approved.

Permits issued under this section may be subject to such conditions as the department may determine are necessary for promoting public safety. The department may revoke any permit issued under this section.

The department may promulgate rules and regulations in accordance with the provisions of chapter thirty A to carry out the provisions of this section.

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**SECTION 11.** Section nineteen H of said chapter ninety is hereby repealed.  
*Emergency Letter: July 12, 1991 @ 5:00 P.M.* Approved July 9, 1991.

**Chapter 130. AN ACT EXTENDING THE MORATORIUM ON SINGLE ROOM OCCUPANCY CONVERSION.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately extend the moratorium on the conversion of single room occupancy dwelling units, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 671 of the acts of 1989 is hereby amended by striking out section 9 and inserting in place thereof the following section:-

*Section 9.* This act shall become inoperative on October ninth, nineteen hundred and ninety-one.

**SECTION 2.** The provisions of chapter six hundred and seventy-one of the acts of 1989, shall not apply to single room occupancy dwellings in which each and every single room occupancy dwelling unit became vacant after January ninth, nineteen hundred and ninety but before the effective date of this act, as a result of an order issued by a licensing board or code enforcement agency of a city or town, or an order of a court.

Approved July 9, 1991.

**Chapter 131. AN ACT RELATIVE TO ELIGIBILITY FOR MEMBERSHIP IN THE SAVINGS BANKS EMPLOYEES RETIREMENT ASSOCIATION AND THE COOPERATIVE BANKS EMPLOYEES RETIREMENT ASSOCIATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 39 of chapter 168 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 19 and line 35, each time they appear, the words "the Savings Banks Association of Massachusetts" and inserting in place thereof, in each instance, the following words:- the Massachusetts Bankers Association and any bank which is a voting member thereof.

**SECTION 2.** Section 30 of chapter 170 of the General Laws, as so appearing, is hereby amended by inserting after the word "Banks", in line 24, the first time it appears, the following words:- and any bank which is a voting member thereof.

Approved July 9, 1991

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**Chapter 132.****AN ACT RELATIVE TO VERIFYING WORKERS COMPENSATION COVERAGE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 152 of the General Laws is hereby amended by striking out section 63, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 63. Insurance companies insuring employees under this chapter shall, at the request of the department, furnish it in writing any information required in connection with the administration by said department of this chapter, including any statistics and the names of all employers insured by them. Notice of issuance of a policy of insurance insuring employers under this chapter shall be given to the rating organization authorized by section fifty-two C by the company issuing such policy within five days after the date of issuance thereof. No further notice need be filed in case such insurance is renewed, extended or otherwise continued by such company. Such insurance shall not be cancelled or shall not be otherwise terminated until ten days after written notice of such cancellation or termination is given to the rating organization or until a notice has been received by said organization that the employer has secured insurance from another insurance company or has otherwise insured the payment of compensation provided for by this chapter. Said organization shall immediately make available to the department, by electronic transmission or otherwise, all information collected pursuant to this section.

**SECTION 2.** Said chapter 152 is hereby further amended by striking out section 65B, as so appearing, and inserting in place thereof the following section:-

Section 65B. If, after the issuance of a policy under section sixty-five A, it shall appear that the employer to whom the policy was issued is not or has ceased to be entitled to such insurance, the insurer may cancel such policy in the manner provided in this chapter; provided, however, that any insurer desiring to cancel such a policy shall give notice in writing to the rating organization and the insured of its desire to cancel the same. Such cancellation shall be effective unless the employer shall within ten days after the receipt of such notice file with the department and the rating organization objections thereto, and, if such objections are filed, a member of the department shall hear and decide the case within a reasonable time thereafter, subject to review as provided where a claim for a review referred to in section eleven C is filed.

**SECTION 3.** This act shall be deemed substantive pursuant to section two A of chapter one hundred and fifty-two of the General Laws and shall apply to policies issued on or after the effective date of this act.

Approved July 9, 1991.

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**Chapter 133.            AN ACT VALIDATING CERTAIN CONTRACTS OF THE  
CITY OF BOSTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any contrary provision of chapter thirty B of the General Laws or any contrary provision of the city charter of the city of Boston or any inconsistent provision of any other general or special law, rule, regulation or ordinance, the city of Boston may lawfully make payments under any contract listed in the document dated March 27, 1991, entitled "Further Contracts Designated for Validation Through Special Legislation" and filed on said date in the offices of both the finance commission of the city of Boston and the city clerk of the city of Boston. Each such contract shall continue in full force and effect, subject to any special conditions set forth in said document, until the expiration date for such contract specified in said document unless such contract is terminated earlier in accordance with the terms of the contract; provided, however, that in no event shall the amount paid by the city of Boston pursuant to such contract exceed the amount specified in said document.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 9, 1991.

**Chapter 134.            AN ACT FURTHER REGULATING METHODIST EPISCO-  
PAL CHURCHES.**

*Be it enacted, etc., as follows:*

Section 41 of chapter 67 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 5, 6 and 7, the words "; but the annual income of such trust property, exclusive of the meeting house, shall not exceed fifty thousand dollars".

Approved July 9, 1991.

**Chapter 135.            AN ACT AUTHORIZING THE GRANTING OF AN EASE-  
MENT FOR A PARCEL OF LAND IN THE TOWN OF  
LANCASTER.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations to grant certain easements across lands of the commonwealth, therefore it is hereby

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declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed approved as to form by the attorney general, an easement for up to an eighty-foot wide right-of-way for access and egress over the most northerly portion of a parcel of land located in the town of Lancaster abutting the current New England Power Company right-of-way, to the party hereinafter described, its successors and assigns and all others who may lawfully be entitled, subject to the requirements of this act and to such terms and conditions as the commissioner may prescribe in consultation with the board of regents of higher education and the board of trustees of state colleges.

Such easement may be granted to any abutter of said land in said town of Lancaster if said abutter shall require such easement to gain access to certain materials located on land adjacent to said easement and which materials are used, in whole or in part, for the creation of public works for and on behalf of the commonwealth.

**SECTION 2.** In the event that the property is not used for the purposes described in section one the property shall revert to the commonwealth.

**SECTION 3.** In consideration for the use of the easement authorized in section one, the board of regents of higher education and the board of trustees of state colleges may charge any person or entity to whom such easement may be granted the fair market value price for the use thereof, such fair market value price to be determined by one or more appraisals approved by said boards with the cost thereof to be assumed by the grantees thereof.

Approved July 9, 1991.

**Chapter 136.      AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS  
AND NOTES TO BE ISSUED BY THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section eight of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the construction of highway facilities for the Metropolitan District

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Commission, shall be issued for terms not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 2.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section nine of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the construction and reconstruction of highway and bridge facilities, shall be issued for terms not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 3.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section ten of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program of highway improvements and related activities, shall be issued for terms not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 4.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section eleven of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the construction and reconstruction of highway facilities and related activities, shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and sixteen, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 5.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section twelve of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the rehabilitation of highway facilities and durable equipment, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the

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Amendments to the Constitution of the Commonwealth.

**SECTION 6.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirteen of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the construction of highway facilities for the Metropolitan District Commission, shall be issued for terms not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 7.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section fourteen of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for highway-related studies and communications systems, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 8.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section fifteen of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the construction and reconstruction of highway facilities and related activities, shall be issued for terms not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 9.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section sixteen of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program for the construction of highway facilities, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 10.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section twenty-three of



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chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding a mobility assistance program, shall be issued for terms not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, nineteen hundred and ninety-nine, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 11.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty-four of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding a mobility assistance program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-nine, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 12.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section twenty-six of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of an intercity bus capital assistance program, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 13.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty-seven of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of an intercity bus capital assistance program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 14.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section twenty-nine of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a commuter boat assistance program, shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June

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thirtieth, two thousand and sixteen, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 15.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section thirty of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding a commuter boat assistance program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 16.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirty-two of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program of airport systems improvements and development, shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and sixteen, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 17.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section thirty-three of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for a program of airport systems improvements and development, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 18.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirty-five of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding for the implementation of chapter one hundred and sixty-one C of the General Laws, shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and sixteen, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

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**SECTION 19.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section thirty-six of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding for the implementation of chapter one hundred and sixty-one C of the General Laws, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 20.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirty-eight of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a program of capital assistance to regional transit authorities, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 21.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section thirty-nine of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a program of capital assistance to regional transit authorities, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 22.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section forty of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a regional transit authority construction capital assistance program, shall be issued for terms not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 23.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section forty-one of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding

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of a regional transit authority construction capital assistance program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 24.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section forty-three of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a regional transit authority alternative fuel program, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 25.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section forty-four of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a regional transit authority alternative fuel program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 26.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section forty-six C of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a MBTA/Biomedical Development program, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and eleven, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 27.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section forty-six D of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a MBTA/Biomedical Development program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June

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thirtieth, two thousand and one, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 28.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section fifty-three of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a public safety program, shall be issued for terms not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, nineteen hundred and ninety-nine, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 29.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section fifty-four of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a public safety program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-nine, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 30.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section fifty-seven of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a commercial waterways dredging program, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 31.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section fifty-eight of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a commercial waterways dredging program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and four, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the

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Commonwealth.

**SECTION 32.** Notwithstanding any provisions of law to the contrary, the bonds which the state treasurer is authorized to issue under section sixty of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a public safety program, shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 33.** Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section sixty-one of chapter thirty-three of the acts of nineteen hundred and ninety-one, providing for funding of a public safety program, shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and six, as recommended by the governor in a message to the General Court dated May twenty-second, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 34.** Section 1 of chapter 349 of the acts of 1986 is hereby amended by striking out paragraph (8), added by section 123 of chapter 33 of the acts of 1991, and inserting in place thereof the following paragraph:-

(8) The authority has divided the development of the piers into two phases, Phase I and Phase II, for planning purposes and for review in accordance with sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws with the approval of the secretary of environmental affairs. Phase I shall include the area of the piers referred to as piers 4 and 5 and associated upland areas and a park. Phase II shall include the remainder of the piers and associated upland areas and a lobster facility and park. The authority has completed the final environmental impact report (FEIR) with respect to Phase I and the lobster facility. The secretary of environmental affairs certified on August second, nineteen hundred and ninety that the said report adequately and properly complied with section sixty-two of chapter thirty of the General Laws and associated implementing regulations.

**SECTION 35.** Section 2 of said chapter 349 is hereby amended by striking out the definition of "Plan", as amended by section 125 of said chapter 33, and inserting in place thereof the following definition:-

"Plan", for the waterfront park and lobster facility will consist of two phases. Phase I is the plan developed by the authority in the FEIR which consists of a waterfront park on piers 4 and 5 and associated upland areas. Phase II will be a lobster facility as included in the aforementioned FEIR and waterfront park on pier 3 and associated upland, as more fully described below. The authority has divided

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the development of the piers into two phases, Phase I and Phase II, for planning purposes and for review in accordance with sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws with the approval of the secretary of environmental affairs. It is important to the citizens of the commonwealth and to the potential users of the park reviewed in Phase I that the construction of said project proceed as soon as possible while Phase II is designed and constructed in accordance with this act. The aforementioned lobster facility shall provide for between eighteen and twenty commercial lobster vessels.

The area of the Phase II park and lobster facility shall include at least the following as shown on Sheet Nos. 26N-14E and 26N-15E of the "City of Boston Topographic and Planimetric Survey", dated 1962 and on file with the Boston Redevelopment Authority, the BRA Plan; beginning at the eastern-most edge of Pier No. 1 and a line from that edge to Marginal Road; thence returning along said line to the water's edge at Pier 1; thence running in an easterly direction along said water's edge to the midpoint between Pier 1 and the existing Pier 3; thence running parallel to said eastern-most edge of Pier 1 to the "Pierhead and Bulkhead Line" as shown on the BRA Plan; thence running along said Pierhead and Bulkhead Line (but including the full outline of any existing piers) in a southeasterly direction to a point intersecting the line of the southwestern edge of the Phase I Park extended out to the "Pierhead and Bulkhead Line"; then running along said Private Street and Marginal Street to the point of beginning. The foregoing description is meant and intended to result in a continuous of upland and pier park and lobster facilities from the edge of Pier 1, to and through Pier 5, as described in the FEIR. The Phase II park and lobster facility shall include all pilings, supports, the bulkheads, conveyors and structures thereon or thereunder, the land underneath said piers, and upland areas located southwest of Marginal Street.

**SECTION 36.** Said chapter 349 is hereby further amended by striking out section 6, as amended by section 133 of said chapter 33, and inserting in place thereof the following section:-

*Section 6.* The design for the Phase I park and lobster facility shall be as set forth in the FEIR. Development of final plans and specifications and construction of the Phase I park shall commence immediately. The design of the Phase II park and lobster facility shall be commenced immediately by the authority, in consultation with the PAC. The PAC shall approve all preliminary and final designs for the park and no construction may commence without approval of the PAC. The authority is hereby directed to move as expeditiously as possible to design and construct the Phase II park and lobster facility. Notwithstanding the previous sentence, the authority shall have no obligation to commence construction of the Phase II park and lobster facility until bonds in an amount adequate to meet the expenditure necessary to construct said Phase II park and lobster facility have been issued and sold by the state treasurer, as provided for in this section.

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The members of the PAC shall serve without compensation. The PAC shall meet from time to time to review the operation and maintenance of the waterfront park and shall advise the authority on its compliance with the requirements of this act. The PAC shall create its own bylaws and procedures. It shall always consist of the same number of members specified above. In the event that a vacancy in the membership of the PAC occurs, for whatever reason, the remaining members of the PAC shall nominate and elect new members. The PAC is hereby authorized and directed to enter into a contract with the authority which will specify in detail the operational and maintenance requirements of the authority with respect to the Phase I park and the Phase II park and lobster facility. The PAC shall also advise the authority as to the other issues in East Boston concerning the authority. The authority shall pay for the reasonable operating expenses of the PAC.

**SECTION 37.** Said chapter 349 is hereby further amended by striking out section 7, as amended by section 134 of said chapter 33, and inserting in place thereof the following section:-

*Section 7.* The provisions of sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws shall apply to all projects proposed at the piers, including the lobster facility and waterfront park to the extent applicable to projects of the authority; provided, however, that the project for Phase I of the waterfront park and the lobster facility as described in the final environmental impact report certified by the secretary of environmental affairs on August second, nineteen hundred and ninety shall not require further environmental review pursuant to said sections sixty-one to sixty-two H, inclusive. For the purpose of the compliance with said sections sixty-one to sixty-two H, inclusive, the authority shall be deemed to be the lead agency project proponent.

**SECTION 38.** The first paragraph of section 8 of said chapter 349, as appearing in section 135 of said chapter 33, is hereby further amended by striking out the first and second sentences and inserting in place thereof the following two sentences:- The authority shall fund the final design, construction, operation, and maintenance of the Phase I park, the final design of the Phase II park and the final design of the lobster facility. Notwithstanding the foregoing, the authority shall have no obligation to fund construction of the Phase II park and lobster facility unless and until bonds are issued to meet the expenditure necessary to construct the Phase II park and lobster facility in accordance with section nine.

**SECTION 39.** Section 9 of said chapter 349 is hereby amended by striking out the first and second sentences, as appearing in section 136 of said chapter 33, and inserting in place thereof the following two sentences:- The authority shall fund the final design, construction, operation and maintenance of the Phase I park and the operation and maintenance of the Phase II park and lobster facility from its general revenues. To meet the expenditures necessary to design and construct the Phase II park and lobster facility, the state treasurer shall issue and sell bonds of the



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commonwealth, registered or with interest coupons attached, as he may deem best, to an amount to be specified by the governor, from time to time, but not exceeding, in the aggregate, the sum of seventeen million dollars.

Approved July 9, 1991.

*Sections 34, 35, 36, 37, 38 and 39 disapproved.*

**Chapter 137.      AN ACT DESIGNATING A CERTAIN BRIDGE IN THE  
TOWN OF SOUTHBRIDGE AS THE LEONIDE J. LEMIRE  
V.F.W. POST 6055 MEMORIAL BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge over the Quinebaug river on state highway route 169 in the town of Southbridge shall be designated and known as the Leonide J. Lemire V.F.W. Post 6055 Memorial Bridge. A suitable marker bearing such designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved July 9, 1991.

**Chapter 138.       AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-TWO FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for the maintenance of the several departments, boards, commissions and institutions, of sundry other services, and for certain permanent improvements, and to meet certain requirements of law, the sums set forth in sections two, two A, and two B, for the several purposes and subject to the conditions specified in said sections two, two A, two B and three, are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof, for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, in this act referred to as the year nineteen hundred and ninety-two, or for such period as may be designated. No department, commission, agency or institution which is authorized by section two to retain and expend specified amounts of certain revenue for particular purposes may expend any amount of such retained revenue for the compensation of employees unless said section two specifically provides otherwise.

**SECTION 1A.** In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution and section six D of chapter twenty-nine of the General Laws, it is hereby declared that the amounts of revenue set forth in this section by source for the respective funds of the commonwealth for the fiscal year ending June thirtieth, nineteen hundred and ninety-two are necessary and sufficient to provide the means to defray the appropriations and expenditures from such funds for such fiscal year as set forth and authorized in sections two, two A and two B. The comptroller is hereby authorized and directed to keep a distinct account of actual receipts from each such source by each such fund, to furnish the executive office of administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein, and to include a full statement comparing such actual and projected receipts in the annual report for such fiscal year pursuant to section twelve of chapter seven A of the General Laws; provided, such quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

FY 1992 Revenue by Source and Budgetary Fund  
(in millions)

Source	All Funds	General Fund	Highway Fund	Local Aid Fund	Other Funds
Alcoholic Beverages	60.0	60.0			
Commercial Banks	24.0	24.0			
Savings Institutions	25.0	25.0			
Cigarette Corporations	138.0	138.0			
Deeds	431.5	343.5		88.0	
Estate/Inheritance	22.0	22.0			
Income	230.0	230.0			
Insurance	4,819.0	2,615.0		1,927.6	276.4
Motor Fuels	230.0	230.0			
Utilities	479.6	64.8	414.2		0.6
Room Occupancy	51.0	51.0			
Sales & Use: Regular	52.0	33.8			18.2
Sales & Use: Meals	1,262.0	757.2		504.8	
Sales & Use: Motor Vehicle	260.0	156.0		104.0	
Misc. Dept.	166.0	99.6		66.4	
Racing	2.0	2.0			
Beano	27.0	27.0			
Raffles/Bazaar	4.0	4.0			
Div of Insurance	1.2	1.2			
	7.2	7.2			
Total Taxes	8,291.5	4,891.3	414.2	2,690.8	295.2
Federal Reimbursements	2,310.8	2,299.4	10.2		1.2
Departmental Revenue	1,357.2	1,011.1	321.6	2.4	22.1
Retained/Restricted Revenue	645.3	287.9	4.2	343.1	10.1
Transfers	382.6	167.0		215.6	
Total for Budget	12,987.4	8,656.8	750.2	3,251.9	328.6

**SECTION 1B.** The comptroller is hereby authorized and directed to keep a distinct account of actual receipts of nontax revenues by each department, board, commission or institution, to furnish the executive office of administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein, and to include a full statement comparing such actual and projected receipts in the annual report for such fiscal year pursuant to section twelve of chapter seven A of the General Laws; provided, such quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

Nontax Revenue Executive Office Summary

	FY92 Unrestricted Non-Tax	FY92 Restricted Non-Tax	FY92 Total Non-Tax
Secretariat			
Judiciary	46,009,885	20,000,000	66,009,885
District Attorneys	8,393,190	3,470,540	11,863,730
Executive	2,500		2,500
Secretary of State	25,747,406		25,747,406
Treasurer	527,943,304	317,770,000	845,713,304
State Auditor	27,357		27,357
Attorney General	4,380,917	253,972	4,634,889
State Ethics Commission	20,534		20,534
Inspector General	565		565
Administration and Finance	460,310,802	10,642,902	470,953,704
Environmental Affairs	42,708,272	10,756,425	53,464,697
Communities and Development	125,000	400,000	525,000
Health and Human Services	2,333,052,390	190,698,380	2,523,750,770
Transportation and Construction	67,517,284	348,922	67,866,206
Board of Library Commissioners	856		856
Education	112,822,395	57,036,000	169,858,395
Public Safety	336,669,494	24,857,257	361,526,751
Economic Affairs	17,208,046		17,208,046

Item			
Elder Affairs	30,000	7,500,000	7,530,000
Consumer Affairs	52,597,870	1,596,000	54,193,870
Labor	14,556,951		14,556,951
Legislature	483,618		483,618
Total, Non-Tax	4,050,608,636	645,330,398	4,695,939,034

**SECTION 1B.** Nontax Revenue Executive Office By Department Summary

	FY92 Unrestricted Non-tax	FY92 Restricted Non-tax	Total Non-tax
Judiciary			
Supreme Judicial Court	2,270,000		2,270,000
Appeals Court	270,133		270,133
Trial Court	<u>43,469,752</u>	<u>20,000,000</u>	<u>63,469,752</u>
Total, Judiciary	46,009,885	20,000,000	66,009,885
District Attorneys			
District Attorneys	<u>8,393,190</u>	<u>3,470,540</u>	<u>11,863,730</u>
Total, District Attorneys	8,393,190	3,470,540	11,863,730
Executive			
Governor's Office	<u>2,500</u>		<u>2,500</u>
Total, Executive	2,500		2,500
Secretary of the Commonwealth			
Secretary's Office	<u>25,747,406</u>		<u>25,747,406</u>
Total, Sec'y of the Comm.	24,499,406		25,747,406

Treasurer and Receiver General			
Office of the Treasurer	242,995,415	5,200,000	248,195,415
Lottery Commission	<u>284,947,889</u>	<u>312,570,000</u>	<u>597,517,889</u>
Total, Treas and Rec'r Gen	527,943,304	317,770,000	845,713,304
State Auditor			
State Auditor's Office	<u>27,357</u>		<u>27,357</u>
Total, State Auditor	27,357		27,357
Attorney General			
Attorney General's Office	<u>4,380,917</u>	<u>253,972</u>	<u>4,634,889</u>
Total, Attorney General	4,380,917	253,972	4,634,889
State Ethics Commission			
State Ethics Commission	<u>20,534</u>		<u>20,534</u>
Total, State Ethics Commission	20,534		20,534
Inspector General			
Inspector General	<u>565</u>		<u>565</u>
Total, Inspector General	565		565
Administration and Finance			
Administrative Law Appeals	95,000		95,000
George Fingold Library	7,000		7,000
Fiscal Affairs Division	36,704,928		36,704,928
Div. Cap Planning & Operations	19,015,192		19,015,192
Dept. of Employment Admin	92,690,591		92,690,591
Administration and Finance	250,191,666	10,642,902	260,834,568
Management Information Systems	3,000		3,000
Council on Arts & Humanities	1,169		1,169
Office of Handicapped Affairs	80,000		80,000

Department of Revenue	59,895,933		59,895,933
Civil Service Commission	436		436
Procurement/General Services	212,000		212,000
Appellate Tax Board	1,411,887		1,411,887
Office of the Comptroller	<u>2,000</u>		<u>2,000</u>
Total, Administration and Finance	460,310,802	10,642,902	470,953,704
Environmental Affairs			
Environ Quality Engineering	17,456,987	8,521,425	25,978,412
Fisheries and Wildlife	11,974,402	2,065,000	14,039,402
Dept of Food & Agriculture	1,644,036		1,644,036
Environmental Management	11,520,596		11,520,596
Environmental Affairs	<u>112,251</u>	<u>170,000</u>	<u>282,251</u>
Total, Environmental Affairs	42,708,272	10,756,425	53,464,697
Communities and Development			
Exec. Office Communities & Dev	<u>125,000</u>	<u>400,000</u>	<u>525,000</u>
Total, Communities and Development	125,000	400,000	525,000
Human Services			
Rate Setting Commission	10,460,000		10,460,000
Commission for the Blind	41,788,065	740,000	42,528,065
Rehabilitation Commission	19,721		19,721
Office for Children	50,000	960,000	1,010,000
Exec. Off. Health & Human Serv		6,000,000	6,000,000
Veterans' Services	300		300
Dept of Youth Services	3,043,200		3,043,200
Dept of Public Welfare	1,916,722,405	110,000,000	2,026,722,405
Dept of Public Health	9,975,923	62,321,188	72,297,111
Dept of Social Services	107,725,550		107,725,550
Dept of Mental Health	24,170,939		24,170,939
Dept of Mental Retardation	206,853,485	9,605,992	216,459,477

Comm Deaf & Hard of Hearing	404,200	71,200	475,400
Soldiers' Homes	<u>11,838,602</u>	<u>1,000,000</u>	<u>12,838,602</u>
Total, Human Services	2,333,052,390	190,698,380	2,523,750,770
Transportation and Construction			
Mass. Aeronautics Commission	57,927	320,573	378,500
Department of Public Works	67,023,545		67,023,545
Exec. Off. Trans & Const.	<u>435,812</u>	<u>28,349</u>	<u>464,161</u>
Total, Trans and Construction	67,517,284	348,922	67,866,206
Libraries			
Board of Library Commissioners	<u>856</u>		<u>856</u>
Total, Libraries	856		856
Education			
Higher Education	107,975,395	57,036,000	165,011,395
Elementary, Sec'dy & Occup	<u>4,847,000</u>		<u>4,847,000</u>
Total, Education	112,822,395	57,036,000	169,858,395
Public Safety			
Exec. Office Public Safety	4,211,781	12,103,000	16,314,781
Dept of Police	18,020,400	700,000	18,720,400
Dept of Public Safety	1,253,550		1,253,550
Registry of Motor Vehicles	310,801,900	11,604,257	322,406,157
Military Division	17,669	50,000	67,669
Civil Defense Agency	453,794	250,000	703,794
Governor's Highway Safety Bureau		150,000	150,000
Criminal Justice Training Council	400		400
Fire Fighting Academy	<u>1,910,000</u>		<u>1,910,000</u>
Total, Public Safety	336,669,494	24,857,257	361,526,751



Economic Affairs			
Banking, Energy, & Other	15,205,240		15,205,240
Executive Office Economic Affairs	2,000,000		2,000,000
Dept of Employment & Training	<u>2,806</u>		<u>2,806</u>
Total, Economic Affairs	17,208,046		17,208,046
Elder Affairs			
Executive Office Elder Affairs	<u>30,000</u>	<u>7,500,000</u>	<u>7,530,000</u>
Total, Elder Affairs	30,000	7,500,000	7,530,000
Consumer Affairs			
Insurance	16,200,750		16,200,750
Division of Registration	21,089,693		21,089,693
Department of Public Utilities	9,001,247	750,000	9,751,247
Other Consumer Affairs	6,147,460		6,147,460
Executive Office Consumer Affairs	<u>158,720</u>	<u>846,000</u>	<u>1,004,720</u>
Total, Consumer Affairs	52,597,870	1,596,000	54,193,870
Labor and Industries			
Executive Office of Labor	3,002		3,002
Other Labor	42,332		42,332
Dept of Industrial Accidents	13,023,804		13,023,804
Dept of Labor & Industries	<u>1,487,813</u>		<u>1,487,813</u>
Total, Labor and Industries	14,556,951		14,556,951
Legislature			
Joint Legislature	483,525		483,525
Senate	<u>93</u>		<u>93</u>
Total, Legislature	483,618		483,618
Total Non-Tax	4,050,608,636	645,330,398	4,695,939,034

## SECTION 2.

Item

### JUDICIARY.

*Notwithstanding the provisions of section one to the contrary, items 0320-0001 to 0339-2100 are charged as follows:*

<i>General Fund</i>	<i>25.0%</i>
<i>Local Aid Fund</i>	<i>75.0%</i>

#### *Supreme Judicial Court.*

0320-0001 For	the salaries, traveling allowances, and expenses of the chief justice and of the six associate justices	\$654,408
0320-0002 For	the expenses of the commission on the future of the courts	\$48,000
0320-0003 For	the salaries and expenses of the supreme judicial court; provided, that not less than one hundred and twenty-nine thousand dollars shall be available for the committee on gender equality	\$3,529,090
0320-0010 For	the salaries and expenses of the Suffolk county clerk	\$579,499
0321-0001 For	the expenses of the commission on judicial conduct	\$207,084
0321-0100 For	the service of the board of bar examiners	\$563,500

#### *Committee for Public Counsel Services.*

0321-1500 For	the committee for public counsel services as authorized by chapter two hundred and eleven D of the General Laws, including expenses for an audit and oversight unit; provided, that not less than two hundred and fifty thousand dollars be expended for a program of mental health legal advisors, as provided in section thirty-four E of chapter two hundred and twenty-one of the General Laws, including not more than two hundred and forty-four positions	\$11,557,818
0321-1510 For	the compensation of private counsel assigned under the provisions of subsection (b), section six of chapter two hundred and eleven D of the General Laws, pursuant to section twelve of said chapter two hundred and eleven D of the General Laws including prior years' expenses	\$30,000,000
0321-1520 For	all fees and costs, as defined in section twenty-seven A of chapter two hundred and sixty-one of the General Laws, including prior years' expenses ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on behalf of indigent persons, as defined in said section twenty-seven A of said chapter two hundred and sixty-one	\$4,436,377
0321-1600 For	the Massachusetts Legal Assistance Corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth; provided, that not less than one million seventy thousand three hundred and fourteen dollars shall be obligated for a disability representation project; provided further, that not less than four hundred eighty-nine thousand seven hundred and fifty-nine dollars shall be obligated for a medicare advocacy project; provided further, that not less than three hundred sixty-three thousand five hundred and sixty-eight	

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	dollars shall be obligated for an asylum representation project; provided further, that the first paragraph of section nine of chapter two hundred and twenty-one A of the General Laws shall not apply to these programs; and provided further, that said corporation may contract with any organization for the purpose of providing said representation	\$1,923,641
0321-2100 For	a correctional legal services committee	\$336,719
0321-2205 For	expenses of the social law library located in Suffolk county; provided, that not less than one hundred ninety-two thousand dollars be made available for computerized legal research	\$880,800
	<i>Appeals Court.</i>	
0322-0001 For	the salaries and expenses of the appeals court, including the salaries, traveling allowances and expenses of the chief justice and the thirteen associate justices	\$3,598,000
	<i>Trial Court.</i>	
0330-0100 For	the salaries of the justices of the trial court; notwithstanding this item, the justices of the trial court shall continue their commission of appointment to a specific division within a department or to a department according to the terms of said commissions; provided, that nothing herein shall be construed to limit the authority of the chief administrative justice as enumerated in chapter two hundred and eleven B of the General Laws, including not more than three hundred and twenty positions	\$18,878,592
0330-0300 For	the salaries and expenses of the administrative staff, including not more than one hundred and four positions	\$2,353,977
0330-0400 For	non-employee services performed by private individuals and contracted services performed by agencies and consultants, including services performed by court stenographers, for the individual court divisions of the trial court to be expended as determined by the chief administrative justice	\$5,230,063
0330-0600 For	dental and optical health plan trust agreements	\$574,506
0330-1000 For	payments of expenses of juries	\$2,362,674
0330-2000 For	salaries and expenses of certain law libraries, including not more than thirty positions	\$1,931,220
0330-2010 For	expenses related to computerized legal research	\$107,787
0330-2020 For	centralized law book purchases	\$282,433
0330-2200 For	the rental of court facilities, in accordance with section four of chapter twenty-nine A of the General Laws; provided, that all payments made hereunder shall be pursuant to written leases; provided further, that quarterly payments shall be made to counties equal to an amount which is at least ninety percent of the amount owed to such county for such rent per quarter of the preceding fiscal year, subject to reconciliation based on accurate cost data in the fourth quarter or in the succeeding fiscal year; provided further, that payments to any county which fails to submit required cost data by the beginning of the third quarter of the fiscal year, shall be withheld until such data is submitted to the chief administrative justice of the trial court and approved as accurate; provided further, that such cost data shall be also filed with the house and senate committees on ways and means; provided further, that every county which receives funds under this item shall maintain such funds in a separate account which shall be used solely for the maintenance of the rented facilities; provided further, that all rents paid to the counties shall be expended for	

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	courthouse maintenance costs in each county; and provided further, that each county advisory board, upon receipt of the proposed budget by the county commissioners, shall have final approval of all expenditures under this item	\$25,953,035
0330-2205 For	expenses to maintain and operate courthouse facilities owned by the commonwealth, including not more than two hundred and seventy-six positions	\$6,915,826
0330-2300 For	payments of witness fees	\$483,234
0330-2410 For	the salaries and expenses of the judicial training institute, including not more than five positions	\$282,050
0330-2500 For	clerical assistance for the divisions of the trial court, including not more than ten positions	\$54,239
0330-2600 For	travel expenses of judicial personnel; provided, that the chief administrative justice of the trial court shall promulgate rules and regulations for the criteria governing the selection of justices for travel outside of the state for the purpose of judicial training; and provided further, that such rules and regulations shall provide criteria such that newly appointed justices shall be given first priority for such training	\$718,031
0330-2700 For	printing expenses	\$1,151,920
0330-2800 For	repairs of equipment	\$1,819,078
0330-3000 For	the purchase and rentals of equipment in the trial court, to be allocated by the chief administrative justice; provided, that in purchasing said equipment, the chief administrative justice shall utilize the approved vendor determined by the state purchasing agent for such equipment whenever the terms offered by such vendor are more favorable than those otherwise available	\$562,432
0330-3200 For	the payment of salaries and expenses of superior court officers; provided, that any court officer scheduled to work nineteen hundred and fifty hours, or more, in fiscal year nineteen hundred and ninety-one shall be considered a full-time court officer for fiscal year nineteen hundred and ninety-two; and provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements, including not more than four hundred and nine positions	\$11,254,490
0330-3300 For	the payment of office, administrative, special, and maintenance and repair expenses in the trial court, to be allocated by the chief administrative justice	\$598,620
0330-3700 For	salaries and expenses of the Court Interpreter Program, including not more than four positions	\$103,566
0330-4000 Notwithstanding	the provisions of chapter five hundred and six of the acts of nineteen hundred and ninety, the chief administrative justice of the trial court is hereby authorized to expend an amount not to exceed twenty million dollars collected from the Custodial Passbook Program, so-called, including the costs of personnel	\$20,000,000

*Superior Court.*

*For Salaries and Expenses.*

0331-0100 For	salaries and expenses of the administrative office of the superior court department, including not more than one hundred and twenty-six positions	\$3,332,592
0331-0300 For	payments to be made by the administrative justice of the superior court to medical malpractice tribunals established	

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	in accordance with the provisions of section sixty B of chapter two hundred and thirty-one of the General Laws	\$71,223
0331-0600	For the expenses of superior court probation services, including not more than two hundred and forty positions	\$6,363,129
0331-2100	Barnstable superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than seven positions	\$198,475
0331-2200	Berkshire superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than seven positions	\$191,317
0331-2300	Bristol superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than thirty-three positions	\$747,180
0331-2400	Dukes superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than two positions	\$94,224
0331-2500	Essex superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than forty positions	\$1,063,307
0331-2600	Franklin superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative	

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	management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than six positions	\$176,199
0331-2700	Hampden superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than thirty-seven positions	\$1,005,891
0331-2800	Hampshire superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than eight positions	\$271,843
0331-2900	Middlesex superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than ninety-seven positions	\$2,630,131
0331-3000	Nantucket superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than two positions	\$75,246
0331-3100	Norfolk superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than thirty-eight positions	\$988,060
0331-3200	Plymouth superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the	

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	administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than thirty-six positions	\$831,687
0331-3300	Suffolk superior civil court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than one hundred and twenty-three positions	\$2,822,999
0331-3400	Suffolk superior criminal court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than sixty-nine positions	\$1,724,109
0331-3500	Worcester superior court; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management, including not more than forty-five positions	\$1,138,670
<i>District Courts.</i>		
<i>For Salaries and Expenses.</i>		
0332-0100	For the salaries and expenses of the administrative office of the district court department, including not more than forty-nine positions	\$1,306,582
0332-1100	First district court of Barnstable, including not more than fifty-two positions	\$1,337,828
0332-1200	Second district court of Barnstable (Orleans), including not more than twenty-five positions	\$696,492
0332-1300	District court of northern Berkshire (Adams, North Adams, Williamstown), including not more than fifteen positions	\$481,543
0332-1400	District court of central Berkshire (Pittsfield), including not more than twenty-six positions	\$808,958
0332-1500	District court of southern Berkshire (Great Barrington, Lee), including not more than eleven positions	\$232,291
0332-1600	First district court of Bristol (Taunton), including not more than thirty-three positions	\$920,756
0332-1700	Second district court of Bristol (Fall River), including not more than fifty-six positions	\$1,424,573
0332-1800	Third district court of Bristol (New Bedford), including not more than fifty-nine positions	\$1,546,363

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0332-1900 Fourth district court of Bristol (Attleboro), including not more than twenty-six positions	\$644,284
0332-2000 District court of Edgartown, including not more than nine positions	\$245,484
0332-2100 First district court of Essex (Salem), including not more than fifty positions	\$1,293,031
0332-2300 Third district court of Essex (Ipswich), including not more than six positions	\$179,801
0332-2400 Central district court of northern Essex (Haverhill), including not more than thirty-seven positions	\$1,050,428
0332-2500 District court of eastern Essex (Gloucester), including not more than twenty-three positions	\$586,446
0332-2600 District court of Lawrence, including not more than sixty-seven positions	\$1,892,105
0332-2700 District court of southern Essex (Lynn), including not more than fifty-six positions	\$1,603,607
0332-2800 District court of Newburyport, including not more than thirty positions	\$784,694
0332-2900 District court of Peabody, including not more than twenty-nine positions	\$866,129
0332-3000 District court of Greenfield, including not more than twenty-four positions	\$568,125
0332-3100 District court of Orange, including not more than twelve positions	\$252,570
0332-3200 District court of Chicopee, including not more than twenty-four positions	\$640,150
0332-3300 District court of Holyoke, including not more than twenty-six positions	\$619,763
0332-3400 District court of eastern Hampden (Palmer), including not more than seventeen positions	\$510,829
0332-3500 District court of Springfield, including not more than one hundred and fifteen positions	\$2,834,855
0332-3600 District court of western Hampden (Westfield), including not more than twenty-one positions	\$451,719
0332-3700 District court of Hampshire (Northampton); provided that, of the amount appropriated herein, forty thousand dollars shall be expended for an alternative probation program "Honor Court", so called, including not more than forty-four positions	\$1,255,672
0332-3800 District court of eastern Hampshire (Ware), including not more than ten positions	\$322,021
0332-3900 District court of Lowell, including not more than eighty-nine positions	\$2,404,033
0332-4000 District court of Somerville, including not more than sixty-seven positions	\$1,642,107
0332-4100 District court of Newton, including not more than twenty-eight positions	\$805,608
0332-4200 District court of Marlborough, including not more than twenty-six positions	\$759,131
0332-4300 District court of Natick, including not more than twenty positions	\$573,091
0332-4400 District court of eastern Middlesex (Malden), including not more than sixty-three positions	\$1,739,892
0332-4500 Second district court of eastern Middlesex (Waltham), including not more than forty-two positions	\$1,034,264
0332-4600 Third district court of eastern Middlesex (Cambridge), including not more than one hundred and seven positions	\$2,751,904
0332-4700 Fourth district court of eastern Middlesex (Woburn), including not more than fifty-nine positions	\$1,586,366
0332-4800 First district court of northern Middlesex (Ayer), including not more than thirty-four positions	\$1,004,557
0332-4900 First district court of southern Middlesex (Framingham), including not more than sixty-seven positions	\$1,466,481
0332-5000 District court of central Middlesex (Concord), including not more than forty-one positions	\$1,087,760
0332-5100 District court of Nantucket, including not more than eight positions	\$151,271
0332-5200 District court of northern Norfolk (Dedham), including not more than fifty-seven positions	\$1,429,305



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0332-5300 District court of east Norfolk (Quincy), including not more than one hundred and twenty-three positions	\$3,121,734
0332-5400 District court of western Norfolk (Wrentham), including not more than thirty-seven positions	\$993,038
0332-5500 District court of southern Norfolk, including not more than forty-six positions	\$1,181,790
0332-5600 Municipal court of Brookline, including not more than twenty-four positions	\$606,886
0332-5700 District court of Brockton, including not more than eighty-six positions	\$2,605,451
0332-5800 Second district court of Plymouth (Hingham), including not more than forty-four positions	\$1,225,330
0332-5900 Third district court of Plymouth (Plymouth), including not more than forty-five positions	\$1,166,328
0332-6000 Fourth district court of Plymouth (Wareham), including not more than thirty-six positions	\$1,057,290
0332-6100 District court of Brighton, including not more than thirty-five positions	\$979,086
0332-6200 District court of Charlestown, including not more than eighteen positions	\$648,568
0332-6300 District court of Chelsea, including not more than forty-eight positions	\$1,384,924
0332-6400 District court of Dorchester, including not more than one hundred and eighteen positions	\$3,410,662
0332-6500 District court of East Boston, including not more than forty-seven positions	\$1,187,255
0332-6600 District court of Roxbury, including not more than one hundred and eighteen positions	\$2,984,053
0332-6700 District court of South Boston, including not more than twenty-four positions	\$762,107
0332-6800 District court of West Roxbury, including not more than forty-seven positions	\$1,255,022
0332-6900 Central district court of Worcester, including not more than one hundred and five positions	\$2,384,342
0332-7000 District court of Fitchburg, including not more than twenty-nine positions	\$682,563
0332-7100 District court of Leominster, including not more than fourteen positions	\$349,908
0332-7200 District court of Winchendon, including not more than three positions	\$125,947
0332-7300 First district court of northern Worcester (Gardner), including not more than twenty-five positions	\$655,438
0332-7400 First district court of eastern Worcester (Westborough), including not more than thirty-one positions	\$839,525
0332-7500 Second district court of eastern Worcester (Clinton), including not more than sixteen positions	\$380,599
0332-7600 First district court of southern Worcester (Dudley), including not more than twenty-seven positions	\$758,254
0332-7700 Second district court of southern Worcester (Uxbridge), including not more than eighteen positions	\$393,759
0332-7800 Third district court of southern Worcester (Milford), including not more than twenty-three positions	\$606,230
0332-7900 District court of western Worcester (Spencer), including not more than fourteen positions	\$352,587

*Probate and Family Court Department.*

*For Salaries and Expenses.*

0333-0002 For the salaries and expenses of the administrative office, including not more than twelve positions	\$1,092,112
0333-0100 Barnstable probate court, including not more than twenty-four positions	\$437,826
0333-0200 Berkshire probate court, including not more than fifteen positions	\$366,988
0333-0300 Bristol probate court, including not more than forty-six positions	\$1,004,173
0333-0400 Dukes probate court, including not more than three positions	\$99,942

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0333-0500 Essex probate court, including not more than fifty-six positions	\$1,236,769
0333-0600 Franklin probate court, including not more than eleven positions	\$245,253
0333-0700 Hampden probate court, including not more than fifty-nine positions	\$1,170,404
0333-0800 Hampshire probate court, including not more than nineteen positions	\$337,094
0333-0900 Middlesex probate court, including not more than one hundred and fifteen positions	\$2,184,704
0333-0911 For the family services clinic of the Middlesex probate court, including not more than six positions	\$154,099
0333-1000 Nantucket probate court, including not more than two positions	\$78,742
0333-1100 Norfolk probate court, including not more than seventy-three positions	\$1,441,435
0333-1111 For the family services clinic of the Norfolk probate court, including not more than five positions	\$84,015
0333-1200 Plymouth probate court, including not more than fifty-three positions	\$1,101,659
0333-1300 Suffolk probate court, including not more than ninety-five positions	\$1,679,295
0333-1400 Worcester probate court, including not more than fifty-five positions	\$1,194,461
<i>Land Court.</i>	
0334-0001 For the salaries and expenses of the office of the land court, including not more than seventy-eight positions	\$1,861,170
<i>Boston Municipal Court.</i>	
0335-0001 For salaries and expenses of the Boston municipal court, including not more than one hundred and eighty-five positions	\$5,453,691
<i>Housing Court.</i>	
<i>For Salaries and Expenses.</i>	
0336-0002 For the salaries and expenses of the administrative office, including not more than three positions	\$100,000
0336-0100 Boston housing court, including not more than twenty-eight positions	\$701,803
0336-0200 Hampden housing court, including not more than thirteen positions	\$350,000
0336-0300 Worcester housing court, including not more than eleven positions	\$350,000
0336-0400 Southeastern housing court, including not more than eleven positions	\$300,000
0336-0500 Northeastern housing court, including not more than eleven positions	\$300,000
<i>Juvenile Court.</i>	
<i>For Salaries and Expenses.</i>	
0337-0002 For the salaries and expenses of the administrative office, including not more than seventeen positions	\$434,631
0337-0100 Boston juvenile court, including not more than one hundred and three positions	\$3,321,925
0337-0200 Bristol juvenile court, including not more than forty-eight positions	\$1,347,277
0337-0300 Springfield juvenile court, including not more than thirty-two positions	\$994,064
0337-0400 Worcester juvenile court, including not more than twenty-six positions	\$961,613

## Item

*Committee on Probation.*

0339-1001 For	the office of the commissioner of probation, including not more than one hundred and thirty positions	\$3,537,051
0339-2100 For	the administration of juror selection and management, in accordance with chapter two hundred and thirty-four A of the General Laws, including jury expenses, including not more than twenty-five positions	\$1,443,691

## DISTRICT ATTORNEYS.

*Notwithstanding the provisions of section one to the 0340-0100 to 0340-2100, excluding items 0340-0130, 0340-0135, 0340-0230, 0340-0235, 0340-0330, 0340-0335, 0340-0430, 0340-0435, 0340-0530, 0340-0535, 0340-0630, 0340-0635, 0340-0730, 0340-0735, 0340-0830, 0340-0835, 0340-0930, 0340-0935, 0340-1030, 0340-1035, 0340-1130 and 0340-1135 are charged as follows:*

General Fund	25.0%
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Local Aid	75.0%
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*For the salaries and expenses of district attorneys and assistants for the eleven districts:*

0340-0100 Suffolk,	including not more than one hundred and ninety positions	\$6,468,829
0340-0130 For	the victim and witness assistance program of the Suffolk District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$536,478
	Victim and Witness Assistance Fund	100.0%
0340-0135 For	the salaries and expenses of the Suffolk District Attorney's child abuse litigation unit	\$203,856
	Victim and Witness Assistance Fund	100.0%
0340-0140 For	overtime of state police officers assigned to the Suffolk District Attorney's office, to be in addition to any other funds available for this purpose	\$88,049
0340-0200 Northern,	including not more than one hundred and fifty-eight positions	\$4,760,629
0340-0230 For	the victim and witness assistance program of the Northern District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$589,191
	Victim and Witness Assistance Fund	100.0%
0340-0235 For	the salaries and expenses of the Northern District Attorney's child abuse litigation unit	\$213,620
	Victim and Witness Assistance Fund	100.0%
0340-0240 For	overtime of state police officers assigned to the Northern District Attorney's office, to be in addition to any other funds available for this purpose	\$209,741
0340-0300 Eastern,	including not more than eighty-seven positions	\$2,934,515
0340-0330 For	the victim and witness assistance program of the Eastern District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$466,336
	Victim and Witness Assistance Fund	100.0%

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0340-0335 For	the salaries and expenses of the Eastern District Attorney's child abuse litigation unit	\$109,119
	Victim and Witness Assistance Fund	100.0%
0340-0340 For	overtime of state police officers assigned to the Eastern District Attorney's office, to be in addition to any other funds available for this purpose	\$245,856
0340-0400 Middle,	including not more than eighty-seven positions	\$3,395,189
0340-0430 For	the victim and witness assistance program of the Middle District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$341,395
	Victim and Witness Assistance Fund	100.0%
0340-0435 For	the salaries and expenses of the Middle District Attorney's child abuse litigation unit	\$163,293
	Victim and Witness Assistance Fund	100.0%
0340-0450 For	overtime of state police officers assigned to the Middle District Attorney's office, to be in addition to any other funds available for this purpose	\$259,704
0340-0500 Hampden,	including not more than seventy-one positions	\$2,246,126
0340-0530 For	the victim and witness assistance program of the Hampden District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$409,504
	Victim and Witness Assistance Fund	100.0%
0340-0535 For	the salaries and expenses of the Hampden District Attorney's child abuse litigation unit	\$145,119
	Victim and Witness Assistance Fund	100.0%
0340-0560 For	overtime of state police officers assigned to the Hampden District Attorney's office, to be in addition to any other funds available for this purpose	\$89,823
0340-0600 Northwestern,	including not more than thirty-six positions	\$1,443,775
0340-0630 For	the victim and witness assistance program of the Northwestern District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$326,663
	Victim and Witness Assistance Fund	100.0%
0340-0635 For	the salaries and expenses of the Northwestern District Attorney's child abuse litigation unit	\$50,524
	Victim and Witness Assistance Fund	100.0%
0340-0670 For	overtime of state police officers assigned to the Northwestern District Attorney's office, to be in addition to any other funds available for this purpose	\$100,316
0340-0700 Norfolk,	including not more than seventy-four positions	\$2,825,363
0340-0730 For	the victim and witness assistance program of the Norfolk District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation	\$404,822

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	Victim and Witness Assistance Fund	100.0%	
0340-0735 For	the salaries and expenses of the Norfolk District Attorney's child abuse litigation unit		\$72,677
	Victim and Witness Assistance Fund	100.0%	
0340-0780 For	overtime of state police officers assigned to the Norfolk District Attorney's office, to be in addition to any other funds available for this purpose		\$190,774
0340-0800	Plymouth, including not more than sixty-seven positions		\$2,092,730
0340-0830 For	the victim and witness assistance program of the Plymouth District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation		\$378,273
	Victim and Witness Assistance Fund	100.0%	
0340-0835 For	the salaries and expenses of the Plymouth District Attorney's child abuse litigation unit		\$118,954
	Victim and Witness Assistance Fund	100.0%	
0340-0890 For	overtime of state police officers assigned to the Plymouth District Attorney's office, to be in addition to any other funds available for this purpose		\$189,246
0340-0900	Bristol, including not more than sixty positions		\$2,413,640
0340-0930 For	the victim and witness assistance program of the Bristol District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation		\$434,294
	Victim and Witness Assistance Fund	100.0%	
0340-0935 For	the salaries and expenses of the Bristol District Attorney's child abuse litigation unit		\$122,550
	Victim and Witness Assistance Fund	100.0%	
0340-0940 For	overtime of state police officers assigned to the Bristol District Attorney's office, to be in addition to any other funds available for this purpose		\$152,172
0340-1000	Cape and Islands, including not more than twenty-four positions		\$1,026,266
0340-1030 For	the victim and witness assistance program of the Cape and Islands District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation		\$287,281
	Victim and Witness Assistance Fund	100.0%	
0340-1035 For	the salaries and expenses of the Cape and Islands District Attorney's child abuse litigation unit		\$43,153
	Victim and Witness Assistance Fund	100.0%	
0340-1040 For	overtime of state police officers assigned to the Cape and Islands District Attorney's office, to be in addition to any other funds available for this purpose		\$156,974
0340-1100	Berkshire, including not more than twenty-two positions		\$839,280
0340-1130 For	the victim and witness assistance program of the Berkshire District Attorney's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for		

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	litigation		\$271,174
	Victim and Witness Assistance Fund	100.0%	
0340-1135 For	the salaries and expenses of the Berkshire District Attorney's child abuse litigation unit		\$35,928
	Victim and Witness Assistance Fund	100.0%	
0340-1140 For	overtime of state police officers assigned to the Berkshire District Attorney's office, to be in addition to any other funds available for this purpose		\$70,710
0340-2100 For	a reserve for the implementation and related expenses of the prosecution management information system (PROMIS); provided, that funds may be transferred from this item to other items of appropriation; provided further, that the house and senate committees on ways and means shall be notified in writing of all transfers made from this line item; provided further, that a report detailing all past expenditures from this fund, the automation status of each district attorney's office, and a proposed plan for any further automation improvements, shall be forwarded to the house and senate committees on ways and means on or before October first, nineteen hundred and ninety-one; and provided further, that expenses may be charged directly to this item, including not more than two positions		\$971,921
	EXECUTIVE.		
	Governor.		
0411-1000 For	the salaries and expenses of the governor and lieutenant governor and officers and employees in the governor's office and lieutenant governor's office		\$3,499,296
	Governor's Council.		
0413-1000 For	the salaries and personal services of the council pursuant to sections three, four, and seven of chapter six of the General Laws		\$88,453
0413-1001 For	the salaries and expenses of the administrative office pursuant to sections six and six A of chapter six of the General Laws		\$148,323
	SECRETARY OF THE COMMONWEALTH.		
0511-0000 For	the office of the secretary; provided, that the positions of director of administrative services, assistant supervisor of public records and the director and assistant director of the bilingual information center shall not be subject to the provisions of chapter thirty-one of the General Laws; provided further, that said positions shall be compensated from this item of appropriation; provided further, that seventy-two thousand dollars shall be expended for an ongoing review of corporation annual statements by the corporations division within the office of the secretary, including the costs of personnel; provided further, that one hundred thousand dollars shall be expended for the costs of notifying corporations of their obligation to file annual statements of condition with the office of the secretary of state; provided further, that one hundred and ninety-two thousand dollars shall be expended for the purposes of maintaining a computerized corporate library; provided further, that the secretary shall file quarterly reports detailing the source and amount of revenue generated by each division within the secretary's office with the house and senate		

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	committees on ways and means		\$5,428,564
0511-0200 For	the administration of the Archives Division		\$440,000
0511-0230 For	the expenses of the Record Center		\$155,266
0511-0250 For	the maintenance and operation of the Archives Facilities		\$572,988
0511-0260 For	the administration of the Commonwealth Museum		\$220,077
0517-0000 For	the expense of printing various documents, including a public register listing all notices of contractual opportunities offered by any public agency or authority of the commonwealth; provided further, that one million dollars shall be expended for the costs of printing said documents, including materials, supplies and equipment; provided further, that the secretary shall file quarterly reports detailing revenue generated from the sale of said publications with the house and senate committees on ways and means		\$1,288,055
0521-0000 For	preparing, printing and distributing ballots and other miscellaneous expenses for primary and other elections; provided, that the position of counsel II compensated from this item of appropriation shall not be subject to the provisions of chapter thirty-one of the General Laws		\$3,000,000
	Local Aid Fund	20.0%	
	General Fund	80.0%	
0524-0000 For	the expenses of compiling and publishing information to voters		\$35,000
	Local Aid Fund	100.0%	
	<i>Massachusetts Historical Commission.</i>		
0526-0100 For	the administration of the commission		\$543,918
	<i>Ballot Law Commission.</i>		
0527-0100 For	the compensation and expenses of the commissioners		\$19,757
	<i>Records Conservation Board.</i>		
0528-0100 For	the expenses of the board		\$26,421
	TREASURER AND RECEIVER-GENERAL.		
0610-0000 For	the office of the treasurer and receiver-general; provided, that not more than four million two hundred and twenty-four thousand dollars of the amount appropriated herein shall be expended for the payment of bank fees provided further, that the General Fund shall be reimbursed for the amount of this appropriation pursuant to subdivision two of section twenty-one of chapter thirty-two of the General Laws as certified by the pension reserves investment management board		\$11,774,684
0610-1500 For	tuition payments as required by section twelve B of chapter seventy-six of the General Laws, as amended by section twenty-three of chapter six of the acts of nineteen hundred and ninety-one; provided that notwithstanding the provisions of chapter twenty-nine of the General Laws to the contrary, the state treasurer is hereby authorized		

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	to expend in anticipation of revenue such amounts as are necessary to meet such payments; and provided further, that the state treasurer shall deduct the amount expended from this account from item 7061-0008, in accordance with section 304 of this act.	
0611-1000 For	bonus payments to war veterans	\$35,894
0611-5000 For	compensation to victims of violent crimes; provided, that notwithstanding the provisions of section five of chapter two hundred and fifty-eight A of the General Laws, if claimant is sixty years of age or older at the time of the crime, and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with this chapter even if the claimant has suffered no out-of-pocket loss; provided further, that compensation to such claimant shall be limited to a maximum of fifty dollars; provided further, that, notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including, but not limited to, the provisions outlined in section five of chapter two hundred and fifty-eight A of the General Laws; provided further, that no funds appropriated under this item shall be expended for acute hospital services; including prior year expenses	\$2,454,843
	Victim and Witness Assistance Fund	21.79%
	General Fund	78.21%
0611-5500 For	additional assistance to cities and towns, to be distributed according to the provisions of section three of this act, and for assistance to certain public entities of the commonwealth which have constructed abatement facilities; provided, however, that the said distribution to said public entities shall equal one million, two hundred forty-nine thousand, nine hundred and forty-seven dollars	\$477,565,226
	Local Aid Fund	100.0%
0611-5800 For	distribution to each city and town within which racing meetings are conducted; provided, that each city or town's distribution shall be proportionate to its share of the amount certified by the state racing commission, pursuant to section eighteen D of chapter fifty-eight of the General Laws, at the end of the calendar year nineteen hundred and ninety-one; and provided further, that no city or town shall receive more than the amount so certified for that city or town	\$1,055,746
	Local Aid Fund	100.0%
<i>State Board of Retirement.</i>		
0612-0100 For	the administration of the board; provided, that the position of executive secretary of the retirement board shall not be subject to the provisions of chapter thirty-one of the General Laws; provided that the General Fund shall be reimbursed for the amount of this appropriation pursuant to clause (a) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws, as amended by this act	\$1,856,549
0612-1010 For	the commonwealth's pension liability fund established under section twenty-two of chapter thirty-two of the General Laws, to meet the commonwealth's obligations under section twenty-two C of said chapter thirty-two, including all	



retirement benefits payable by the state employees' and the state teachers' retirement systems, reimbursement of local retirement systems for cost-of-living adjustments pursuant to section one hundred and two of said chapter thirty-two, and for the costs of increased survivor benefits pursuant to chapter three hundred and eighty-nine of the acts of nineteen hundred and eighty-four; provided further, that subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county, or district shall verify the cost thereof and the treasurer shall be authorized to make such payments upon a transfer of funds as hereinafter provided; to reimburse certain cities and towns for pensions to retired teachers; and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems; and including the commonwealth's share of the amounts to be appropriated pursuant to section twenty-two B of said chapter thirty-two and the amounts to be appropriated pursuant to clause (a) of the last paragraph of section twenty-one of chapter one hundred and thirty-eight of the General Laws; provided further, that all payments for the purposes hereinbefore described shall be made only pursuant to distribution of monies from said fund, provided that any such distribution and the payments for which distributions are required shall be detailed in a written report filed not less frequently than on a quarterly basis by the commissioner of administration with the house and senate committees on ways and means and the joint committee on public service in advance of such distribution; provided further, that such distributions shall not be made in advance of the date on which any payment is actually to be made; provided further, that the governor shall request a supplemental appropriation in the amount necessary to provide any amount required to be paid hereunder which is in excess of the sum of the amount herein appropriated and the amounts so recovered, and the amount of any such excess shall not be distributed from the commonwealth's pension liability fund nor paid from any other source until such appropriation has been made, and the amounts so appropriated shall be deposited in said fund and distributed therefrom in accordance with the provisions of this item; provided further, that the treasurer shall submit a report by November fifteenth, nineteen hundred and ninety-one to the house and senate committees on ways and means detailing all retirement benefits paid to the members of the state employees' and teachers' retirement systems, the reimbursement of local retirement systems for cost-of-living adjustments and for the costs of increased survivor benefits during fiscal year nineteen hundred and ninety-one, provided further, that said report shall also include pursuant to section twenty-two of said chapter thirty-two the source and amount of revenue remitted to the commonwealth's pension liability fund during fiscal year nineteen hundred and ninety-one; provided further, that any request for distribution from said fund shall not in excess of the amount necessary to provide sufficient monies to make all payments for the purposes hereinbefore described; provided further, that no funds may be expended from this item, other than deposits to the commonwealth's pension liability fund

\$724,000,000

Local Aid Fund	59.0%
General Fund	33.9%
Highway Fund	7.0%

## Item

	Inland Fisheries and Game Fund	0.1%	
0612-1507 For	the cost of the commonwealth's obligation to assume book to market losses, pursuant to paragraph (c) of subdivision (3) of section twenty-two of chapter thirty-two of the General Laws for the fiscal year ending June thirtieth, nineteen hundred and ninety-two; provided that the public employee retirement administration shall certify said losses and shall file a schedule of said losses with the secretary of administration and finance and the house and senate committees on ways and means		\$272,304
	Local Aid Fund	100.0%	
0612-2000 For	the authorization of retirement benefits pursuant to chapters seven hundred and twelve and seven hundred and twenty-one of the acts of nineteen hundred and eighty-one, chapter one hundred and fifty-four of the acts of nineteen hundred and eighty-three; chapter sixty-seven of the acts of nineteen hundred and eighty-eight, and chapter six hundred and twenty-one of the acts of nineteen hundred and eighty-nine; for the compensation of veterans who may be retired by the state board of retirement, including individuals formerly in the service of the division of employment security whose compensation for such service was paid in full from a grant from the federal government, and for the cost of medical examinations in connection therewith; and for pensions of retired judges or their widows; for retirement allowances of certain employees formerly in the service of the administrative division of the metropolitan district commission; for retirement allowances of certain veterans and police officers formerly in the service of the metropolitan district commission; for retirement allowances of certain veterans formerly in the service of the metropolitan sewerage district; for retirement allowances of certain veterans formerly in the service of the metropolitan water system; and for annuities for widows of certain former members of the uniformed branch of the state police		\$22,598,833
	Highway Fund	17.8%	
	General Fund	82.2%	
0612-2001 The	state treasurer may retain revenues in an amount not to exceed two hundred thousand dollars for expenditure for the purposes of item 0612-2000 of this act		\$200,000
	<i>Commission on Firemen's Relief.</i>		
0620-0000 For	the expenses of administration and for relief disbursed by the commissioner		\$9,808
	<i>Emergency Finance Board.</i>		
0630-0000 For	the administration of the board; provided, that, notwithstanding the provisions of any general or special law to the contrary, no employee of the department of revenue shall receive any reimbursement for services from this account		\$66,500
	<i>State Lottery Commission.</i>		
0640-0000 For	the expenses of the operation and administration of the state lottery and arts lottery; provided, that twenty-five percent of this appropriation shall be transferred from the State Lottery Fund to the General Fund quarterly; provided further,		

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	that all the positions in this item shall not be subject to chapters thirty and thirty-one of the General Laws; provided further, that the director shall, so far as practicable in making appointments to such positions, promote employees of the commonwealth serving in positions which are classified under said chapter thirty-one and that any such employee so promoted from a position in which at the time of promotion he has tenure by reason of section nine A of chapter thirty of the General Laws shall, upon termination of his service in such unclassified supervisory position, be restored upon his request to the classified position from which he was promoted or to a position equivalent thereto in salary grade in the same state agency, without impairment of his civil service status or his tenure by reason of said section nine A or loss of seniority, retirement and other rights to which uninterrupted service in the classified position would have entitled him; and provided further, however, that if his service in such unclassified supervisory position is terminated for cause, his right to be so restored shall be determined by the civil service commission in accordance with the standards applied by said commission in administering said chapter thirty-one	\$66,557,981
0640-0001	The state lottery commission is hereby authorized to expend revenues collected up to a maximum of two million dollars from the proceeds of all lottery operations for the cost of upgrading the lottery's on-line central computer system and maximizing sales of lottery games	\$2,000,000
<i>Collective Bargaining.</i>		
0640-0096	For the purpose of the commonwealth's fiscal year nineteen hundred and ninety-two contributions to the health and welfare fund established pursuant to the collective bargaining agreement between the lottery commission and the Service Employees International Union, Local 254, AFL-CIO; provided, that said contributions shall be paid to such trust fund on such basis as said collective bargaining agreement provides	\$116,360
<i>Massachusetts Cultural Council.</i>		
0640-0300	For the administration of the council; provided further, that any funds expended from this account for the benefit of school children shall be expended for the benefit of all Massachusetts school children and on the same terms and conditions	\$587,543
0640-2003	Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts cultural council may expend not more than three million dollars, including the amount otherwise made available under clause (a) of section fifty-seven of chapter ten of the General Laws, which the state comptroller is hereby authorized to transfer from the Arts Lottery Fund to the General Fund to be expended for the purposes of the council as provided in sections fifty-two to fifty-eight, inclusive, of chapter ten in such amounts and at such times as the council may determine pursuant to section fifty-four of chapter ten of the General Laws; provided however, that any funds expended from this account for the benefit of school children shall be expended for the benefit of all Massachusetts school children and on the same terms and conditions	\$3,000,000
<i>Debt Service.</i>		
0699-0090	For debt service associated with the Dedicated Income Tax Bonds, Fiscal Recovery Loan, Act of 1990	\$271,265,000

Item			
	Commonwealth Fiscal Recovery Fund	100.0%	
0699-0100 For	payments related to bonds issued pursuant to chapter one hundred and fifty-one of the acts of nineteen hundred and ninety due under agreements entered into pursuant to section thirty-eight C of chapter twenty-nine of the General Laws		\$6,600,000
0699-1800 For	the payment of interest on certain bonded debt of the commonwealth previously charged to the State Recreation Areas Fund; for the payment of interest on certain bonded debt of the commonwealth previously charged to the Metropolitan Parks District Fund; for payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the Local Aid Fund		\$54,567,240
	Local Aid Fund	100.0%	
0699-1801 For	the payment of discount on the sale of bonds of the commonwealth previously charged to the State Recreation Areas Fund; for the payment of discount on the sale of bonds of the commonwealth previously charged to the Metropolitan Parks District Fund; for payment of discount on the sale of bonds of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Local Aid Fund		\$3,357,401
	Local Aid Fund	100.0%	
0699-1900 For	certain serial bonds maturing previously charged to the State Recreation Areas Fund; for certain serial bonds maturing previously charged to the Metropolitan Parks District Fund; for certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Local Aid Fund		\$19,225,293
	Local Aid Fund	100.0%	
0699-3800 For	the payment of interest on certain bonded debt of the commonwealth previously charged to the Metropolitan Water District Fund; for the payment of interest on certain bonded debt of the commonwealth previously charged to the Metropolitan Sewerage District Fund; for the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the General Fund debt service reserve		\$310,070,646
0699-3801 For	the payment of discount on the sale of bonds of the commonwealth previously charged to the Metropolitan Water District Fund; for the payment of discount on the sale of bonds of the commonwealth previously charged to the Metropolitan Sewerage District Fund; for the payment of discount on the sale of bonds of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the General Fund debt service reserve		\$4,689,135
0699-3900 For	certain serial bonds maturing previously charged to the Metropolitan Water District Fund; for certain serial bonds maturing previously charged to the Metropolitan Sewerage District Fund; for certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the General Fund debt service reserve		\$97,790,697
0699-6800 For	the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item		

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	at the close of this fiscal year shall be charged to the Highway Fund debt service reserve		\$101,899,500
	Highway Fund	100.0%	
0699-6801 For	the payment of discount on the sale of bonds of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Highway Fund debt service reserve		\$1,010,105
	Highway Fund	100.0%	
0699-6900 For	certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Highway Fund debt service reserve		\$28,816,454
	Highway Fund	100.0%	
0699-8300 For	payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Inter City Bus Fund		\$71,354
	Inter City Bus Fund	100.0%	
0699-8301 For	payment of discount on the sale of bonds of the commonwealth; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the Inter City Bus Fund		\$3,178
	Inter City Bus Fund	100.0%	
0699-8302 For	certain bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Inter City Bus Fund		\$696,822
	Inter City Bus Fund	100.0%	
0699-9100 For	the payment of interest on issuance costs of bond and revenue anticipation notes and other notes pursuant to sections forty-seven and forty-nine B of chapter twenty-nine of the General Laws; provided, that the treasurer shall certify to the comptroller a schedule of the distribution of such costs among the various funds of the commonwealth; provided further, that the comptroller shall charge such costs to such funds in accordance with said schedule; and provided further, that any deficit in this item at the close of this fiscal year shall be charged to the various funds or to the General or Highway Fund debt service reserves		\$45,000,000
0699-9200 For	certain debt service contract assistance to the Massachusetts Land Bank in accordance with the provisions of section eight B of chapter one hundred and thirty of the acts of nineteen hundred and eighty-seven		\$6,000,000
	AUDITOR OF THE COMMONWEALTH.		
0710-0000 For	the office of the auditor		\$9,257,213
0710-0100 For	the administration and expenses of the bureau of local mandates		\$723,346
	Local Aid Fund	100.0%	
	DEPARTMENT OF THE ATTORNEY GENERAL		
0810-0000 For	the office of the attorney general		\$12,300,000
0810-0001 For	overtime of state police officers assigned to the department of the attorney general, to be in addition to any other		

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	funds available for this purpose		\$386,190
0810-0014 For	the expenses incurred by the department pursuant to section eleven E of chapter twelve of the General Laws		\$500,000
0810-0021 For	the expenses of administering the medicaid fraud control unit; provided, that the federal reimbursement for any expenditure for this item shall not be less than seventy-five percent of such expenditure		\$1,329,518
0810-0031 For	the expenses of administering the local consumer aid fund, established by section eleven G of chapter twelve of the General Laws		\$605,901
0810-0035 For	the administration and expenses of the Anti-Trust division		\$346,385
	Anti-Trust Enforcement Fund	100.0%	
0810-0201 For	expenses incurred in administrative or judicial proceedings as authorized by sections eleven E and eleven F of chapter twelve of the General Laws		\$400,000
0810-0338 For	the administration and expenses of a program to investigate and prosecute automobile insurance fraud		\$100,000
0810-1031 For	the victim and witness assistance program of the attorney general's office, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws, including salaries and expenses for litigation		\$129,566
	Victim and Witness Assistance Fund	100.0%	
0830-0100 For	the administration and expenses of the commission on uniform state laws		\$18,346
0840-0100 For	the administration and expenses of the victim and witness assistance board		\$200,000
	Victim and Witness Assistance Fund	100.0%	
	STATE ETHICS COMMISSION.		
0900-0100 For	the administration and expenses of the state ethics commission, including not more than twenty-five positions		\$899,979
	INSPECTOR GENERAL.		
0910-0200 For	the administration and expenses of the office of inspector general, including not more than twenty-eight positions		\$1,011,238
	OFFICE OF CAMPAIGN AND POLITICAL FINANCE.		
0920-0300 For	the administration and expenses of the office of campaign and political finance, including not more than fourteen positions		\$434,528
	STATE COMPTROLLER.		
1000-0001 For	the administration of the office, for the purpose of compliance with the Single Audit Act of nineteen hundred and eighty-four, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June thirtieth, nineteen hundred and ninety-one, in accordance with generally accepted accounting principles; provided, that notwithstanding any general or special law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be credited to and expended from this account without further appropriation, in addition to state funds appropriated to this account, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided		

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further, that the amount of any such federal funds and grant receipts so credited and expended from this account shall be reported to the house and senate committees on ways and means; and provided further, that the comptroller shall maintain a special federal and nontax revenue unit which shall operate under policies and procedures developed in conjunction with the office of purchased services; and provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues, and revenues collected, including not more than one hundred and twenty positions

\$4,886,000

## EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

*Office of the Commissioner.*

- 1100-1100 For the office of the commissioner and the administration of tort claims; provided, that forecasts generated by the state economic model and the governor's revenue advisory board be filed quarterly with the house and senate committees on ways and means, including not more than twenty-five positions

\$1,049,000

*Office of Quality Assurance.*

- 1100-1101 For the office of quality assurance for mentally retarded class members, which shall be a state office to monitor quality of care provided to retarded citizens who are covered by the consent decrees under Ricci et al v. Callahan et al, including not more than eight positions

\$172,662

*Office of Dispute Resolution.*

- 1100-1103 For the office of dispute resolution; provided, that the office shall generate at least three hundred thousand dollars from the collection of charges to other agencies, cities, towns, and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation services and other services provided to such entities by said office of dispute resolution, including not more than four positions

\$300,000

- 1100-1400 For a payment to the Massachusetts Corporation for Educational Telecommunications to be expended in accordance with a plan that has been filed with the General Court

\$4,000,000

*Petroleum Product Cleanup Board.*

- 1100-5240 For the purpose of reimbursing parties who have cleaned up spills of petroleum products pursuant to chapter twenty-one J of the General Laws

\$9,660,000

Underground Storage Tank Petroleum Product Cleanup Fund

100.0%

- 1100-5241 For the expenses of the underground storage tank petroleum product cleanup fund administrative review board pursuant to chapter twenty-one J of the General Laws

\$120,000

Underground Storage Tank Petroleum Product Cleanup Fund

100.0%

- 1100-5247 For a program of grants administered pursuant to section two of chapter twenty-one J of the General Laws and section thirty-seven A of chapter one hundred and forty-eight of the General Laws, for the purposes of removing and

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	replacing underground storage tanks		\$840,000
	Underground Storage Tank Petroleum Product Cleanup Fund	100.0%	
	<i>Fiscal Affairs Division.</i>		
1101-2100 For	the administration of the division, provided, that charges for the cost of computer resources and services provided by the bureau of computer services for the design, development, and production of reports and information required to be included in budgets submitted by the governor to the legislature, shall not be charged to this item; including not more than fifty-five positions		\$2,066,370
	<i>Office of Management Information Systems.</i>		
1101-2380 For	the administration of the office of management information systems; provided, that said office of management information systems is hereby authorized and directed to schedule expenditures for any software development project or system purchased for which the total budgeted cost will exceed five hundred thousand dollars; provided further, that said office of management information systems is hereby authorized and directed to continue a chargeback system for its bureau of computer services which complies with the requirements of section eighteen of this act, including not more than two hundred and seventy-five positions		\$10,521,574
	<i>Division of Capital Planning and Operations.</i>		
1102-3210 For	the administration of the division of capital planning and operations; including not more than two hundred and ten positions		\$6,590,838
	Division of Capital Planning and Operations -		
	<i>State Transportation Building.</i>		
1102-3214 The	division of capital planning and operations is hereby authorized to expend revenues collected up to a maximum of four million five hundred thousand dollars from rentals, commissions, fees, parking fees and from any and all other sources pertaining to the operation of the state transportation building, for expenses for the maintenance and operation of said building; provided, that the building manager selected by the division of capital planning and operations shall make such expenditures on behalf of said division pursuant to the provisions of section nine of this act		\$4,500,000
	State Transportation Building Management Fund	100.0%	
	<i>Bureau of State Buildings.</i>		
1102-3301 For	the administration of the bureau of state buildings and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings; provided, that not less than fifty thousand dollars be made available for the restoration and preservation of the historic flags displayed in the state house hall of flags; provided further, that the bureau be authorized to expend not more than one hundred sixty thousand dollars in revenue collected as reimbursement for overtime expenses, materials and contract services purchased to perform renovations		



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	for agencies occupying state buildings; provided further, that not less than ninety thousand dollars be made available for the Massachusetts art commission; and provided further, that notwithstanding the provisions of section nineteen of chapter six of the General Laws, the chairman of the commission may serve for the duration of the project as executive director of this project and may be compensated therefor from funds appropriated in this item, including not more than one hundred and twenty-five positions	\$10,495,200
1102-3302 For	the purposes of utility costs for the properties managed by the bureau of state buildings and the department of capital planning and operations	\$7,463,137
	Division of Capital Planning and Operations - <i>Springfield State Office Building.</i>	
1102-5231 The	division of capital planning and operations is hereby authorized to expend revenues collected up to a maximum of five hundred fifty-four thousand nine hundred and sixty-nine dollars accrued from rents charged to agencies occupying the Springfield state office building, for all necessary expenses for the maintenance and operation of said building, pursuant to the provisions of section ten of this act	\$554,969
	Springfield State Office Building Management Fund 100.0%	
	<i>Bureau of Special Investigations.</i>	
1103-5010 For	the administration of the bureau of special investigations, including not more than one hundred and ten positions	\$3,991,128
	<i>Department of Procurement and General Services.</i>	
1104-1000 For	the administration of the department, including not more than one hundred and forty positions	\$3,054,647
1104-1007 For	a division of purchased services, including not more than twenty positions	\$925,621
	Department of Procurement and General Services - <i>State Surplus Property.</i>	
1104-1091 The	department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of forty-eight thousand dollars from the sale of state surplus personal property, for the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of surplus property, including not more than two positions	\$48,000
	Department of Procurement and General Services - <i>Federal Surplus Property.</i>	
1104-6601 Pursuant to section twenty-one A of chapter eight hundred and eight of the acts of nineteen hundred and eighty-one, chapter four hundred and forty-nine of the acts of nineteen hundred and eighty-four, and section four L of chapter seven of the General Laws, as appearing in the 1988 Official Edition, the department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of five hundred thousand dollars, and		

Item	the comptroller may certify for payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of federal surplus property, including not more than eight positions	\$500,000
	<i>Motor Vehicle Procurement Reserve.</i>	
1104-6607 The	department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of five hundred thousand dollars from the disposal of surplus motor vehicles, including but not limited to state police vehicles, from vehicle accident and damage claims and from manufacturer warranties, rebates and settlements, for the purchase of motor vehicles	\$500,000
	<i>Office on Disability.</i>	
1107-2400 For	the office on disability, provided that not less than fifty thousand dollars of the amount appropriated herein shall be expended for arts programs for people with disabilities including, but not limited to festivals, training, advocacy and employment training through the arts, including not more than fifteen positions	\$564,210
	<i>Disabled Persons Protection Commission.</i>	
1107-2500 For	the operation of the disabled persons protection commission, including not more than nine positions	\$444,088
1107-2550 For	a reserve to fund certain protective services provided pursuant to assignment by the disabled persons protection commission under the terms of chapter six hundred and fifty-five of the acts of nineteen hundred and eighty-six, said reserve to be administered by the disabled persons protection commission; provided, that funds may be transferred to other items of appropriation with the approval of the secretary of administration and finance	\$78,008
	<i>Department of Personnel Administration.</i>	
1108-1000 For	the administration of the department, including the county personnel board; provided, that no funds are obligated for purposes of executive search programs except any executive search program which may be conducted pursuant to Executive Order 227 adopted on February twenty-fifth, nineteen hundred and eighty-three, as amended; provided further, that the department administer a program of state employee unemployment management, including, but not limited to, agency training and assistance, including not more than thirty positions	\$796,766
	General Fund	50.0%
	Local Aid Fund	50.0%
1108-1002 For	the administration of the civil service system by the department of personnel administration, including, but not limited to, administration of civil service examinations for state and municipal civil service titles, establishment of eligible lists, certification of eligible candidates to state and municipal appointing authorities, and technical assistance in selection and appointment to state and municipal appointing authorities; provided, that notwithstanding the provisions of paragraph (n) of section five of chapter thirty-one or of any other general or special law or rule to the contrary, the commissioner of administration shall establish a fee of twenty dollars to be collected from each applicant for a promotional civil service examination, and shall provide for the waiver of said fee in appropriate circumstances, including not more than ninety-five positions	\$2,435,064

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	General Fund	50.0%	
	Local Aid Fund	50.0%	
1108-1003 For	the administration of the statewide classification system and a municipal classification system, including, but not limited to, maintaining a classification and pay plan for civil service titles within the commonwealth, in accordance with generally accepted compensation standards, and reviewing appeals for reclassification, including not more than twenty-five positions		\$669,637
	<i>Civil Service Commission.</i>		
1108-1011 For	the administration of the civil service commission, including not more than eleven positions		\$299,907
1108-1214 The	department of personnel administration is hereby authorized to expend revenues collected up to a maximum of six hundred and seventy-two thousand dollars from the fees charged for civil service examination applications for the administration of the civil service examination program by the department, including not more than five positions		\$672,000
	<i>Office of Affirmative Action.</i>		
1108-2500 For	the office of affirmative action, including not more than twelve positions		\$319,332
	<i>Office of Contract Negotiation.</i>		
1108-3000 For	the administration of the office of contract negotiation; provided, that during the negotiation of any collective bargaining agreement the commissioner of administration shall file with the house and senate committees on ways and means any and all economic proposals necessary to fund any incremental cost items to be contained in any and all collective bargaining proposals or counter proposals which the administration offers or intends to offer to the various classified public employees' unions with which it negotiates; provided further, that the nature and scope of such economic proposals shall include all fixed percentage or dollar base rate salary adjustments, non-base payments or other forms of compensation and all supplemental fringe benefits resulting in any incremental costs, including not more than twenty positions		\$626,223
1108-3200 For	the purposes of the commonwealth's contributions for the fiscal year nineteen hundred and ninety-two to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that said contributions shall be calculated as provided in the applicable collective bargaining agreement, and shall be paid to such trust funds on a monthly basis, or on such other basis as the applicable collective bargaining agreement provides		\$14,700,000
	<i>Teachers' Retirement Administration.</i>		
1108-4010 For	the administration of the bureau of teachers' retirement; provided, that the General Fund shall be reimbursed for the amount of this appropriation pursuant to clause (a) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws, as amended by this act, including not more than forty-five positions		\$1,090,144
	<i>Group Insurance Commission.</i>		
1108-5100 For	administration of the group insurance program; provided, that said commission shall generate two hundred ten		

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	thousand dollars from the percentage applicable premium allowed by the federal consolidated omnibus budget reconciliation act, as amended, and from reimbursements received pursuant to sections eight, ten B, ten C, and twelve of chapter thirty-two A of the General Laws, including not more than seventy-six positions	\$1,791,000
1108-5200 For	the commonwealth's share of the group insurance premium and plan costs to be administered by the group insurance commission; provided, that not more than four hundred thousand dollars shall be obligated for the evaluation and audit of said premium and plan costs; provided further, that not more than four hundred and fifty thousand dollars shall be obligated for the development and evaluation of alternatives which may include preferred provider organizations, point of service health maintenance organizations, cafeteria plans, or other such arrangements as will best and most efficiently extend managed care services to all state employees and retirees; provided further, that not more than two hundred thousand dollars shall be obligated for the evaluation and negotiation of premium rates which may include rates for health benefit plans, mail order prescription drug plans and long-term disability plans; provided further, that not more than one hundred and fifty thousand dollars shall be obligated for claims utilization analysis; provided further, that the budget bureau shall charge the department of employment and training and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of the cost of the program as it determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from several state or other funds, and amounts received in payment of all such charges of such transfers shall be credited to the General Fund; and the group insurance commission shall obtain reimbursement for premium and administrative expenses from other non-state funded agencies and authorities; provided further, that notwithstanding the provisions of section twenty-six of chapter twenty-nine of the General Laws, the commission is hereby authorized to negotiate, purchase and execute contracts prior to July first of each year for a policy or policies of group insurance as authorized by chapter thirty-two A of the General Laws; provided further, that the commonwealth's share of the group insurance premium as provided in section eight of said chapter thirty-two A and for the purposes of section fourteen of said chapter thirty-two A shall be ninety percent of the total monthly premiums and rates as established by the commission; provided further, that employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall pay at least ten percent of the total monthly premium and rates as established by the commissioner effective July first, nineteen hundred and ninety-one; provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother; provided further, that the commission shall notify the house and senate committees on ways and means by April fifteenth of each year, of the commonwealth's actual cost of its share of group insurance premiums for the next fiscal year; and provided further, that for the purpose of accommodating the delayed receipt of revenues to be retained in item 1108-5300, an amount not to exceed two million dollars may be transferred from item 1108-5200 to item 1108-5300, provided that all excess revenues, if any, shall be returned to item 1108-5200, from retained revenues otherwise authorized to be credited to 1108-5300, no later than June thirtieth, nineteen hundred and ninety-two	
1108-5300 The	group insurance commission is hereby authorized to expend revenues collected up to a maximum of three million	\$415,268,910

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	eight hundred sixty-seven thousand nine hundred and forty dollars, from charges to cities, towns or districts for the group insurance premium for certain retired employees and their dependents and the audit of said premium; provided, that notwithstanding any other provisions of this section, any remaining balance at the end of fiscal year nineteen hundred and ninety-one of the amounts available to be expended without further appropriation shall not revert to the General Fund, but shall be available for the purposes provided herein during fiscal year nineteen hundred and ninety-two; and provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother	\$3,867,940
1108-5400 For	the group insurance premium for certain retired municipal teachers and their dependents, and the audit of said premium; provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother	\$16,377,730
<i>Public Employee Retirement Administration.</i>		
1108-6100 For	the administration of a division of public employee retirement, including the establishment of regional medical panels, pursuant to chapter six hundred and ninety-seven of the acts of nineteen hundred and eighty-seven, including not more than sixty-eight positions	\$2,198,193
1108-6150 For	the administration of the worker's compensation costs of public employees, including personnel costs	\$632,166
1108-6200 For	the purposes of workers' compensation paid to public employees, including prior fiscal years; provided, that not more than five hundred thousand dollars be expended for the purposes of a workers' compensation investigatory unit, including not more than fourteen positions	\$32,244,920
	Highway Fund	35.0%
	General Fund	65.0%
<i>Division of Administrative Law Appeals.</i>		
1110-1000 For	the administration of the division of administrative law appeals established by section four H of chapter seven of the General Laws; provided, that notwithstanding any provision of law to the contrary, the cost of services rendered to any office or agency for an appeal shall be charged to such office or agency, such charges to include an allowance for overhead as determined by the commissioner of administration; provided further, that the payments for such services shall be paid to the General Fund; and provided further, that no such service shall be provided without a written contract filed with the comptroller, including not more than thirteen positions	\$472,146
<i>George Fingold Library.</i>		
1120-4005 For	the administration of the library; provided, that not less than one hundred thousand dollars be obligated for the purchase of books, periodicals, and microfilms to maintain a current government research library collection, including not more than thirty positions	\$733,218
<i>Massachusetts Commission Against Discrimination.</i>		
1150-5100 For	the office of the commission; provided, that all positions except clerical are exempted from the provisions of chapter	

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	thirty-one of the General Laws; provided further, that said commission shall pursue the highest rate of federal reimbursement per charge allowable; provided further, that at least ninety-six thousand dollars be obligated for the investigation of housing discrimination complaints; and provided further, that the division of registration shall generate at least ninety-six thousand dollars from collection of the licensing fee assessed to the state's real estate brokers and agents, including not more than thirty positions	\$1,052,824
1150-5200 For	the office of Indian Affairs, including not more than one position	\$52,000
	<i>Department of Revenue.</i>	
1201-0100 For	the administration of the department, including audits of certain foreign corporations; provided, that the comptroller shall transfer to the General Fund the sum of two hundred and sixty thousand dollars from the receipts of the cigarette tax in accordance with the provisions of paragraph (b) of section fourteen of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five; provided further, that the department may allocate an amount not to exceed two hundred fifty thousand dollars to the department of the attorney general for the purpose of the tax prosecution unit, including not more than two thousand and ten positions	\$104,797,690
	Highway Fund	10.0%
	General Fund	90.0%
	<i>Child Support Enforcement.</i>	
1201-0160 For	the administration of the child support enforcement unit; provided, that the department may enter into contracts with private collection agencies for the purpose of obtaining collections from absent parents; provided further, that the department may allocate these funds to the division of state police, the district courts, the probate and family court department, the district attorneys, and other state agencies for the performance of certain child support enforcement activities, and that these agencies are hereby authorized to expend such amounts for the purposes of this item; provided further, that not less than four hundred thousand dollars be made available for the procurement of goods and services associated with the enhancement and/or development of the child support computer network; provided further, that no monies appropriated for the child support computer network will be expended without the written receipt and approval from the federal government of the department's Advanced Planning Document (APD); provided further, that federal receipts associated with said network are deposited in a revolving account to be drawn down at an enhanced rate of reimbursement and to be expended for the network; provided further, that the department shall file quarterly status reports on the progress of said network with the house and senate committees on ways and means; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance, year-to-date and projected receipts, and year-to-date and projected expenditures, by subsidiary, of the child support trust fund pursuant to section nine of chapter one hundred and nineteen A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before November fifteenth, nineteen hundred and	

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ninety-one detailing current staffing levels, by function, and performance indicators, including but not limited to AFDC and non-AFDC caseloads, collection levels, court cases filed, paternities established, court orders established, average employee workload, resulting federal reimbursements, projections of the aforementioned indicators for the remainder of the fiscal year, and any deviations of current performance from previous projections, including not more than six hundred and twenty positions

\$19,667,663

*Local Services.*

1231-0100 For the administration of the bureaus of municipal data management and technical assistance, property tax, local assessment and accounts, including the expense of auditing municipal accounts where the circumstances require state assistance to accomplish a specific purpose in the protection of the public interest, for the operation of technical assistance and educational programs for financial officials of the cities and towns, for the monitoring of municipal audits performed by independent public accountants, for the supervision of the installation of accounting systems meeting generally accepted accounting principles, and for the expenses of materials which may be sold to cities and towns, including the expenses for developing and implementing a comprehensive and voluntary program of technical assistance and training for cities, towns and districts in local property tax assessment administration and accounting and financial management review; provided, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing those cities, towns, and districts receiving services including the cost and nature of said services; and provided further, that the department shall provide the legislature with access to the municipal data bank, including not more than one hundred and fifteen positions

\$5,478,587

Local Aid Fund

100.0%

*Bureau of Local Taxation.*

1233-2000 For reimbursing cities and towns for abatements granted

\$5,200,000

Local Aid Fund

100.0%

1233-2310 For reimbursing cities and towns for taxes abated under clauses forty-one, forty-one B and forty-one C of section five of chapter fifty-nine of the General Laws; provided, that the commonwealth shall reimburse each city or town that accepts the provisions of clause forty-one B or forty-one C for additional costs incurred in determining eligibility of applicants under said clauses in an amount not to exceed two dollars per exemption granted

\$15,000,000

Local Aid Fund

100.0%

*Appellate Tax Board.*

1310-1000 For the personal services and expenses of the board; provided, that that the board schedule hearings in Barnstable, Lawrence, Pittsfield, Worcester and Springfield, including not more than thirty-two positions

\$998,024

*Miscellaneous.*

1599-0002 For the payment of miscellaneous obligations of the commonwealth, including contributions toward the maintenance

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	of the old provincial state house, for certain annuities and pensions of soldiers and others under the provisions of certain acts and resolves, for claims authorized by section one hundred and forty-nine D of chapter one hundred and seventy-five of the General Laws and for reimbursement for funds previously deposited in the treasury and escheated to the commonwealth, for claims for unpaid checks with certification of the state treasurer to the comptroller of the amount due, and for the payment of expenses of prior fiscal years for which no funds are available in the current fiscal year; provided, that no payment shall be made unless the subsidiary account item to which the deficiency is to be charged contained a balance sufficient to meet the required payment; and provided further, that the comptroller is hereby authorized to certify such payments to the several state or other funds to which the items of appropriation are charged	\$58,500
1599-0013 For	a reserve for the cities and towns' unemployment health insurance contributions due under section fourteen G of chapter one hundred and fifty-one A of the General Laws; provided, that the commissioner of the department of employment and training shall provide to the secretary of administration and finance and the house and senate committees on ways and means quarterly estimates of the contributions due; provided further, that upon approval of the secretary of administration and finance, the treasurer shall transfer funds from this account to the medical security trust fund established in chapter one hundred and eighteen F of the General Laws	\$3,800,000
	Local Aid Fund 100.0%	
1599-0035 For	certain debt service contract assistance to the Massachusetts Convention Center Authority in accordance with the provisions of section thirty-nine I of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two	\$21,891,528
1599-0036 For	the expenses of the Massachusetts Convention Authority; provided however, that expenditures from this item shall be made only in the amount certified by an independent public accounting firm, retained by the commissioner of administration at his expense, as the amount of the reasonable operating deficit of the John B. Hynes Veterans Memorial Convention Center less any net revenue generated by the Boston Common Garage as operated by the authority; and provided further, that the members of the board of the authority shall approved the budget and marketing plans submitted by the executive director of the authority	\$5,000,000
1599-3320 For	the expenses of the New England Board of Higher Education and for the expenses of the members of said board	\$454,131
1599-3407 For	the purpose of municipal reimbursements to be paid according to the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three; provided further, that of the sum appropriated herein, not less than one hundred thousand dollars shall be available to reimburse cities and towns for the school breakfast act	\$400,000
	Local Aid Fund 100.0%	
1599-3408 For	a reserve to fund the collective purchase of motor vehicle equipment, including both passenger and non-passenger vehicles, for all agencies; provided, that the commissioner of administration shall establish a control system for the expenditures of funds from this line item and shall for said purpose review and approve or disapprove all requests from agencies to replace or purchase new motor vehicle equipment	\$687,216



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	Highway Fund	50.0%	
	General Fund	50.0%	
1599-3725 For	a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth of Massachusetts and the Coalition of Public Safety (Unit 5); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated to the following items of appropriation and allocations thereof: the Bureau of Special Investigations, the Alcoholic Beverages Control Commission, the Transportation Division of Consumer Affairs, the Hunter Safety Training Program, for the fiscal year nineteen hundred and ninety-two such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose; and provided further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged		\$206,000
1599-3850 For	emergency assistance to needy cities and towns with serious financial emergencies; provided that, such emergencies shall be certified after study and analysis by the division of local services of the department of revenue; provided further, that such cities and towns shall develop and implement financial management plans approved by said division to remediate the cause of such financial emergencies; provided, however, that no such city or town may receive more than twenty percent of the total appropriation; and provided further, that the house and senate committees on ways and means and the commissioner of administration and finance shall be notified at least fifteen days prior to the approval of any distribution of monies from this account to any such city or town		\$10,000,000
	Local Aid Fund	100.0%	
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.			
<i>Office of the Secretary.</i>			
2000-0100 For	the office of the secretary, including the expenses of: 1) the water resources commission; 2) a program of coastal zone management; 3) a program of review of environmental impact reports pursuant to chapter thirty of the General Laws; and 4) a geographic information system for environmental data in Massachusetts; 5) a program of mosquito-borne disease vector control, including not more than forty-nine positions		\$1,896,040
	General Fund	85.0%	
	Local Aid Fund	15.0%	
2001-1001 The	secretary of environmental affairs may expend an amount not to exceed one hundred seventy thousand dollars		

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	accrued from 1) the rendering of data processing services to state agencies, authorities and units of government within the commonwealth; provided, that the comptroller is hereby authorized to allocate the cost of such data processing services to the several state and other funds to which items of appropriation of such other agencies are charged and 2) the distribution of digital cartographic and other data; and 3) the review of environmental notification forms pursuant to the Massachusetts Environmental Policy Act, for staff and for printing of the MEPA monitor	\$170,000	
2010-0100 For	programs and projects in the management of solid waste and for environmental protection; for the operation of the Springfield Recycling Facility, and for grants to cities and towns to promote and develop local and regional recycling programs; provided, that the grants shall be awarded by the secretary of environmental affairs in consultation with the advisory committee appointed by said secretary consisting of three statewide environmental groups; provided further, that said grant awards shall be filed with the house and senate committees on ways and means	\$2,368,000	
	Clean Environment Fund	100.0%	
2020-0100 For	the purposes of the office of toxics use reduction assistance and technology, in accordance with the provisions of chapter twenty-one I of the General Laws, including not more than ten positions	\$1,300,000	
	Toxics Use Reduction Fund	100.0%	
	<i>Hazardous Waste Facility Site Safety Council.</i>		
2050-0100 For	the administration of the hazardous waste facility site safety council, in accordance with the provisions of chapter twenty-one D of the General Laws, including not more than four positions	\$157,296	
2050-0200 For	a technical assistance grant as authorized in chapter twenty-one D of the General Laws, to the town of Orange; providing, that the awarding of such a grant shall meet with the prior approval of the secretary of the executive office of environmental affairs	\$88,500	
2060-0100 For	the purpose of implementing the management plan adopted pursuant to section twelve of chapter one hundred eleven H of the General Laws and for carrying out the powers and duties conferred by said chapter one hundred eleven H; provided that amounts appropriated herein are reimbursed by the Low Level Radioactive Waste Management Fund, including not more than six positions	\$500,000	
	DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.		
2100-0000 For	the statewide operation of the department; provided, that funds appropriated herein be used to provide a comprehensive program of natural resource protection and management; a program of forest and parks services, including fire prevention and control, forest and insect pest control, shade tree management and recreation; a program of water resource management, river basin planning, flood control, and well drilling; a program of pier management, waterways and coastal improvement; a program of natural resources planning and development; and a program of waste minimization; provided further, the department is hereby authorized to enter into agreements at the request of host municipalities or local commissions to operate the department's heritage state parks for fiscal year nineteen hundred and ninety-two; provided further, that notwithstanding the provisions of section three B of		

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chapter seven of the General Laws as most recently amended by section four of chapter six of the acts of nineteen hundred and ninety-one, the commissioner of the department is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents, leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of the department; provided further, that the department submit quarterly reports to the house and senate committees on ways and means regarding fee increases; provided that not less than eight thousand five hundred and eighty dollars be expended for the expenses of the North River Commission; provided further, that one million dollars be expended on peak season employees; provided that the department of environmental management shall conduct a study to determine the feasibility of expanding the Auburn and Marlborough state skating rinks and report its findings to the house and senate committees on ways and means by December thirty-first, nineteen hundred and ninety-one; and provided further, that the commissioner of the department shall submit to the house and senate committees on ways and means on or before October fifteenth, nineteen hundred and ninety-one, a plan for the distribution of the funds appropriated herein among the major programs as set forth above, such plan to include a narrative statement for each program, the number of personnel to be assigned to each program, and a subsidiary account analysis, including not more than six hundred and twenty positions; provided further, that a sum not to exceed one hundred thousand dollars be expended for the administration of the Martha's Vineyard Commission

\$16,048,000

Local Aid Fund

97.0%

Highway Fund

3.0%

2100-0001 For the maintenance and operation of the department of environmental management's division of parks; provided, that monies appropriated herein shall not be available for expenditure until October first, nineteen hundred and ninety-one; provided further, that funds appropriated herein shall not be expended until sufficient revenue is present in the environmental management revolving fund to provide for expenses; and provided further, that any reductions in revenue estimates contained in the department's quarterly financial report shall be commensurately reduced, dollar for dollar, from this item of appropriation

\$8,200,000

Environmental Management Revolving Fund

100.0%

DEPARTMENT OF ENVIRONMENTAL PROTECTION.

*Office of the Commissioner.*

2200-0100 For the administration of the department, including the following programs: 1) the division of water pollution control; 2) the division of water supply; 3) the division of solid waste; 4) the division of hazardous waste; 5) the division of wetlands and waterways; 6) the division of air quality control; 7) the Lawrence Experimental Station; 8) a contract with the University of Massachusetts for environmental research; provided, that the provisions of section four of chapter six of the acts of nineteen hundred and ninety-one shall not apply of fees established pursuant to section eighteen of chapter twenty-one A of the General Laws; provided further, that the commissioner of the department

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	shall submit to the house and senate committees on ways and means on or before October fifteenth, nineteen hundred and ninety-one, a plan for the distribution of the funds appropriated herein among the major programs as set forth above, such plan to include a narrative statement for each program, the number of personnel to be assigned to each program, and a subsidiary account analysis for each program; provided further, that the one million six hundred thousand dollars appropriated herein from the clean environment fund shall be expended for the operations of the division of solid waste; provided further, that if personnel reductions are required, the department shall take all appropriate steps to mitigate any reductions in permitting and compliance personnel, including not more than five hundred and thirty positions		\$16,750,390
	General Fund	90.5%	
	Clean Environment Fund	9.5%	
2200-0102	The department of environmental protection may expend an amount not to exceed one million dollars for the elimination of the wetlands permit backlog and the administration of the division of wetlands and waterways from revenues collected from license fees, permit fees, and inspection fees issued or undertaken by said division, excluding any fines, penalties, or fees credited to the environmental challenge fund, provided, that fees collected herein may be expended on personnel		\$1,000,000
2200-0103	The department of environmental protection may expend an amount not to exceed seven million two hundred eighty-one thousand four hundred twenty-five dollars for the implementation and administration of the department's permitting, compliance, enforcement, and regulatory programs from revenues collected from license and registration fees, permit fees, and inspection and compliance fees issued or undertaken by said department, excluding any fines, penalties, or fees credited to the environmental challenge fund, or collected pursuant to paragraph seven of section seven of chapter twenty-one C of the General Laws; provided, that fees collected herein may be expended on personnel		\$7,281,425
	Environmental Permitting & Compliance Fund	100.0%	
2210-0100	For the implementation and administration of chapter twenty-one I of the General Laws, including not more than eight positions		\$627,711
	Toxic Use Reduction Fund	100.0%	
2260-8870	For the expenses of a hazardous waste cleanup program, as authorized by chapter twenty-one E of the General Laws; provided, that monies appropriated herein from the general fund shall not be available for expenditure after January first, nineteen hundred and ninety-two; provided further, that the governor shall file legislation with the office of the clerk of the house of representatives relative to recommending the establishment of a long-term funding mechanism to provide new revenues to the environmental challenge fund to meet the expenses of the administration of said hazardous waste cleanup program on or before September first, nineteen hundred and ninety-one; provided further, that said long-term funding mechanism shall not include the utilization of general fund revenues; provided further, that three million dollars authorized in section two of chapter three hundred four of the acts of nineteen hundred		

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	eighty-seven shall be made available for the operating purposes of said hazardous waste cleanup program and shall be deemed expenditures from the environmental challenge fund, including not more than four hundred and sixty positions		\$9,644,515
	Environmental Challenge Fund	70.0%	
	General Fund	30.0%	
2260-9000 For	the administration of an underground storage tank petroleum product cleanup fund, in accordance with the provisions of chapter twenty-one J of the General Laws; provided, that funds appropriated herein may be used to fund personnel of the office of incident response		\$240,000
	Underground Storage Tank Petroleum Product Cleanup Fund	100.0%	
	<i>Division of Watershed Management.</i>		
2420-1400 For	the operation and maintenance of the watershed management division, provided, that not more than twenty-two positions shall be filled by watershed management police personnel; and provided further, that one hundred eighty-two thousand dollars be expended for maintaining the three fishing areas at the Quabbin Reservoir and Comet Pond Beach, including the costs of seasonal personnel, supplies and equipment necessary to operate said facilities, including not more than one hundred and sixty positions		\$6,500,000
	Watershed Management Fund	100.0%	
	<i>Metropolitan Parks District.</i>		
2440-0010 For	the administration of the metropolitan district commission parks and recreation division, for maintenance of parks, reservations and the Charles River Basin, for the operation and maintenance of the southwest corridor park system, for the division of central services, reservation and interpretive services division, and division of highways, for the maintenance of boulevards, parkways, locks, bridges and dams, for the maintenance of vehicles and metropolitan district commission garages, and the purchase of supplies and equipment; provided, that the commission shall open a designated number of rinks on October first, nineteen hundred and ninety-one; provided further, that notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the department of procurement and general services; provided further, that five hundred thousand dollars be expended on peak season employees; and provided further, that funds appropriated herein for personnel and expenses of those who work at the Metro Park Zoos may be transferred to line item 2443-2000 when said personnel are formally transferred to the Commonwealth Zoological Corporation, including not more than five hundred and twenty-five positions		\$21,300,000
	Local Aid Fund	31.8%	
	Highway Fund	68.2%	
	<i>State Reclamation Board.</i>		

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2520-0100	For the administration of the board, including not more than one position Mosquito and Greenhead Fly Control Fund	\$41,875 100.0%
2520-0107	For a reserve to undertake a program to control the spread of eastern equine encephalitis while ensuring maximum environmental protection; provided, that amounts expended herein shall be at the request of municipal governing bodies and the costs of such requests shall be assessed upon the municipality's cherry sheet so-called, as distributed by the department of revenue; provided further, that requests for expenditures from this reserve shall be submitted to the state reclamation board before May first, nineteen hundred and ninety-two; provided further, that the department of public health shall be notified prior to implementing encephalitis control measures under said program in any municipality Mosquito and Greenhead Fly Control Fund	\$2,200,000 100.0%
	<i>For the expenses of the following mosquito control projects; provided, that persons employed in these projects shall be exempt from the provisions of section twenty-nine A of chapter twenty-nine of the General Laws:</i>	
2520-0300	Cape Cod Mosquito and Greenhead Fly Control Fund	\$777,269 100.0%
2520-0900	Suffolk County Mosquito and Greenhead Fly Control Fund	\$166,859 100.0%
2520-1000	Central Massachusetts Mosquito and Greenhead Fly Control Fund	\$562,894 100.0%
2520-1100	Berkshire County Mosquito and Greenhead Fly Control Fund	\$66,792 100.0%
2520-1200	Norfolk County Mosquito and Greenhead Fly Control Fund	\$413,240 100.0%
2520-1300	Bristol County Mosquito and Greenhead Fly Control Fund	\$448,140 100.0%
2520-1400	Plymouth County Mosquito and Greenhead Fly Control Fund	\$537,455 100.0%
2520-1500	Essex County Mosquito and Greenhead Fly Control Fund	\$306,028 100.0%
	DEPARTMENT OF FISHERIES, WILDLIFE AND ENVIRONMENTAL LAW ENFORCEMENT. <i>Office of the Commissioner.</i>	
2300-0100	For the office of the commissioner, including not more than six positions	\$250,435

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2300-0101 For	a program of Riverways protection, restoration and promotion of public access to rivers, including not more than four positions; provided that the positions shall not be subject to the provisions of chapter thirty-one	\$135,957
	Public Access Fund	100.0%
<i>Division of Fisheries and Wildlife.</i>		
<i>Federal funds received as reimbursements for expenditures from the following items shall be credited as income to the Inland Fisheries and Game Fund.</i>		
2310-0200 For	the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds, and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal aid to fish and wildlife restoration act; provided, that an amount shall be used by the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research; provided further, that expenditures for such programs shall be contingent upon prior approval of proper federal authorities for reimbursement of at least seventy-five percent of the amount expended; provided further, that the division shall expend an amount not to exceed two hundred thousand dollars for the costs of preparation of printed publication materials, supplies, and equipment incidental thereto; provided further, that not more than two hundred thousand dollars may be expended for a program of acid rain monitoring; and provided further, that not more than fifty-seven thousand five hundred dollars shall be expended for a program of investigating fishkills, including not more than one hundred and forty positions	\$5,958,185
	Inland Fisheries and Game Fund	100.0%
2310-0314 For	the purchase of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to sections two and two A of chapter one hundred and thirty-one of the General Laws	\$2,000,000
	Inland Fisheries and Game Fund	100.0%
2310-0315 For	a waterfowl management program established pursuant to section eleven of chapter one hundred and thirty-one of the General Laws	\$123,000
	Inland Fisheries and Game Fund	100.0%
2310-0500 For	the expenses of a state funded program in natural heritage and environmental assessment, including not more than five positions	\$179,320
	Inland Fisheries and Game Fund	50.0%
	Natural Heritage and Endangered Species Fund	50.0%
2315-0100 For	the administration of a program of non-game management and research, including not more than five positions	\$377,054
	Natural Heritage and Endangered Species Fund	100.0%

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*Public Access Board.*

2320-0100 For the maintenance, operation, acquisition, and improvement of public access land and water areas, as authorized by section seventeen A of chapter twenty-one of the General Laws, including not more than four positions, provided that such positions shall not be subject to the provisions of chapter thirty-one, prior appropriations continued \$500,000

Public Access Fund 100.0%

2320-0101 The public access board of the department of fisheries, wildlife and environmental law enforcement may expend an amount not to exceed three hundred thousand dollars accrued from Federal reimbursements from federal Aid in Sportfish Restoration Act, so defined in 16 USC 777-77k, the Wallop/Breaux Fund, so-called, for a program of enhancement and development of boating access to coastal and inland waters of the commonwealth \$300,000

*Division of Marine Fisheries.*

2330-0100 For the administration of the division, including expenses of the Cat Cove marine research laboratory, marine research program, a commercial fisheries program, a shellfish management program including coastal area classification, mapping activities, and technical assistance, and for the operation of the Newburyport Shellfish Purification Plant and shellfish classification program; provided, that the division conduct a long-term contaminant monitoring program in Boston and Salem harbors; provided further, that family use areas and recreational shellfish areas that are set aside and cultivated, propagated or protected under the funding or provisions of this item shall be open to all inhabitants of the commonwealth upon payment of a reasonable fee; provided further, that three hundred thousand dollars be expended on a recreational fisheries program to be reimbursed by federal funds; and provided further, that the Newburyport Shellfish Purification Plant shall generate not less than one hundred fifteen thousand dollars, including not more than eighty-three positions \$3,203,033

Marine Fisheries Fund 100.0%

2330-0311 The division of marine fisheries of the department of fisheries, wildlife, and environmental law enforcement may expend an amount not exceeding seven hundred thousand dollars from revenues accrued from federal reimbursements, from the Federal Aid in Sportfish Restoration Act, as defined in 16 USC 777-777k, the Wallop/Breaux Fund, so-called, and not more than one hundred thousand dollars from revenues generated from chapter one hundred and thirty, sections eighty and eighty-three of the General Laws, for a program of enhancement and development of marine recreational fishing and related programs and activities including the cost of equipment maintenance, staff, and the maintenance and updating of data \$800,000

*Division of Environmental Law Enforcement.*

2350-0100 For the administration of the division of environmental law enforcement; provided, that each county in the commonwealth shall be assigned at least one full time environmental officer, including not more than one hundred and thirty-five positions \$5,748,465



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	Inland Fisheries and Game Fund	15.0%	
	General Fund	15.0%	
	Environmental Law Enforcement Fund	70.0%	
2350-0101 For	the hunter safety training program, including four positions		\$211,081
	Inland Fisheries and Game Fund	100.0%	
THE METROPOLITAN DISTRICT COMMISSION.			
2410-1000 For	general administration of the commission; provided, that the division of the metropolitan police shall enter into an inter-agency agreement with the commission pursuant to police coverage on commission properties and parkways and the commission's payment of repairs and other related costs on said division's vehicles; provided further, that notwithstanding the provisions of section three B of chapter seven of the General Laws as most recently amended by section four of chapter six of the acts of nineteen hundred and ninety-one, the commissioner of the department is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents, leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of the commission; provided further, that a quarterly report be submitted to the house and senate committees on ways and means regarding fee increases; provided further, that administrative costs incurred in this line-item for the watershed division shall be charged to line-items 2420-1400 of section two of this act, including not more than twenty-five positions		\$994,760
	Local Aid Fund	75.0%	
	Highway Fund	25.0%	
2410-1001 The	office of the commissioner of the metropolitan district commission is hereby authorized to expend for the operation and maintenance of the commission's telecommunication system, two hundred fifty thousand dollars from revenues received from the Massachusetts water resources authority, the Massachusetts convention center, the department of public works' Central Artery/Third Harbor Tunnel Project, so-called, the metropolitan district police division, and other public, quasi-public, and private entities through a system of user related fees and charges established by the commissioner; provided, that nothing in this section shall impair or diminish the rights of all current users of the system pursuant to use agreements which have been entered into with the metropolitan district commission provided, that this line-item may be reimbursed by political subdivisions of the commonwealth and private entities for direct and indirect costs expended by the commission to maintain its telecommunications system		\$250,000
2440-0012 For	the maintenance and operation of the metropolitan district commission's division of parks and recreation; provided, that one million eight hundred thousand dollars be expended for the operations of the commission's skating rinks; provided further, that monies appropriated herein shall not be available for expenditure until October first, nineteen hundred and ninety-one; provided further, that funds appropriated herein shall not be expended until sufficient revenue is present in the metropolitan parks revolving fund to provide for expenses; and provided further, that any reductions in revenue estimates contained in the department's quarterly financial report shall be commensurately		

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	reduced, dollar for dollar, from this item of appropriation		\$1,500,000
	Metropolitan Parks Revolving Fund	100.0%	
2440-0045 For	payment to the city of Boston for maintenance and operation of the James Michael Curley recreation center		\$286,232
	Local Aid Fund	100.0%	
2443-2000 For	the operation and administration of the Commonwealth Zoological Corporation, as established by chapter six of the acts of nineteen hundred and ninety-one, including not more than eighty-five positions; provided, however, the sums appropriated herein shall be expended solely for the operation and administration of the Franklin Park Zoo until a budget has been adopted by the corporation		\$2,187,599
2444-9001 For	the construction, reconstruction, and improvement of boulevards, parkways, bridges, and related appurtenances; provided, that of the amount appropriated herein, not more than three hundred thousand dollars shall be expended for the expenses of snow and ice control on commission parkways and boulevards, including the costs of sand, salt, and other control chemicals		\$1,741,000
	Highway Fund	100.0%	
2444-9004 For	certain payments for the maintenance and use of the Trailside Museum and the Chickatawbut Hill Center		\$300,000
	Local Aid Fund	100.0%	
2444-9005 For	the operation of street lighting on the metropolitan district commission parkways		\$2,100,000
	Highway Fund	100.0%	
2460-1000 For	the maintenance of construction division; provided, that costs incurred by the division from services provided to the watershed division shall be charged to line-items 2420-1400 of section two of this act, including not more than one hundred and one positions; provided, that notwithstanding any general or special law to the contrary, all officers and positions shall be subject to classification under sections forty-five to fifty, inclusive, of chapter thirty of the General Laws		\$2,727,942
	Highway Fund	80.0%	
	Local Aid Fund	20.0%	
	DEPARTMENT OF FOOD AND AGRICULTURE.		
2511-0100 For	the office of the commissioner, including the expenses of the board of agriculture, including not more than thirteen positions		\$509,691
	<i>Division of Regulatory Services.</i>		
2511-3000 For	the administration of the division, including the pesticide bureau, the bureau of plant pest control and farm products, the bureau of dairying and milk marketing, the "rights of way" program, integrated pest management programs, a program of laboratory services at the University of Massachusetts at Amherst, and inspection services of the division, including not more than thirty-nine positions		\$1,578,278

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2511-3002 For	a program to support by means of agreements, contracts and grants the development of integrated pest management systems in Massachusetts agriculture, including the use of biological control; provided, that the purposes of said program shall be to establish the levels of tolerable damage to crops or other assets, evaluate all methods of pest control as means to be employed in order that said level of damage is not exceeded, and address the problems posed by the use of pesticides in terms of their risks and costs to farmers	\$350,000
	<i>Division of Agricultural Development.</i>	
2511-4000 For	the administration of the division, and for the expenses of the bureau of markets and the bureau of land use; provided, that not less than two hundred twenty-five thousand dollars be expended for the farmer's market coupon program, including the promotion of Massachusetts agriculture, including not more than fifteen positions	\$698,444
	<i>Division of Animal Health.</i>	
2515-1000 For	the administration of the division and for the inspection of poultry products, and for the administration of the bureau of equine activities, including not more than twenty-two positions	\$745,490
	<i>Division of Fairs.</i>	
2518-1000 For	the administration of the division; provided, that payments for state prizes and agricultural exhibits, including allotment funds for 4-H activities, may be made from this appropriation, and for the display of exhibits at certain fairs; provided further, that not less than one hundred ten thousand dollars shall be used for certain prizes; and provided further, that funds shall be used for rehabilitation purposes, including not more than one position	\$149,600
	EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.	
3000-0100 For	the office of the secretary, and the general administration of the department; provided, that sufficient funds shall be utilized to satisfy the requirements of title I of the federal housing and community development act, including not more than seventy-five positions	\$2,420,000
3722-8878 For	the rental development action loan program; provided, that notwithstanding any general or special law to the contrary, no new commitments, contracts, or renegotiations of existing contracts resulting in an increased cost shall be entered into during fiscal year nineteen hundred and ninety-two or any subsequent fiscal year; provided further, that the secretary is hereby authorized and directed to review all amounts disbursed through this program in the four fiscal years previous to the effective date of this act and to recover all excess funds disbursed; provided further, that the secretary shall file a report with the house and senate committees on ways and means, detailing the recovery of said overpayments and recommending alternative uses for said amounts; and provided further, that only contracts signed previous to June twenty-fourth, nineteen hundred and ninety-one shall be funded	\$2,498,121
3722-8880 For	the homeownership opportunity program; provided, that all sums appropriated herein shall be used to write down interest rates on soft second mortgage loans for low and moderate income first time home buyers; provided further, that the total payment obligations of homeownership opportunity program contracts do not exceed fifteen million dollars	\$1,000,000

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3722-9002 For certain financial assistance for housing projects for veterans  
 3722-9024 For payments to housing authorities and non-profit organizations operating family housing for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons pursuant to sections thirty-two and forty of chapter one hundred and twenty-one B of the General Laws; provided, that the executive office of communities and development may expend the funds appropriated herein for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve and capital reserve included in the budget of the housing authorities; and provided further a sum of twenty-two million four hundred sixty-nine thousand two hundred forty-six dollars shall be spent on these payments. And, for a program of rental assistance for families and elderly of low-income; provided, that of the funds appropriated herein, seventy million four hundred seven thousand six hundred thirty dollars shall be deposited in an individual allocation account for the purposes of said rental assistance program; provided that not more than five percent of the amount expended for said rental assistance program may be used for the administration of said program; provided further, that notwithstanding any provision of law to the contrary, first preference for admission shall be granted to the eligible elderly; provided further, that the executive office of communities and development shall submit quarterly reports to the house and senate committees on ways and means detailing expenditures, the number of certificates awarded and the number of new and existing units leased; provided further, that the house and senate committees on ways and means shall be notified within fifteen days of any transfer of funds between allocation accounts as set forth in this item; and provided further, that the executive office of communities and development shall conduct or contract for, no less than semi-annually, rent surveys for the purpose of determining the maximum allowable rent available under the rental assistance program; provided further, that notwithstanding any general or special law, rule or regulation to the contrary the department shall reduce the average monthly rents by one hundred dollars by September 1, 1991. And, for a program of housing assistance consistent with the program requirements established by the federal government for the program authorized by Public Law 98-181, Section 207, to be administered through local non-profit agencies notwithstanding the provisions to the contrary in section forty-three of chapter one hundred and twenty-one B of the General Laws; provided, that of the funds appropriated herein, six million one hundred eighty-five thousand seven hundred eighty dollars shall be allocated for the purpose of providing housing vouchers, so-called, currently being utilized by eligible households; provided that notwithstanding any general or special law, rule or regulation to the contrary, the department shall reduce the average housing voucher monthly payment standard by two hundred dollars by September 1, 1991; provided further, that in the case of any rental assistance provided in conjunction with any federal housing program, tenants shall pay such portion of their income for rent as may be required by said federal program and such assistance shall be administered in accordance with applicable federal program regulations; and provided further, that payments for rental assistance may be provided in advance, including not more than five positions; and provided further, that the department shall not exceed and appropriation of ninety-seven million, five seventy-seven thousand, three hundred and eighty-eight

\$2,977,456

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	dollars set forth herein, nor shall the department enter into commitments which will cause the department to exceed said appropriation	\$97,577,388
3722-9027 For	payments for contracts with sponsors of rental housing projects, financed through the Massachusetts housing finance agency established pursuant to chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, in the form of a loan by the commonwealth to facilitate the construction or rehabilitation of rental housing projects pursuant to the provisions of section seven of chapter five hundred and seventy-four of the acts of nineteen hundred and eighty-three; provided, that notwithstanding the provisions of section twenty-seven of chapter twenty-three B or sections twenty-six and twenty-seven of chapter twenty-nine of the General Laws to the contrary, the department is hereby authorized to enter into such contracts for terms not exceeding fifteen years with annual payment obligations not to exceed thirty-one million, four hundred six thousand, five hundred and fifty-five dollars; provided further, that any existing contracts not subject to renegotiation during fiscal year nineteen hundred and ninety-one shall not have their funding reduced during fiscal year nineteen hundred and ninety-two; provided further, that notwithstanding any general or special law to the contrary, no new commitments, contracts, renegotiations, modifications or revisions of existing contracts shall be entered into during fiscal year nineteen hundred and ninety-two for said fiscal year or any subsequent fiscal years; provided further, that the secretary of communities and development is hereby authorized and directed to review all amounts disbursed through this program in the five fiscal years previous to the effective date of this act and to recover all excess funds disbursed; and provided further, that the secretary shall file a report with the house and senate committees on ways and means, detailing the recovery of said overpayments and recommending alternative uses for said amounts	\$31,406,555
3722-9101 For	reimbursement of cities and towns for the commonwealth's statutory share of federally aided urban renewal; provided, that no new contracts shall be entered into in fiscal year nineteen hundred and ninety-two	\$130,369
	Local Aid Fund 100.0%	
3722-9102 For	reimbursement of cities and towns for the commonwealth's share of certain non-federally aided urban renewal projects; provided, that no new contracts shall be entered into in fiscal year nineteen hundred and ninety-two	\$566,950
	Local Aid Fund 100.0%	
3722-9108 For	providing funds to cities and towns for the reimbursement of the commonwealth's share of certain urban revitalization and development projects authorized pursuant to section fifty-four of chapter one hundred and twenty-one B of the General Laws; provided, that notwithstanding the provisions of section fifty-three or fifty-seven of said chapter one hundred and twenty-one B to the contrary, such funds may be provided to any agency of a city or town designated by the chief executive officer to act on behalf of the city or town; and provided further, that no new contracts shall be entered into in fiscal year nineteen hundred and ninety-two	\$547,200
	Local Aid Fund 100.0%	
3722-9201 For	an interest subsidy program; provided, that notwithstanding any other provisions of law to the contrary, no projects shall be approved on or after the effective date of this act which would cause the commonwealth's obligation for	

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	the purposes of this item to exceed the amount of this item	\$9,825,000
3722-9315 The	Executive Office of Communities and Development may expend an amount not to exceed four hundred thousand dollars accrued from fees collected for the regulation of TELLER, so-called, projects undertaken pursuant to paragraph (m) of section twenty-six of chapter one hundred and twenty-one B of the General Laws, from fees collected pursuant to Executive Order No. 271, pertaining to low-income housing tax credits, and from fees collected pursuant to the rental development action loan program, for the costs of administering said program, including the costs of personnel, subject to the approval of the commissioner of the department of housing and homelessness prevention, including not more than ten positions	\$400,000
3743-2027 For	providing funds for local community economic development; provided, that contracts are to be awarded to community-based organizations; provided further, that a portion of the amount appropriated herein may be expended for the provision of technical assistance to such organizations, including not more than three positions provided further, that expenditures by the administering agency for said program shall not exceed fifty thousand dollars	\$750,000
3743-3036 For	contracts with community-based organizations to provide housing services and assistance to low income tenants in privately owned housing, and to landlords, to maintain and secure decent and affordable shelter within the private housing stock, including not more than one position	\$300,000
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.		
<i>Office of the Secretary.</i>		
4000-0100 For	the office of the secretary, including the health facilities appeals board, the administration of the office of health policy, and an office of contract management; provided, that said office shall approve agency investigative procedures, review all reports of all health and human service agency investigations, conduct investigations into incidents whenever it is deemed appropriate by the general counsel of said office that the quality of patient care is threatened or jeopardized, and, whenever the secretary determines it appropriate, to investigate instances of malfeasance which come to the attention of said secretary; provided further, that the executive office of health and human services shall provide technical and administrative assistance to agencies receiving federal funds when administrative costs included in said grant are received by said office; provided further, that the office of contract management shall provide a review and authorization of all human services contracting; provided further, that said office shall compile, not less than every six months, a report containing the total amount of contract obligation and total appropriation amounts obligated by department and service type; provided further, that a copy of each said report shall be submitted, within thirty days after completion, to the house and senate committees on ways and means; and provided further, that said office may conduct a survey of human service clients to determine how individuals and families access and combine different state-funded social services and benefits programs and may evaluate proposals for reform of the human services purchase-of-service system, including not more than forty positions	\$1,818,824

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4099-1501	The secretary of health and human services may expend an amount not to exceed six million dollars from revenues collected pursuant to the mental health community initiative; provided, that notwithstanding any general or special law to the contrary, said secretary may designate certain agencies within the executive office of health and human services to receive and expend said revenues for the care of mental health clients transferred from the department of mental health hospitals to community residential beds or other state institutions; provided further, that any revenues so assigned from this item shall be in addition to revenues directly appropriated to those agencies; provided further, that said secretary shall report by December first, nineteen hundred and ninety-one to the secretary of administration and finance and the house and senate committees on ways and means on the amounts to be assigned; provided further, that the total amount of revenues so assigned shall not exceed six million dollars; provided further, that any revenues so assigned may be expended for all related costs of care, including direct care personnel costs; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, an agency designated by said secretary may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of its authorization as assigned by said secretary or its pro-rata share of the most recent revenue estimate for this item as reported in the state accounting system, including not more than two hundred thirty positions	\$6,000,000
<i>Rate Setting Commission.</i>		
4100-0010	For the administration of the commission, including not more than one hundred and seventy-five positions	\$8,600,000
<i>Massachusetts Commission for the Blind.</i>		
4110-0001	For the office of the commissioner and bureau of research, including not more than twenty positions	\$760,179
4110-1010	For aiding the adult blind	\$8,139,983
4110-1020	For determining eligibility for a medical assistance program for the blind, including not more than fourteen positions	\$352,407
<i>Bureau of Individual Services.</i>		
4110-2010	For the administration of a machine lending service, including not more than two positions	\$85,022
4110-2040	For certain social services programs, including not more than fifty-five positions	\$5,193,301
4110-3010	For a program of vocational rehabilitation of the blind in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees	\$1,469,263
<i>Bureau of Industrial Aid and Workshops.</i>		
4110-4000	For the administration of the bureau and the Ferguson Industries for the Blind; provided, that retired workshop employees shall receive grants equal to three-fourths of the salaries of the current workshop employees, including not more than twelve positions	\$960,000

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4110-4035	The industries for the blind is hereby authorized to expend revenues collected up to a maximum of seven hundred and seventy thousand dollars		\$770,000
	Massachusetts Rehabilitation Commission.		
	<i>Administration.</i>		
4120-0010	For the administration of the commission; provided, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance the number of clients served and the amount expended on each type of service; provided further, that upon the written request of the commissioner of revenue, the commissioner of rehabilitation shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission; provided further, that the information on such lists shall include the client's name and social security number and the payee's name and other identification, if different from the client's; provided further, that pursuant to an inter-agency agreement between the department of public welfare and the commission, positions authorized herein, up to the amount of sixteen, may be used for the operation of a program of disability determinations, including not more than sixty-five positions		\$2,978,810
	<i>Vocational Rehabilitation.</i>		
4120-0011	For a program of vocational rehabilitation in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation be deducted for pensions, group health and life insurance, and any other such indirect cost of the federally reimbursed state employees		\$5,071,147
	<i>Employment Services.</i>		
4120-0012	For employment services programs, including programs of supported employment and extended employment for individuals with disabilities		\$6,437,472
	<i>Independent Living and Home Care.</i>		
4120-0014	For programs of independent living and home care services for individuals with disabilities		\$6,800,499
4120-0071	For the development and implementation of services to the traumatically head injured		\$6,145,397
	<i>Massachusetts Commission for the Deaf and Hard of Hearing.</i>		
4125-0100	For the administration of and services provided by the commission for the deaf and hard of hearing; including not more than fifty positions		\$2,624,008
4125-0101	Notwithstanding the provisions of any general or special law to the contrary, the commission for the deaf and hard of hearing may expend revenues in an amount not to exceed seventy thousand dollars from charges received on behalf of interpreter services; provided, that any receipts in excess of this amount shall not revert to the General Fund but shall be retained in a revolving fund in accordance with section one hundred and ninety-six of chapter six of the General Laws		\$70,000



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OFFICE FOR CHILDREN.

4130-0001	For the central administration of the office; including not more than eleven positions; provided, that the office shall administer the child care resource and referral system; and provided further, that said system shall receive funding from items 4407-9065, 4800-1000 and 4130-2087 of section 2A of this act	\$459,802
4130-0002	Notwithstanding chapter seven hundred and twenty-nine of the acts of nineteen hundred and eighty-seven, for the administration of the Children's Trust Fund; provided that, the comptroller is hereby authorized to transfer not more than forty-five thousand eight hundred and fifteen dollars to the Children's Trust Fund; provided further, that said funds shall be available without further appropriation, including not more than one position	\$123,577
4130-0005	For field operations licensing; provided that no funds from this item may be expended for family support services, including not more than one hundred and sixty positions	\$4,289,084
4130-0008	The executive office of health and human services is hereby authorized to expend revenues collected for licensing fees and day care lists; provided, that revenues collected may be used for program, administrative, and personnel costs; provided further, that no funds from this item may be expended for family support services, including compensation of employees, up to a maximum of nine hundred and sixty thousand dollars	\$960,000
4130-0720	For a program of technical assistance and purchase of services in support of implementation of comprehensive community plans for teenage pregnancy prevention; provided, that applications for such funds shall be administered through the office for children upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by said office; provided further, that portions of said grants may be used for state agency purchases of designated services identified by said community service plans, including not more than two positions	\$2,069,168

*Commissioner of Veterans' Services.*

4170-0010	For the office of the commissioner; provided, that of the sum appropriated herein, not less than two hundred seventy-one thousand six hundred and eighty dollars be obligated for the purpose of assisting veterans to obtain federal VA benefits pursuant to the provisions of Public Law 95-588, including not more than forty-three positions	\$1,301,823
4170-0012	For a counseling program for veterans and their families, including the maintenance and operation of outreach centers; provided, that said centers shall be selected through a procedure of competitive procurement pursuant to applicable regulations to be completed not later than September first, nineteen hundred and ninety-one; provided further, that said centers shall be distributed regionally to serve veterans throughout the commonwealth; and provided further, that said centers shall provide counseling for incarcerated veterans and for Vietnam-era veterans and their families who may have been exposed to Agent Orange	\$500,000
4170-0013	For the purpose of providing matching funds to a federal grant under Title IVC of the Jobs Training Partnership Act, an employment and training program in the office of Veterans' Services in the commonwealth, Vietnam, minority, disabled and recently discharged veterans	\$135,741
4170-0100	For a program to maximize revenues by identifying individuals who are eligible for veterans' pensions and are currently	

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	receiving home care and home health services; provided, that the office of the commissioner of veterans' services shall enter into an interagency service agreement with the executive office of elder affairs to determine the methods for recovering said pensions, including not more than three positions	\$80,000
4170-0300 For	the payment of annuities to certain disabled veterans	\$129,000
4170-0400 For	reimbursing cities and towns for money paid for veterans' benefits and for payment to certain veterans in accordance with the following formula: seventy-five percent to be reimbursed by the commonwealth and twenty-five percent to be reimbursed by the cities and towns	\$10,821,903
	Local Aid Fund 100.0%	
4170-0650 For	the continuation of a program for the education of health professionals regarding the symptoms and effects on veterans of post-traumatic stress disorder	\$49,563
	<i>Soldiers' Home in Massachusetts.</i>	
4180-0100 For	the maintenance of the Soldiers' Home in Massachusetts, located in the city of Chelsea; provided, that the home shall generate four million nine hundred and eighty-five thousand dollars from fees, payments, and reimbursements, including not more than four hundred and forty-eight positions	\$15,445,169
4180-0101 For	the maintenance of a specialized unit for the treatment of Alzheimer's disease patients at the soldiers' home in Chelsea, including not more than eighteen positions	\$478,314
4180-1100 The	Soldiers' Home in Massachusetts, located in the city of Chelsea, may expend revenues up to a maximum of six hundred thousand dollars, for facility maintenance and patient care, including personnel costs, provided that sixty percent of all revenues generated pursuant to section two of chapter ninety of the General Laws, as appearing in the 1988 Official Edition, through the purchase of a license plate with the designation of VETERAN by eligible veterans of the Commonwealth, upon compensating the Registry of Motor Vehicles for the cost associated with such, shall be deposited into and for the purposes of this retained revenue account of the Chelsea Soldiers' Home	\$600,000
	<i>Soldiers' Home in Holyoke.</i>	
4190-0100 For	the maintenance of the Soldiers' Home in Holyoke; provided, that the home shall generate three million seven hundred and one thousand dollars from fees, payments, and reimbursements, including not more than three hundred and fifteen positions	\$10,240,086
4190-0101 For	the maintenance of an adult day care program at the soldiers' home in Holyoke	\$140,799
4190-1100 The	Soldiers' Home in Holyoke, may expend revenues up to a maximum of four hundred thousand dollars, for facility maintenance and patient care, including personnel costs, provided that forty percent of all revenues generated pursuant to section two of chapter ninety of the General Laws, as appearing in the 1988 Official Edition, through the purchase of a license plate with the designation of VETERAN by eligible veterans of the Commonwealth, upon compensating the Registry of Motor Vehicles for the cost associated with such, shall be deposited into and for the purposes of this retained revenue account of the Holyoke Soldiers' Home	\$400,000

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DEPARTMENT OF YOUTH SERVICES.

4200-0010 For	the administration of the department, including not more than fifty-six positions	\$2,651,833
4202-0021 For	the purchase of service for certain residential care programs, including certain secure programs, and for certain non-residential programs, in accordance with the provisions of chapter twenty-eight A of the General Laws	\$32,941,046
4237-1010 For	supervision, counseling, and other services by the department incidental to certain residential or non-residential care programs, including not more than one hundred and sixty-five positions	\$5,789,222
4238-1000 For	the operation of the secure facilities administered and operated by the department, including not more than three hundred and twenty-five positions	\$10,949,608

DEPARTMENT OF PUBLIC WELFARE.

*Notwithstanding any provision of law to the contrary, unless otherwise specified, all federal funds received for the purposes of the department of public welfare shall be credited to the General Fund, and the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on program expenditures, savings and revenues, error rate measurements, public assistance caseloads and benefit levels.*

4400-1000 For	department management and support services, including the development and maintenance of automated data processing systems and services in support of department operations, and for the administration of department programs in local welfare offices including a program of health services for certain recipients and the expenses of operating a food stamp program; provided, that three hundred and fifty thousand dollars shall be expended for a food stamp outreach program; including not more than three thousand, five hundred, and fifty positions	\$108,618,458
4400-1003 For	the administration of the medicaid program, including a central automated vendor payment system and utilization review of medical assistance services; provided, that not less than two hundred thousand dollars be obligated for outreach activities targeting pregnant women through an interagency agreement with the department of public health, including not more than three hundred and thirty positions	\$15,023,121
4400-4000 For	a program to provide certain primary and supplemental medical care and assistance for disabled adults and children as provided in sections six A and six B of chapter one hundred and eighteen E of the General Laws; provided, that the department may allocate funds to other agencies for the purposes of this program	\$15,005,143
4401-1000 For	a program to provide employment and training services for recipients of benefits provided under the program of aid to families with dependent children and the absent parents of said recipients; provided, that certain pregnant and parenting persons who have not yet reached the age of twenty-two years, including those who may be absent parents, including those who are ineligible for aid to families with dependent children or general relief programs but whose children are recipients of aid to families with dependent children or general relief programs, be allowed to participate in the employment and training program; provided further, that the department may allocate funds from this line item to other agencies for the purposes of the employment and training program; provided further, that no funds from this item shall be expended for day care; and provided further, that expenditures shall not exceed	

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	appropriation; and provided further that no recipient of the Employment and Training program may pursue more than one course of study, except that a high school diploma or G.E.D. shall not be considered a course of study, including not more than nineteen positions	\$14,315,691
4401-2000 For	a day care program to be administered by the department of public welfare for recipients of benefits provided under the program of aid to families with dependent children and the absent parents of said recipients; provided, that the day care program shall be available for participants in the employment and training program and for former participants within up to one year of completion of said program; provided further, that no "extended vouchers", so-called, shall be paid for from this item; provided further that the management of the voucher system shall be contracted out; provided further, that no funds shall be expended from this item for independent child care; and provided further, that expenditures shall not exceed appropriation	
4402-5000 For	a medical assistance program, including a program of special education medical services provided to medicaid children; provided, that the department of public welfare with the cooperation of the rate setting commission shall not approve any increase in existing rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated facilities in order to provide services of adequate quality; provided further, that medical assistance benefits provided by the department and eligibility therefor shall be revised by said department not later than October first, nineteen hundred and ninety-one by making such state plan amendments that are permissible under said Title XIX to achieve permanent, annualized cost reductions of not less than four hundred and twenty million dollars by fiscal year nineteen hundred and ninety-three; provided further, that an implementation plan for making such revisions shall be prepared which shall describe said benefit and eligibility revisions, any federal waivers necessary to make such revisions, the timeline for making such state plan amendments, the effective date for each such revision, the annualized and fiscal year nineteen hundred and ninety-two cost reduction projected for each such revision, and monthly expenditure benchmarks based on such revisions; provided, that the department shall submit a monthly comparison of said expenditure benchmarks with actual expenditures, and an analysis of any variance therefrom, by category of provider beginning with September expenditures; provided, that the program shall continue to provide the Kaileigh Mulligan home care program for disabled children; provided, that the department shall provide at least a minimal medically needy program; provided, that an amount not to exceed six hundred million dollars may be expended from this item for the payment of expenses incurred in the prior fiscal year; provided, that the department shall prepare a report stating the total amount paid to each category of provider for such expenses which shall be filed not later than one month after the close of said fiscal year with the house and senate committees on ways and means; provided, that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother; provided, that no expenditures or commitments made pursuant to this item or to any agreements authorized by chapter eight hundred of the acts of nineteen hundred and sixty-nine, as amended, for the purpose of complying with the provisions of said Title XIX, shall be incurred in excess of available funds which have been appropriated therefor;	\$42,925,966

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	provided further, that no expenditures shall be made from this item which are not federally reimbursable except as provided herein; provided, that funds may be expended from this account for cost containment efforts which are not eligible for federal reimbursement provided that the house and senate committees on ways and means are given prior notice of the projections of total spending on such efforts, explanations of any increase over the previous fiscal year, and estimates of savings resulting from said efforts; provided, that up to one million dollars shall be expended from this item for early screening and treatment necessary to reduce hospitalizations and to avoid medicaid costs by delaying the onset of fully symptomatic AIDS; provided further, that the department may allocate funds to other agencies for the purposes of this program after giving prior notice to the house and senate committees on ways and means; and provided further, that no funds shall be expended by the department for patient-centered rates of payment for services provided under said Title XIX in chronic disease and rehabilitation hospitals	\$2,431,000,000
4402-5002 The	department of public welfare may expend an amount not to exceed forty-three million dollars from the monies received pursuant to chapter one hundred and eighteen E of the General Laws from collections of any prior year expenditures from liens, estate recoveries, retrospective rate adjustments and third party recoveries, provider donations, and pharmaceutical manufacturers' rebates or other collections subject to the approval of the department of public welfare for purposes of the medical assistance program; provided, that revenue collection goals and the verified amounts of revenues actually collected for each category of revenue project shall be filed monthly with the house and senate committees on ways and means	\$43,000,000
4402-5200 For	payment of nursing home retrospective settlements, hospital settlements, rate adjustments and appeals, for costs incurred in prior years by the medical assistance program established pursuant to chapter eight hundred of the acts of nineteen hundred and sixty-nine, as amended, for the purposes of complying with the provisions of Public Law 89-97, Title XIX; and for fiscal closure claims and certain other special provider costs incurred in prior fiscal years by the medical assistance program provided that payment for said fiscal closure claims and other special provider costs may be made from this line item only with the prior written approval of the secretary of administration and finance	\$50,000,000
4403-2000 For	a program of aid to families with dependent children; provided, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided further, that a forty dollar per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing, subject to federal reimbursement; provided further, that no clothing allowance shall be provided in fiscal year nineteen hundred and ninety-two; provided further, that a program of assistance, including medical assistance, shall be provided to families otherwise eligible for aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse; provided further, that child support payments collected pursuant to Title IV-D of the Social Security Act, not to exceed an amount of	

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	sixty-seven million dollars, shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided further, that certain families which suffer a reduction in benefits due to their loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for this loss; and provided further, that no funds from this item shall be expended by the department for the transportation services for the employment and training program or voucher day care program; and provided further, that no funds from this item shall be expended by the department for independent child care services	\$702,436,818
4403-2013 The	department of public welfare may expend an amount not to exceed sixty-seven million dollars, in accordance with the provisions of item 4403-2000 in section two of this act, accrued from the child support payments collected pursuant to Title IV-D of the Social Security Act, for the purposes of the program of aid to families with dependent children	\$67,000,000
4403-2100 For	a program of emergency assistance for needy families and individuals; provided, that the department shall prepare and promulgate rules and regulations to prevent abuse in the Emergency Assistance program; provided further, that said rules and regulations shall include but not be limited to a year to year cross check of recipients to determine if a person has received similar benefits in the previous year or years; provided further, that no advance payments shall be paid in fiscal year nineteen hundred and ninety-two; provided further, that no funds shall be expended from this item for department of social services assessments during fiscal year nineteen hundred and ninety-two; and provided further, that no funds shall be expended for costs not directly attributable to rent or mortgage liability, utilities, and shelter; and provided further, that funds from this item expended for emergency shelter costs shall be subject to federal reimbursement	\$39,595,475
4405-2000 For	the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants recipients residing in rest homes, as provided in section seven A of chapter one hundred and eighteen A of the General Laws, may be paid from this item; and provided further, that the expenses of a program to aid applicants in becoming eligible for said supplemental security income program may be paid from this item	\$142,532,670
4406-2000 For	a program of general relief; provided, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided further, that a thirty-five dollar per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; and provided further, that no funds from this account shall be expended for homeless shelters, for advance rent or security deposits, for rent or utility arrearage payments, for furniture storage, or for moving expenses	\$94,981,776
4406-3000 For	a program of assistance to families and individuals who are homeless or in danger of becoming homeless, including assistance to organizations which provide food, shelter, housing search, and limited related services to the homeless and indigent; provided, that the department may allocate funds to other agencies for the purposes of this program; provided further, that the winter shelters, so-called, be operated year-round; provided further, that not less than eight million six hundred thousand dollars shall be obligated for a contract with the Pine Street Inn located in the city of	

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	Boston; provided further, that not less than seven hundred sixty-one thousand two hundred and fifty dollars be obligated for a comprehensive multi-service day treatment program for the homeless in the city of Boston; and provided further, that at least as many shelter spaces as were provided for homeless families and individuals during fiscal year nineteen hundred and ninety-one be made available in fiscal year nineteen hundred and ninety-two	\$30,688,400
4406-5000 For	a program of medical services for general relief recipients; provided, that notwithstanding the provisions of any general or special law to the contrary, said program shall provide the benefits of care rendered by physicians, community health centers, and of prescription drugs only; provided further, that said program may contract with competitively selected hospitals and community based agencies for the purpose of providing coordinated health care services to certain general relief recipients; provided further, that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother; and provided further, that of the amount appropriated herein an amount not less than three million one hundred and four thousand nine hundred and twenty-four dollars shall be expended for the Health Care for the Homeless programs in Boston, Worcester, and Springfield and also the Pip Shelter in Worcester, Daybreak Shelter in Lawrence, and Long Island Shelter in Boston, including not less than four hundred and thirty-six thousand dollars for the Boston program operated by the Boston Trustees of Health and Hospitals	\$21,356,423
DEPARTMENT OF PUBLIC HEALTH.		
<i>The department of public health shall submit quarterly to the house and senate committees on ways and means a status report on all public health hospitals, by individual hospital, including, but not limited to, inpatient and outpatient utilization, costs, revenues, personnel, contract expenditures, and capacity by service and use of such facilities by other state agencies and vendor programs.</i>		
4510-0100 For	the administration of the department, provided, that no funds available to the department, appropriated under this act, shall be expended after January first, nineteen hundred and ninety-two, for lease or space rental costs of offices at 80 Boylston Street; and provided further, that the position of assistant commissioner shall not be subject to chapter thirty-one of the General Laws, including not more than seventy positions	\$4,965,344
4510-0102 For	the administration of the division of environmental epidemiology and toxicology and for the purpose of implementing certain provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, the "Right-to-Know" law, so-called, provided that the department may conduct a study pursuant to chapter one hundred and ninety-nine of the acts of nineteen hundred and eighty-seven, including not more than twenty-five positions	\$448,328
4510-0110 For	community and other health centers operational grants program; provided, that notwithstanding any general or special law to the contrary, not less than seventy thousand dollars shall be expended for South Boston Community Health Center; provided further, that notwithstanding any general or special law to the contrary, not less than one hundred and fifty thousand dollars shall be expended for the Massachusetts General Hospital Neighborhood Health Center, including not more than four positions	\$627,000
4510-0600 For	an environmental health program, including control of radiation and nuclear hazards and consumer products	

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	protection, including food and drugs and a program of lead poisoning prevention, in accordance with chapter seven hundred and seventy-three of the acts of nineteen hundred and eighty-seven, and for the maintenance of poisoning prevention inspections teams to inspect for lead-based paint in day care facilities, and for an inspection and licensing program of x-ray technologists, including the payment of fringe and indirect costs for employees compensated under this program; provided, that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of one hundred percent of the amounts so expended; provided further, that not less than one hundred and fourteen thousand dollars shall be obligated for the implementation of a program to manage the disposal of low-level radioactive waste in accordance with sections seven, eight, eleven, thirteen and sixteen of chapter one hundred and eleven H of the General Laws; and provided further, that the department shall generate eight hundred and seventy thousand dollars from fees and fines pursuant to this section and the implementation of chapter seven hundred and seventy-three of the acts of nineteen hundred and eighty-seven to be deposited in the General Fund, including not more than eighty-five positions	\$2,726,181
4510-0710 For	the administration of the division of health care quality; provided, that said division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally retarded and ill, hospitals and infirmaries, including the inspection of ambulance services, including not more than one hundred and forty-five positions	\$5,951,967
4510-0712 The	department of public health is hereby authorized to expend revenues collected pursuant to the licensure of health facilities up to a maximum of two hundred six thousand one hundred and ten dollars	\$206,110
4510-0750 For	the cost of providing certificates of need, as required by section twenty-five C of chapter one hundred and eleven of the General Laws, including not more than six positions	\$180,157
4510-0790 For	the operation of an office of emergency medical services and for a program of nursing services within the control of said office; provided, that not less than three hundred thousand dollars shall be obligated for the operation of regional emergency medical services councils and regional communication centers, including not more than ten positions	\$400,000
4512-0103 For	the administration of the acquired immune deficiency syndrome program; provided, that not less than six hundred and seventy-nine thousand dollars be obligated to comprehensive family planning providers for AIDS prevention education; provided further, that two hundred and thirty thousand dollars and not more than four positions shall support a program of AIDS-related mental health services in Boston; provided further, that the department of public health shall seek immediately from the applicable federal agency, a waiver of the maintenance of effort requirement, on the basis of extraordinary economic conditions in the commonwealth that make compliance with said maintenance of effort requirement an unreasonable hardship during this period of fiscal crisis beyond the control of the commonwealth, including not more than twenty-nine positions	\$18,613,317
4512-0110 For	a program to provide rental subsidies to persons with AIDS for the purpose of preventing institutionalization in acute	



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	hospitals, chronic hospitals and nursing homes; provided, that the department of public health may contract for the administration of said program; and provided, that the costs of said administrative contract shall not be expended from this item; provided further, that said department shall submit a plan detailing the administration of said program on or before September first, nineteen hundred and ninety-one to the house and senate committees on ways and means for approval of said plan prior to its implementation; provided further, that any such subsidies in effect on June thirtieth, nineteen hundred and ninety-one shall remain in effect until said plan is approved; and provided further, that no funds shall be expended for subsidies for housing units in excess of the number of units funded and occupied on June thirtieth, nineteen hundred and ninety-one	\$120,000
4512-0200 For	the administration of the division of substance abuse services, and for a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that the department generate eight hundred and thirty-one thousand dollars from rates collected in excess of those authorized in section twenty-four D of chapter ninety of the General Laws to be deposited to the General Fund; and provided further, that the department of public health shall seek immediately from the applicable federal agency, a waiver of the maintenance of effort requirement under the Comprehensive Alcohol Abuse, Drug Abuse and Mental Health Service Act of nineteen hundred and eighty-eight, on the basis of extraordinary economic conditions in the commonwealth that make compliance with said maintenance of effort requirement an unreasonable hardship during this period of fiscal crisis beyond the control of the commonwealth, including not more than twenty-five positions	\$27,844,303
4512-0225 The	commissioner of the department of public health may expend an amount not to exceed two hundred thirty thousand eight hundred and thirty-two dollars, which the state comptroller is hereby authorized and directed to transfer to the General Fund from unclaimed prize money that has been held in the State Lottery Fund for more than one year from the date of the drawing in which the prize was won, for a compulsive gamblers treatment program. Any expenditures for said program shall be subject to the approval of said commissioner	\$230,832
4512-0500 For	a dental health program, including dental services for residents of the state schools for the mentally retarded, and statewide community-based dental programs for persons with mental retardation, including not more than seven positions	\$1,524,726
4513-1000 For	the administration of the division of family health services, including a program of maternal and child health to be in addition to any federal funds received for this program; provided, that not less than two hundred and fifty thousand dollars shall be expended on community-based perinatal outreach and education programs targeted to those communities with severe infant mortality issues; provided further, that not less than five hundred seventeen thousand dollars shall be expended for rape prevention and victim services; and provided further that one million six hundred and thirteen thousand dollars shall be expended for family planning services provided by agencies certified as comprehensive family planning agencies, including not more than eighty positions	\$16,179,939
4513-1001 For	the administration of the office of violence prevention, including not more than two positions	\$100,000
4513-1002 For	the administration of the office of nutritional services to be in addition to funds received under the federal nutrition program for women, infants, and children; provided, that all new WIC cases, in excess of fiscal year nineteen hundred	

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	and ninety-one caseload levels, shall be served in accordance with priority categories 1-5, as defined by the state WIC program; provided further, that within thirty days of the effective date of this act the department shall report to the house and senate committees on ways and means the total number of cases which can be supported with funds from this item without incurring a deficiency; provided further, that the department shall report quarterly to the house and senate committees on ways and means on all expenditures from this item and from the federal nutrition program for women, infants and children, including the numbers of participants in each program; and provided further, that not less than six hundred and two thousand dollars shall be obligated for failure to thrive programs; including not more than twenty positions	\$8,141,559
4513-1005 For	the program of medical care and assistance administered by the department pursuant to section twenty-four D of chapter one hundred and eleven, for pregnant women and infants residing in the commonwealth; provided, that pursuant to an interagency agreement established with the department of public welfare, the department of public health shall determine the eligibility for low income pregnant women for Title XIX and women eligible for service under section one A of chapter one hundred and eighteen E of the General Laws; and provided further, that the department shall submit a report, on a quarterly basis, to the house and senate committees on ways and means which shall include, but not be limited to, the number of women served during that quarter, categories of age, types of services provided, and expenditures made, including not more than twenty-five positions	\$5,388,642
4513-1012 The	commissioner of the department of public health may expend an amount not to exceed ten million four hundred thousand dollars from revenues received from the infant formula price enhancement system, hereby authorized, for the purpose of increasing the caseload of the WIC program	\$10,400,000
4516-1000 For	the administration of the center for laboratory and communicable disease control services, including the division of communicable venereal diseases, the division of tuberculosis control, and the state laboratory institute; provided, that any expenditures incurred by the universal immunization program, so called, shall be charged to the vaccine trust fund, established in section one hundred and forty-one of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine, for the maximum amount allowable under the conditions of said trust fund, and for services to analyze samples used in prosecution of controlled substances offenses; and provided further, that the department shall generate ninety-two thousand dollars from penalties paid in accordance with section six B of chapter two hundred and eighty of the General Laws to be deposited in the General Fund, including not more than one hundred and eighty-five positions	\$11,243,926
4518-0100 For	the administration of the office of health statistics analysis and for the operation of a cancer registry and occupational lung disease registry, including not more than fifty positions	\$1,576,887
4540-0900 For	the maintenance of and for certain improvements to the department of public health hospitals, and for certain costs related to the closure of certain hospitals; provided, that of the funds appropriated hereunder, no funds shall be expended for free care services at Shattuck public health hospital to state correctional facility inmates later than September first, nineteen hundred and ninety-one; provided further, that Tewksbury Hospital shall not be used to	

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house county, state or other prisoners, including not more than two thousand four hundred positions \$37,490,761

4590-0900 The department of public health hospitals may expend, in addition to any amounts made available to said department pursuant to item 4099-1501, an amount not to exceed fifty-one million two hundred ninety-five thousand one hundred and ninety-six dollars from revenues collected subject to the approval of the commissioner of public health; provided, that such revenues may be expended for the purpose of hospital related costs, including capital expenditures and motor vehicle replacement; provided further, that of the funds appropriated hereunder, no funds shall be expended for free care services at Shattuck public health hospital to state correctional facility inmates later than September first, nineteen hundred and ninety-one; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the hospitals may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that notwithstanding any general or special law to the contrary, Lakeville hospital, Rutland Heights hospital, and Western Massachusetts hospital shall be eligible to receive both the state and federal share of reimbursements from the medical assistance program of the department of public welfare; provided further, that notwithstanding any general or special law to the contrary Lakeville hospital, Rutland Heights hospital, and Western Massachusetts hospital shall reimburse the General Fund for a portion of their employee benefit expenses, according to a schedule submitted by the commissioner of public health and approved by the secretary of administration and finance; and provided further, that such reimbursement shall not exceed ten percent of total personnel costs for these hospitals \$51,295,196

DEPARTMENT OF MEDICAL SECURITY.

4600-1000 For the administration of the department of medical security, including not more than twenty-two positions \$882,927

4600-1050 For the costs of administering the revenues in the uncompensated care pool pursuant to section fifteen of chapter one hundred and eighteen F of the General Laws; provided, that not less than four million dollars of revenues from this pool shall be expended for a managed health care program at community health centers; provided further, that not less than one hundred eighty-five thousand three hundred and fifty dollars shall be expended from said revenues for a program of technical assistance to community health centers to be provided by a qualifying organization under section 330 of the United States Public Health Service Act of 1974, as amended; provided further, that not less than ten million seven hundred thousand dollars of revenues from the pool shall be transferred to the vaccine trust fund \$790,391

DEPARTMENT OF SOCIAL SERVICES.

*Notwithstanding any provision of general or special law to the contrary, the department of social services shall report monthly to the house and senate committees on ways and means and to the secretary of administration and finance the current social worker caseloads by type of case and level of social worker assigned to cases.*

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	<i>Notwithstanding any provision of general or special law to the contrary, the department of social services shall report quarterly to the house and senate committees on ways and means and to the secretary of administration and finance the amount expended on basic, supportive and teen parent day care as funded through contracts, and shall include the total number of slots by category, occupancy by category, and the cost by category, in addition to the status of the alternating intake system and client waiting lists at all day care centers with which the state contracts, and the number of day care vouchers converted into contracted slots by region.</i>	
	<i>Notwithstanding any provision of general or special law to the contrary, the department of social services shall report quarterly to the house and senate committee on ways and means and the secretary of administration and finance the amount expended on women-at-risk services; said report shall include the number of service units by category, utilization by category, and cost by category.</i>	
	<i>Notwithstanding any provision of any general or special law to the contrary, the department of social services shall provide spending plans to the house and senate committees on ways and means and the secretary of administration and finance for the federal grant entitled Title IV-B of the Social Security Act.</i>	
	<i>Notwithstanding any provision of general or special law to the contrary, the department of social services shall not authorize purchased social services at a level that will cause expenditures to exceed appropriations and allocations from revolving funds; provided, that social services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year.</i>	
4800-0015 For	the central and regional administration of the department; provided, that unless otherwise authorized to be expended, all funds including any federal reimbursements received by the department shall be credited to the General Fund; including not more than three hundred and five positions	\$14,355,569
4800-0020 For	the delivery of permanency services to children in the care of the department, including the provision of adoption and guardianship subsidies; provided that the department shall make assessment of all the children in its care longer than twelve months for the appropriateness of adoption; provided further, that the department shall maintain a central registry and tracking system to monitor the progress of such children in the adoption process; provided further, that the department through said program may contract with community based agencies for the purpose of providing adoption and special needs adoption services for not less than 1.5 million dollars; and provided further, that no funds shall be expended to provide subsidies to adoptive parents for children no longer in their care; including not more than twenty-seven positions	\$25,901,322
4800-0025 For	a program of foster care review, including not more than fifty positions	\$1,715,523
4800-0030 For	the delivery of foster care services to children in the care of the department, including the provision of foster care subsidies, services to foster families and reimbursements to foster parents for extraordinary expenses incurred; provided, that the department shall collect not less than thirty-two million dollars pursuant to Title IV-E of the Social Security Act; and provided further, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund	\$77,105,548
4800-0041 For	the delivery of group care services to children in the care of the department not to exclude less expensive treatment	

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	methods; provided, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund; provided further, that the department of social services shall collect revenues from a sliding fee scale for service, in an amount not less than four hundred and eighty thousand dollars for the provision of group care; and provided further, that the department of social services shall collect not less than two million eight hundred and eighty thousand dollars, in the aggregate, of SSI and SSA cash benefits received by the department on behalf of children in its care for the provision of group care	\$78,249,063
4800-0050 For	the expenses and operations of the New Chardon Street Home for Women located in the city of Boston; provided, that the department shall collect not less than thirteen thousand eight hundred and fifty dollars from a sliding fee scale for service, including not more than eighteen positions	\$555,617
4800-0060 For	a program of day care services provided through contracts; provided that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund; provided further, that no funds shall be expended for "extended vouchers", so-called; provided further, that day care slots shall be distributed geographically in a manner which provides fair and adequate access to day care for participants in the department of public welfare's employment and training program; provided further, that the department shall collect not less than three million six hundred and forty-seven thousand nine hundred and sixty-two dollars pursuant to Title IV-A of the Social Security Act; provided further, that any participating voucher provider with fifty or more voucher placements, where said placements constitute fifty or more percent of the provider's total program capacity, shall submit a proposal for contracted day care and enter into contract negotiations with the department of social services; provided further, that failure to enter into a contract for day care shall require that the provider limit voucher enrollment to fewer than fifty children, where said enrollments constitute fifty or more percent of the provider's total program capacity; provided, that any voucher provider with fifty or more voucher placements, where said placements constitute fifty or more percent of the provider's total program capacity, who has been denied a day care contract with the department of social services, shall not enter into a voucher provider agreement without sign-off by the commissioner of the department of social services; and provided further, that not less than three million four hundred and twenty-five thousand dollars shall be contingent upon contractual partner agreements secured by program providers committing a private or public source other than the commonwealth to provide funds equal to twenty-five percent of the cost of the proposed public/private partnership program, including not more than eight positions	\$67,889,889
4800-0150 For	the administration of the department's area offices, including not more than three hundred and fifty positions	\$15,664,264
4800-1100 For	social workers and their expenses, including not more than two thousand two hundred positions	\$63,055,803
4800-1200 For	contracts with partnership agencies, so-called, for the provision of protective services; provided, that one million six hundred thousand dollars shall be expended on contracts serving minority and mentally retarded or handicapped clients funded from this account during fiscal year nineteen hundred and ninety-one; and provided further, that three million one hundred thousand dollars shall be made available only during fiscal year nineteen hundred and ninety-two for the purpose of a transitional phase-out period for all partnership agency contracts, so-called, that are not serving said minority, mentally retarded or handicapped clients	\$4,700,000

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4800-1300 For	contracts for preventive and family support services; provided, that not less than four million three hundred and forty-nine thousand dollars shall be contingent upon contractual partner agreements secured by program providers committing a public or private source other than the commonwealth to provide funds equal to twenty-five percent of the cost of the proposed public/private partnership program; and provided further, that not less than sixty-two thousand dollars shall be expended for a contract for an integrated family services team in region six	\$27,701,780
4800-1400 For	contracts for women-at-risk shelters and services; provided, that not less than seven hundred fifty-five thousand dollars shall be contingent upon contractual partner agreements secured by program providers committing a private or public source other than the commonwealth to provide funds equal to twenty-five percent of the cost of the proposed public/private partnership program	\$4,904,176
4800-1500 For	contracts for school and community-based young parent programs; provided, that not less than five hundred sixty-nine thousand dollars shall be contingent upon contractual partner agreements secured by program providers committing a private or public source other than the commonwealth to provide funds equal to twenty-five percent of the cost of the proposed public/private partnership program	\$2,613,843

DEPARTMENT OF MENTAL HEALTH.

*Notwithstanding any general or special law to the contrary, the department of mental health shall report quarterly to the house and senate committees on ways and means, the status of all existing community-based programs, including the total cost of each program, its client capacity, and the number of clients actually being served.*

*The department of mental health shall report quarterly to the house and senate committees on ways and means expenditures made, by region, for the establishment of new community-based programs, the status of community-based programs including starting dates, numbers of clients served per program, the cost for the start-up month and the cost for the full fiscal year.*

*Notwithstanding any general or special law to the contrary, the department of mental health shall submit quarterly to the house and senate committees on ways and means a status report on community placements, by region, including the identification of patients to be moved in the community as well as the program in which they will be placed, and the dates on which they are to be deinstitutionalized.*

*Notwithstanding any general or special law to the contrary, the department of mental health shall submit quarterly to the house and senate committees on ways and means a status report on all state hospitals including total cost of the operations of each institution, its client capacity, number of clients being served and the use of such facilities by other state agencies.*

5011-0100 For	the administration and general services of the department, including a consolidated laundry program and a program for the training of psychiatric residents and multidisciplinary trainees, including not more than three hundred and fifty positions	\$16,031,598
5046-0000 For	mental health services for adult clients; provided, that of the sum appropriated herein, not less than two hundred	

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	thousand dollars be obligated for the provision of technical assistance to non-profit agencies in order to expedite the development of community housing for the mentally ill; provided, that no funds appropriated under this item shall be expended for the payment of any vendor-operated programs whose functions replace those provided by partnership clinic employees, so called, during fiscal year nineteen hundred and ninety-one; and provided further, that the department shall generate thirteen million five hundred thousand dollars from occupancy fees in community-based housing and from federal reimbursements received for case management and rehabilitation services to be deposited in the General Fund, including not more than nine hundred and thirty positions	\$138,527,126
15046-1000 For	a program to provide rental subsidies to certain clients within the department of mental health; provided, that the department shall submit a plan detailing the administration of said program on or before September first, nineteen hundred and ninety-one to the house and senate committees on ways and means for approval prior to implementation; provided further, that any such subsidies in effect on June thirtieth, nineteen hundred and ninety-one shall remain in effect until said plan is approved; and provided further, that no funds shall be expended for subsidies for units in excess of the number of units funded and occupied on June thirtieth, nineteen hundred and ninety-one	\$2,093,893
15047-0000 For	mental health services for children and adolescents; provided, that the department shall generate six million five hundred thousand dollars from certified adolescent inpatient units and intensive residential treatment programs and the so-called rehabilitation option to be deposited in the General Fund, including not more than one hundred and thirty positions	\$45,485,201
15049-0000 For	forensic mental health services, including not more than fifty-two positions	\$5,317,704
15051-0100 For	the operation of community mental health centers; provided, that no funds appropriated under this item shall be expended for the payment of any vendor-operated programs whose functions replace those provided by partnership clinic employees, so called, during fiscal year nineteen hundred and ninety-one, including not more than two thousand one hundred positions	\$78,872,093
15095-0000 For	the maintenance of the state hospitals, the Gaebler Children's Center, and the treatment center at the Massachusetts Correctional Institute at Bridgewater; provided, that the department generate nine million dollars from services pursuant to Title XVIII and Title XIX of the Social Security Act, third party reimbursements, rents and other patient services to be deposited in the General Fund, including not more than four thousand two hundred positions	\$134,621,088
15095-3000 For	a reserve to fund expenses associated with the transfer of mental health clients to the department of mental retardation; provided, that funds may be transferred from this item to items of appropriation 5095-0000, 5948-0000 and 5983-0100 only; provided further, that any expenditures or transfers from this reserve shall be subject to the joint approval of the commissioners of mental health and mental retardation; provided further, that as each transfer is completed, the pro-rata proportion of an annual cost of thirty thousand dollars will be correspondingly transferred from this reserve account to the department of mental retardation; provided further, that both departments shall be authorized to transfer from this account to fund services for clients scheduled for transfer throughout fiscal year nineteen hundred and ninety-two; provided further, the departments of mental health and mental retardation shall	

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	submit quarterly to the house and senate committees on ways and means a report outlining the transfers to date and the corresponding expenditures made from this reserve; provided further, that at the close of fiscal year nineteen hundred and ninety-two all remaining funds in this account, excluding those generated from retained revenue, shall revert to the department of mental health hospital account, 5095-0000	\$2,400,000
5095-4000 For	a community initiative reserve to fund expenses associated with the transfer of mental health clients from department of mental health hospitals to community residential beds, general hospitals, and other state institutions; provided, that the secretary of health and human services may transfer funds from this item to items of appropriation 5051-0000, 5095-0000, 5046-0000, 4540-0900, 5948-0000 and 5983-0100 only; and provided further, that as each placement is developed, the pro-rata portion of the annual cost per bed will be correspondingly transferred from this reserve account to the account so designated by the secretary of health and human services; and provided further, that all expenses associated with the community initiative reserve be for the care and placement of mental health clients	\$14,813,005
DEPARTMENT OF MENTAL RETARDATION.		
<i>Notwithstanding any general or special law to the contrary, the department of mental retardation shall report quarterly to the house and senate committees on ways and means the status of all existing community-based programs, including the total cost of each program, its client capacity, and the number of clients actually being served.</i>		
<i>The department of mental retardation shall report quarterly to the house and senate committees on ways and means expenditures made, by region, for the establishment of new community-based programs, the status of community-based programs including starting dates, numbers of clients served per program, the cost for the start-up month and the cost for the full fiscal year.</i>		
<i>Notwithstanding any general or special law to the contrary, the department of mental retardation shall submit quarterly, to the house and senate committees on ways and means a status report on community placements, by region, including the identification of clients to be moved into the community as well as the program in which they will be placed, and the dates on which they are to be deinstitutionalized.</i>		
<i>Notwithstanding any general or special law to the contrary, the department of mental retardation shall submit quarterly to the house and senate committees on ways and means a status report on all state schools including total cost of the operations of each institution, its client capacity, the number of clients being served and the use of such facilities by other state agencies.</i>		
5911-0006 For	a reserve to provide for the continuity of services to developmentally disabled persons whose age no longer entitles them to services under special education programs; provided that funds may be transferred from this item to other items of appropriation within the department of mental retardation	\$2,000,000
5911-0025 For	transportation services for mentally retarded persons receiving services through the department; provided, that the department provide such services on the basis of priority of needs as determined by the department, including not more than twelve positions	\$13,013,419
5911-0100 For	the administration and general services of the department, including not more than two hundred and eighty positions	\$13,249,158



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5947-0000 For	mental retardation services for children and adolescents not provided under the provision of laws pertaining to special education	\$3,536,077
5948-0000 For	community-based mental retardation services; provided, that a maintenance of effort be made to continue services to retarded persons in the community who are not eligible for services through chapter seventy-one B of the General Laws or consent decrees, including two million four hundred sixty-two thousand two hundred and eight dollars for turning twenty-two clients funded through line-item 5911-0006 in fiscal year nineteen hundred and ninety-one; provided further, that of this amount not more than thirty-two million two hundred thousand dollars be expended for the operation of state-operated community programs opened prior to September first, nineteen hundred and ninety-one; including not more than one thousand nine hundred and fifty positions	\$268,148,984
5948-0005 The	commissioner of the department of mental retardation is authorized to expend all revenues in an amount not to exceed six hundred twenty-five thousand dollars generated from federal reimbursement in a program to create community supported living arrangements under Section 1930 of the Social Security Act	\$625,000
5948-1000 The	commissioner of the department of mental retardation is hereby authorized to expend all revenues, up to a maximum of four million eighty-four thousand nine hundred ninety-two dollars generated from rents charged to agencies operating programs in community-based intermediate care facilities and from the establishment of a sliding fee scale	\$4,084,992
5982-1000 The	department of mental retardation may expand revenue in an amount not to exceed ninety-six thousand dollars accrued through a program of selling milk and livestock subject to the approval of the commissioner of the department of mental retardation for the support of the respective programs including costs of material, supplies, equipment and the maintenance of the facility	\$96,000
5983-0100 For	the operation of facilities for the mentally retarded; provided, that the department may expend funds as needed, pursuant to schedules filed with the secretary of administration and finance and the house and senate committees on ways and means, for a facility maintenance crew to provide minimum maintenance to buildings at Belchertown state school following its phase-down, including not more than eight thousand seven hundred positions	\$243,997,305
5983-1000 The	commissioner of the department of mental retardation is hereby authorized to expend revenues, not to exceed four million eight hundred thousand dollars, generated from federal reimbursements pursuant to Title XIX section 2176 of the Omnibus Waiver Act, for costs related to the transfer of patients from the department of mental health to the department of mental retardation and funded out of line item 5095-3000, provided that the department of mental retardation shall report quarterly to the house and senate committees on ways and means the quarterly Omnibus Waiver revenue estimates and all expenditures from this account; and provided further, that on August thirty-first, nineteen hundred and ninety-two all remaining funds in this account shall revert to the general fund	\$4,800,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

*Office of the Secretary.*

6000-0100 For the office of the secretary of transportation and construction; provided, that the office shall submit quarterly

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	Highway Fund	100.0%	
6000-0110 The	executive office of transportation and construction may expend, for the purpose of property management and maintenance of railroad properties owned by said executive office on behalf of the commonwealth, including the cost of personnel, an amount not to exceed twenty-eight thousand three hundred forty-nine dollars from the rents and fees received pursuant to section four of chapter one hundred and sixty-one C of the General Laws		\$28,349
	<i>Massachusetts Bay Transportation Authority.</i>		
6005-0011 For	additional assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of sections six and nine of chapter eight hundred and twenty-five of the acts of nineteen hundred and seventy-four, as amended by section four of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five; provided, that operating expenditures of the Massachusetts Bay Transportation Authority for its fiscal year ending June thirtieth, nineteen hundred and ninety-two shall not exceed one hundred and five percent of its operating expenditures for its fiscal year ending June thirtieth, nineteen hundred and ninety-one		\$242,600,000
	General Fund	80.0%	
	Highway Fund	20.0%	
6005-0012 For	certain debt service contract assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of section twenty-eight of chapter one hundred and sixty-one A of the General Laws		\$161,767,921
	General Fund	80.0%	
	Highway Fund	20.0%	
	<i>Massachusetts Bay Transportation Authority.</i>		
6005-0015 For	certain assistance to regional transit authorities; provided, that not less than six hundred and forty thousand dollars be obligated for programs of operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program, and the intercity bus capital assistance program; and provided further, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July first, nineteen hundred and ninety-one and ending June thirtieth, nineteen hundred and ninety-two, may enter into contracts with the authorities; provided that, notwithstanding the provisions of section one hundred and fifty-two A of chapter one hundred and sixty-one, and of section twenty-three of chapter one hundred and sixty-one B of the General Laws, at least fifty percent and up to seventy-five percent of the net cost of service of each authority incurred in fiscal year nineteen hundred and ninety-one shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided, that operating expenditures of each of the regional transit authorities for its fiscal year ending June thirtieth, nineteen hundred and ninety-two shall not exceed one hundred and five percent of its operating		

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	expenditures for its fiscal year ending June thirtieth, nineteen hundred and ninety-one	\$28,500,000
	General Fund 80.0%	
	Highway Fund 20.0%	
6005-0017 For	certain payments to cities and towns as authorized by clause (c) of section thirteen of chapter sixty-four A, clause (b) of section thirteen of chapter sixty-four E and clause (b) of section fourteen of chapter sixty-four F of the General Laws; provided, that the amounts herein appropriated are in full satisfaction of the amounts payable pursuant to said clauses for the nineteen hundred and ninety-one and nineteen hundred and ninety-two fiscal years, provided further, that thirty-six million, five hundred thousand dollars shall be distributed, on account of fiscal year nineteen hundred and ninety-one obligations, on or before September first, nineteen hundred and ninety-one	\$78,800,000
	Highway Fund 100.0%	
6005-0018 For	additional contract assistance to be allocated by the Massachusetts Bay Transportation Authority for the net additional expense of commuter rail service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts Bay Transportation Authority for fiscal year nineteen hundred and ninety-one, including funds for the net additional expense of bus service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts Bay Transportation Authority for fiscal year nineteen hundred and ninety-two, in the amounts determined to be appropriate by the executive office for administration and finance, acting on behalf of the commonwealth, on the recommendation of the secretary of the executive office of transportation and construction; provided, that said additional expense of bus service shall be two million dollars, in accordance with the provisions of section twenty-eight A of chapter one hundred and sixty-one A of the General Laws as amended in section forty-five of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five	\$14,500,000
	General Fund 80.0%	
	Highway Fund 20.0%	
	<i>Massachusetts Aeronautics Commission.</i>	
6006-0002 For	the expenses of airport development projects as authorized by section thirteen of chapter sixty-four A of the General Laws, as amended by section of chapter one hundred and twenty-one of the acts of nineteen hundred and ninety	\$285,573
6006-0003 For	the administration of the commission, including personnel services and expenses of the commissioners, including not more than seven positions	\$276,861
6006-0004 The	Massachusetts aeronautics commission may expend revenue for the administration of the commission, including the costs of personnel, in an amount not to exceed seventy thousand dollars generated from fees accrued from the air transportation of agency and state officials	\$47,500

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## DEPARTMENT OF PUBLIC WORKS.

*Highway Activities.**Personnel Services.*

6010-0001	For personnel services of the department; including not more than two thousand five hundred and fifty positions	\$82,151,387
	Highway Fund 100.0%	

*Administrative and Engineering Expenses.*

6020-2501	For certain administrative and engineering expenses and equipment of the commission, the office of the public works commissioner and the division of administrative services, highway engineering, highway maintenance, highway construction and the district and other highway activity offices	\$5,744,919
	Highway Fund 100.0%	

*Outdoor Advertising Board.*

6020-2505	For the administration of the outdoor advertising board, including not more than four positions	\$173,946
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*Maintenance and Operation of State Highways and Bridges.*

6030-7201	For the expenses of snow and ice control on state highways, including the cost of sand, salt, and other control chemicals; provided, that any surplus after April fifteenth, nineteen hundred and ninety-two may be expended for bridge and highway maintenance and repairs	\$19,000,000
	Highway Fund 100.0%	

6030-7301	For materials, supplies, fleet maintenance and equipment, and for maintenance and operation of state highways and bridges; provided, that the department shall develop a plan to maximize the use of prison work programs; provided further, that notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the department of procurement and general services; provided further, that the department shall not be subject to the provisions of section thirty-six A of chapter thirty of the General Laws and section twenty-two of chapter seven of the General Laws, but shall submit requests to repair vehicles costing in excess of the limit pursuant to said section twenty-two of said chapter seven to the secretary of transportation and construction for approval; and provided further, that the department shall provide the house and senate committees on ways and means a quarterly report of repairs requiring said secretary's approval	\$9,500,000
	Highway Fund 100.0%	

## EDUCATION.

*Libraries.*

7000-9101	For the administration and expenses of the board of library commissioners, including not more than twenty positions	\$664,334
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	Local Aid Fund	100.0%	
7000-9401 For	state aid to regional public libraries; provided, that the board of library commissioners may provide quarterly advances of funds for purposes authorized by section nineteen C (1) and (2) of chapter seventy-eight of the General Laws, as it deems proper, to the regional public library systems throughout each fiscal year, in compliance with the office of the comptroller's regulations on state grants, 815 CMR 2.00; provided further, that notwithstanding the provisions of section nineteen C of chapter seventy-eight of the General Laws or any other general or special law to the contrary, the Boston Public Library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to seventy-six and eight-tenths cents per resident in the commonwealth; provided further, that notwithstanding the provision of any general or special law to the contrary, no regional public library shall receive any money under this item in any year when the appropriation of the city or town where such regional public library is located to such regional public library is below an amount equal to ninety-five percent of the average of the appropriations for free public library service for the three years immediately preceding; provided further, that, notwithstanding the provisions of this section, the board of library commissioners may grant waivers, in a number not to exceed one-tenth the number permitted pursuant to the sixth paragraph of section nineteen A of chapter seventy-eight of the Massachusetts General Laws as appearing in the 1990 edition to any library not receiving funds as a library of last recourse for a period of no more than one year		\$10,526,453
	Local Aid Fund	100.0%	
7000-9402 For	the purposes of a talking book library		\$124,165
	Local Aid Fund	100.0%	
7000-9406 For	the administration of a talking book program		\$625,235
	Local Aid Fund	100.0%	
7000-9501 For	state aid to public libraries; provided, that notwithstanding the provision of any general or special law to the contrary, no city or town shall receive any money under this item in any year when the appropriation of said city or town for free public library services is below an amount equal to ninety-five percent of the average of the appropriations for free public library service for the three years immediately preceding; provided further, that, notwithstanding the provisions of this section, the board of library commissioners may grant waivers, in a number not to exceed two and one-half the number permitted pursuant to the sixth paragraph of section nineteen A of chapter seventy-eight of the Massachusetts General Laws as appearing in the 1990 edition, to any library not receiving funds as a library of last recourse for a period of no more than one year; provided further, that any payment made under this appropriation shall be deposited with the treasurer of such city or town and held as a separate account and shall be expended by the public library of such city or town without appropriation, notwithstanding the provisions of any general or special law to the contrary		\$5,660,779
	Local Aid Fund	100.0%	
7000-9506 For	telecommunication expenses of automated resource sharing networks and their member libraries		\$182,962

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Local Aid Fund

100.0%

DEPARTMENT OF EDUCATION.

*Board of Education and Commissioner's Office.*

7010-0005 For the general administration of the department, including not more than one hundred and eighty-five positions \$8,370,729

*Division of Elementary, Secondary, and Occupational Education.*

7010-0008 For the purchase of equipment and services to automate the teacher certification system \$139,738

Local Aid Fund

100.0%

7010-0012 For grants to cities, towns, or regional school districts for payments of certain costs incurred under the program for the elimination of racial imbalance; provided, that grants to a city, town, or regional school district shall be limited to actual and specifically documented incremental costs including those costs pursuant to chapter seventy-one B of the General Laws incurred as direct consequence of participation in the program whenever the reimbursements requested by such city, town, or regional school district exceed the level of reimbursement received in fiscal year nineteen hundred and seventy-seven; provided further, that the division of elementary, secondary, and occupational education shall contract with a qualified minority business enterprise experienced in the administration of public school transportation systems and programs to alleviate racial imbalance; provided further, that payments to the provider shall be made through one disbursing agent as designated by the commissioner of education and that they be not less than twelve and one-half percent of the non-transportation costs of the program; provided further, that there shall be no discrimination on the basis of race, sex, color or creed \$12,031,328

Local Aid Fund

100.0%

7010-0025 For the development, administration and scoring of a statewide assessment test and a statewide basic skills test \$1,106,000

Local Aid Fund

100.0%

7010-0042 For grants to cities, towns, or regional school districts for the cost of providing magnet educational programs in accordance with the provisions of section thirty-seven I and thirty-seven J of chapter seventy-one of the General Laws; provided, that any payment made under this appropriation shall be deposited with the treasurer of such city, town or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that any portion of this appropriation item may be expended by the state board of education to purchase magnet educational programs; and provided further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation \$4,800,000

Local Aid Fund

100.0%

7010-0043 For grants for the Equal Education Improvement Fund for cities, towns, or regional school districts under the provisions

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	of section one I of chapter fifteen of the General Laws; provided, that notwithstanding the provisions of said section one I or section thirty-seven D of chapter seventy-one of the General Laws, pupils qualifying for funding under the Equal Education Improvement Fund shall also include those of Hispanic and Southeast Asian origin; provided further, that any payment made under this appropriation shall be deposited with the treasurer of such city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town or regional school district without appropriation, notwithstanding the provisions of any general or special laws to the contrary; and provided further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation	\$8,448,000
	Local Aid Fund 100.0%	
7027-0016 For	matching grants for various school-to-work programs; provided, that the board of education shall establish guidelines for said programs in consultation with the secretary of economic affairs; provided further, that any funds that are distributed under this item to cities, towns, or regional school districts shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation; provided further, that each grant awarded herein shall be matched by the recipient from local, federal or private funds; provided further, that the board of education may determine the percentage match required on an individual grant basis; and provided further, that the department of education may reimburse grant recipients for prior year expenditures	\$864,000
	Local Aid Fund 100.0%	
7028-0031 For	the expenses of school age children in institutional school departments as required under section twelve of chapter seventy-one B of the General Laws; provided, that the department is authorized to provide special education services to eligible inmates in county houses of correction; provided further, that pursuant to the court judgment in Quirk v. Anrig the department may pay retroactive salary adjustments for services provided by institutional school personnel, including not more than eighty positions	\$8,310,672
	Local Aid Fund 100.0%	
7028-0302 For	the educational expenses of certain school age children with special needs attending schools under the provisions of section ten of chapter seventy-one B of the General Laws, for the educational expenses of school age children with special needs attending day or residential programs who have no father or mother or guardian living in the commonwealth, and for expenses relating to the provision of special education to certain children transferred from the department of public welfare to the department of education; provided, that said children transferred from the department of public welfare to the department of education were placed by the department of public welfare in a private special education program as of September first, nineteen hundred and seventy-four, have continued to attend such program at the expense of the department of public welfare up to the date of said transfer, and continue to need such special education program; provided further, that notwithstanding the provisions of any general or	

Item	special law to the contrary, all increases in the rate paid to an institution or school for services provided in prior fiscal years and prior fiscal years tuition and transportation reimbursements may be funded with monies appropriated herein; and provided further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation	\$4,139,612
	Local Aid Fund 100.0%	
7030-1000 For	grants to cities, towns, regional school districts and educational collaboratives for early childhood education programs, pursuant to the provisions of section fifty-four of chapter fifteen of the General Laws; provided, that seventy-five percent of said funds shall be allocated to programs serving low income sites, as determined by the board of education; provided further, that any payment made under this appropriation shall be deposited with the treasurer of such city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without appropriation, notwithstanding the provisions of any general or special law to the contrary	\$6,875,451
	Local Aid Fund 100.0%	
7030-1500 For	grants to head start programs	\$6,000,000
	Local Aid Fund 100.0%	
7030-2000 For	grants to cities, towns, regional school districts and education collaborative for basic skills remediation programs for students in grades one through nine and dropout prevention programs for students in grades seven through twelve, pursuant to the provision of section fifty-two of chapter fifteen of the General Laws; provided, that seventy-five percent of said funds shall be allocated to basic skills remediation programs and twenty-five percent of said funds shall be allocated to dropout prevention programs; and provided further, that any payment made under this appropriation shall be deposited with the treasurer of such city, town, regional school district or educational collaborative and held as a separate account and shall be expended by the school committee of such city, town, regional school district or educational collaborative without appropriation, notwithstanding the provisions of any general or special law to the contrary	\$1,967,984
	Local Aid Fund 100.0%	
7030-4000 For	the administration of the Lucretia Crocker dissemination program to replicate and disseminate exemplary educational programs, pursuant to the provisions of section fifty-nine of chapter fifteen of the General Laws, including the awarding of fellowships to public school teachers and the granting of funds for the publication and distribution of materials; provided, that the annualized amount of each fellowship does not exceed the annual salary and benefits of the recipient and is awarded in place of and not in addition to the recipient's salary; provided further, that any payment made under this appropriation shall be deposited with the treasurer of the appropriate city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without appropriation, notwithstanding the provisions of any general or special law to the	



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	contrary		\$150,000
	Local Aid Fund	100.0%	
7032-0500 For	grants to cities and towns and regional school districts for school-based comprehensive health education and human services in schools; provided that any funds distributed under this item shall be deposited with the treasurer of said city, town or regional school district held in a separate account and shall be expended without further appropriation by the school committee		\$1,000,000
	Local Aid Fund	100.0%	
7035-0002 For	the expenses of providing basic educational attainment and work-related programs in reading, writing and mathematics at adult learning centers		\$4,205,465
	Local Aid Fund	100.0%	
7035-0004 For	the reimbursement of cities, towns and regional school districts and independent vocational schools for certain expenditures for transportation of pupils pursuant to the provisions of section one I of chapter fifteen of the General Laws, sections seven A, seven B, and thirty-seven D of chapter seventy-one of the General Laws, section eight of chapter seventy-one A of the General Laws, section fourteen of chapter seventy-one B of the General Laws, and section eight A of chapter seventy-four of the General Laws; provided, that of the amount appropriated herein, not less than one million five hundred thousand dollars shall be obligated for the implementation of chapter six hundred and sixty-three of the acts of nineteen hundred and eighty-three; provided further, that any city, town or regional school district or independent vocational school which has not accepted the provisions of chapter six hundred and sixty-three of the acts of nineteen hundred and eighty-three shall be ineligible for any reimbursement of costs incurred during fiscal year nineteen hundred and ninety-one under this item or for reimbursement of such costs under any of the provisions of general law referred to herein; and provided further, that notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein		\$57,600,000
	Local Aid Fund	100.0%	
7035-0006 For	the reimbursement of regional school districts for the transportation of pupils; provided, that notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein		\$26,939,604
	Local Aid Fund	100.0%	
7052-0004 For	grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, for first annual payments on school projects; provided, that the aggregate amount of first annual estimated payments for school projects approved by the board of education under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight in the fiscal year ending June thirtieth, nineteen hundred and ninety-two shall not exceed eighteen million three hundred thousand and twenty-two dollars of which not more than sixty percent shall be for projects		

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	ordered or approved by a court as necessary for desegregation or such projects as may be required in the judgment of said board to reduce or eliminate racial imbalance; and provided further that the amount approved by the board of education under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight subsequent to July first, nineteen hundred and ninety-one shall not exceed eleven million four hundred and forty-four thousand dollars: and provided further, that an additional six million eight hundred and seventy-eight thousand dollars, or any portion thereof, may be approved on or after January first, nineteen hundred and ninety-two subject to the approval of the house and senate committees on ways and means provided that said approval be based upon certification received by the committees from the department of revenue that tax revenues exceed said department's tax revenue projection by five percent for the combined first two quarters for fiscal year nineteen hundred and ninety-two	\$25,068,804
	Local Aid Fund	100.0%
7052-0005 For	grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight for annual payments on accounts of school projects on which the first annual payment has been made; provided, that one hundred percent of the principal and interest of the project of the Blue Hills Regional School District shall be reimbursed as it comes due in accordance with the agreement between the Blue Hills School District and Board of Trustees of Massasoit Community College	\$119,977,618
	Local Aid Fund	100.0%
7052-0006 For	grants and reimbursements for cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, for (a) educational, engineering and architectural services for regional school districts, (b) for surveys made of school building needs and conditions, (c) for matching stabilization fund payments, and (d) for costs of leasing buildings for vocational programs and originally equipping and furnishing said buildings for vocational programs	\$893,114
	Local Aid Fund	100.0%
7053-1909 For	the reimbursement of cities and towns for partial assistance in the furnishing of lunches to school children, including partial assistance in the furnishing of lunches to school children as authorized by chapter five hundred and thirty-eight of the acts of nineteen hundred and fifty-one, and for supplementing funds allocated for the special milk program; provided, that notwithstanding any provisions of any general or special law to the contrary, payments so authorized in the aggregate for partial assistance in the furnishing of lunches to school children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act, and in the regulations implementing said act	\$5,426,986
	Local Aid Fund	100.0%
7061-0003 For	the reimbursement of regional school districts of the amount of school aid due under the provisions of section sixteen D of chapter seventy-one of the General Laws; provided, that notwithstanding any provisions of chapter seventy-one	

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	or any other general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein; and provided further, that the amount paid to regional school districts from this item in fiscal year nineteen hundred and ninety-two shall be equivalent to the amounts listed in section three of this act, notwithstanding any special or general law to the contrary regional district school committees shall reassess each member municipality based on the number at the end of this item; provided further that the reassessment shall comply with chapter 71, section 16B as appearing in the 1988 Official Edition and as amended by chapter three hundred and fifty-six of the acts of nineteen hundred and ninety	\$98,367,338
	Local Aid Fund 100.0%	
7061-0008 For	school aid to cities, towns, regional school districts, counties maintaining agricultural schools and independent vocational schools to be distributed pursuant to the provisions of section three of this act; provided, that of the amount appropriated herein seventy-five million dollars shall be from a transfer from the state lottery fund in accordance with the provisions of section 6 of this act	\$898,131,787
	Local Aid Fund 100.0%	
7061-0009 For	the reimbursement to cities, towns, and regional school districts of the tuition in the public schools of any school age child placed elsewhere other than in his own home town by, or under the control of, the department of public welfare or the department of social services under the provisions of sections seven and nine of chapter seventy-six of the General Laws; provided, that notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein	\$6,720,000
	Local Aid Fund 100.0%	
7061-0012 For	non-educational costs of residential school programs for students placed by a local school district or ordered by the bureau of special education on appeals, as provided under chapter seventy-one B of the General Laws; provided, that subject to rules and regulations promulgated by the commissioner of education, each city and town shall verify to the commonwealth the cost thereof and upon approval of the commissioner the treasurer shall be authorized to make such payments directly to the service provider for services provided on or after July first, nineteen hundred and ninety-one; provided further, that funding provided herein may reimburse private schools for prior fiscal year's tuition; provided, that the commonwealth shall not pay more than fifty percent of the cost of any such residential placement	\$24,607,422
	Local Aid Fund 100.0%	
7061-1000 For	equal education opportunity grants to cities, towns, regional school districts and independent vocational schools to increase spending on direct services in districts where actual expenditures on direct services in fiscal year nineteen hundred and eighty-seven or prior years was less than eighty-five percent of the state average of such expenditures, pursuant to chapter seventy A of the General Laws; provided, that any payment made under this appropriation shall be deposited with the treasurer of such city, town, regional school district or independent vocational school and held as a separate account and shall be expended by the school committee of such city, town, regional school district	

or independent vocational school without appropriation, notwithstanding the provisions of any general or special law to the contrary

\$105,522,604

Local Aid Fund

100.0%

# BOARD OF REGENTS.

7066-0000 For	the office of the chancellor of higher education and the board of regents, including but not limited to a division of fiscal affairs, a division of labor relations and affirmative action, a division of research, policy and planning, a division of student affairs, a business office, an office of general counsel, and for the operation of the higher education computer network; provided, that not less than one million nine hundred and forty thousand two hundred and ninety-nine dollars be expended for the operation of the higher education computer network, including twenty-five positions; provided further, that notwithstanding any provision of general or special law to the contrary, data processing services may be rendered to agencies of the commonwealth and educational institutions at no expense to the system; provided further that charges for such services shall be allocated to the agencies and institutions of higher education utilizing the data processing system; and provided, further, that the data processing system shall maintain a schedule of fees for services provided to agencies, institutions and other educational organizations within the commonwealth, including not more than fifty-five positions	\$3,341,404
7066-0002 The	higher education computer network is hereby authorized to expend up to three hundred and thirty-six thousand dollars in fees and charges collected for data processing services rendered to agencies, institutions and other educational organizations of the commonwealth pursuant to section two of this act	\$336,000
7066-0005 For	the commonwealth's share of the cost of the compact for education	\$58,400
7066-0008 For	an office of compliance, reporting to the chancellor of board of regents, to perform financial and programmatic audits of all accounts administered under the auspices of the board of regents including tuition retention accounts; provided, that said office shall submit semi-annually to the house and senate committees on ways and means, to the secretary of administration and finance, and to the office of the state auditor a report detailing all audits performed, including the findings and recommendations of such audits, including not more than four positions	\$144,893
<i>Scholarship Program.</i>		
7070-0031 For	a program to increase access to public and independent institutions of higher education for students who meet certain income eligibility standards developed by chancellor of higher education and for students with serious physical impairments, known as the Ronald E. McNair Education Opportunity Program, including not more than twenty-five positions	\$3,951,135
7070-0032 For	the operation of student aid accounts, as determined by the board of regents; provided, that not more than five hundred thousand dollars shall be expended for the participation fund established pursuant to section fourteen A of chapter fifteen C of the General Laws	\$2,069,105
7070-0065 For	a scholarship program to provide financial assistance to Massachusetts students enrolled in and pursuing a program of higher education in any approved public or independent college, university, school of nursing, or any other	

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	approved institution furnishing a program of higher education within the commonwealth; provided, that the Massachusetts state scholarship office is authorized to expend no more one hundred and fifteen thousand dollars for a collaborative engineering program; provided further, that the Massachusetts state scholarship office is hereby authorized and directed to expend no less than nine million dollars for the purpose of providing financial assistance, which shall be subject to repayment, pursuant to section 87 of this act, to Massachusetts students enrolled in and pursuing a program of higher education in any approved public or independent college, university, school of nursing, or any other approved institution furnishing a program of higher education within the commonwealth; provided further, an amount not to exceed three and one-quarter percent of this appropriation may be used for the costs of administering the scholarship program; provided further, that the chancellor of higher education, in coordination with the Massachusetts state scholarship office shall establish such regulations governing the eligibility and the awarding of financial assistance as he shall deem necessary, including not more than twelve positions provided further, that the Massachusetts state scholarship office is authorized and directed to expend no less than one million dollars to provide for the matching of scholarship grants to needy Massachusetts resident students at participating Massachusetts independent regionally accredited colleges, universities, and schools of nursing; and provided further, that such assistance be distributed to students demonstrating the greatest need as determined by an eligibility index used by the state scholarship office; including not more than twelve positions	\$35,000,000
7077-0023 For	a contract with the Tufts School of Veterinary Medicine; provided that all funds appropriated herein shall be expended solely for supportive veterinary services provided to the commonwealth	\$3,981,312
7100-0102 For	a program in county cooperative extension work to be conducted by the University of Massachusetts at Amherst for the Berkshire, Bristol, Franklin, Hampden, Hampshire, Suffolk, Essex, Dukes/Nantucket, Middlesex, Worcester, and Norfolk County Cooperative Extension Services; provided, that no funds from this item shall be expended for privately leased space; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the chancellor of higher education is hereby authorized and directed to develop and implement a plan to relocate existing county cooperative offices from privately leased space to accommodations within the public system of institutions of higher education, including not more than thirty-two positions	\$879,169
7100-0200 For	the operation of state universities governed by the board of regents, including the office of the president of the University of Massachusetts and the William Joiner Center at the University of Massachusetts at Boston; provided, that notwithstanding any provision of law to the contrary, the board of regents shall allocate such appropriation in accordance with an allocation plan approved by house and senate committee on ways and means, which such allocation plan shall be approved within forty-five days of this act; provided that said board may, on July one, nineteen hundred and ninety-one, allocate from this appropriation an amount equal to up to eighty percent of the fiscal year nineteen hundred and ninety-two appropriation for this purpose to cover the ordinary maintenance of the existing system of universities of higher education, pending legislative approval of said allocation plan; provided further, that of the sum appropriated herein, not less than three hundred nineteen thousand and three hundred and seventy-five dollars be expended for the purpose of the William Joiner Center; provided further, that the University of	

Massachusetts board of trustees shall, in conjunction with the State Health Education Center at the University of Massachusetts Medical Center, maintain learning contracts for students admitted on or after the fall of nineteen hundred and seventy-eight which shall include provisions for "payback" service or monetary payback to the commonwealth for a period after said students have fulfilled all internship and residency requirements; provided further, that not less than seven hundred and ninety-five thousand six hundred and nineteen dollars shall be obligated for the purposes of the area health education centers program, also known as "AHEC" to be administered by the University Medical Center Institute; provided further, that of the sum appropriated herein, not less than one hundred thirty-six thousand eight hundred and sixteen dollars shall be obligated for the purposes of the State Health Education Center at the University of Massachusetts Medical Center; provided further, that not less than twenty million eight hundred eleven thousand eighty-five dollars shall be expended to support the University of Massachusetts Medical Center; provided further, that of the sum appropriated herein, not less than two hundred and thirteen thousand seven hundred and seventy-four dollars shall be obligated for the Paul E. Tsongas Industrial Historical Center at the University of Lowell; provided further, that of the sum appropriated herein, not less than two hundred and thirteen thousand seven hundred and seventy-four dollars shall be obligated for the purposes of the Mauricio Gaston Institute of Latino Community Development and Public Policy at the University of Massachusetts at Boston; provided further, that of the sum appropriated herein, not less than two hundred and ninety-nine thousand two hundred and eighty-four dollars shall be obligated for the purposes of research and analytical studies by the Monroe Trotter Institute at the University of Massachusetts at Boston; provided further, that of the sum appropriated herein, not less than four hundred and seventy-four thousand one hundred thirty dollars shall be obligated for the expense of a Gerontology Institute at the University of Massachusetts at Boston, including one hundred and forty-four thousand four hundred and twenty-six dollars for the endowment of a chair named in honor of the late Frank Manning; provided further, of the sum appropriated herein, not less than six hundred and thirty-seven thousand and ten dollars shall be obligated for the Physical Education Department at the University of Massachusetts at Boston, provided further, that of the sum appropriated herein, not less than sixty-four thousand one hundred and thirty-three dollars shall be obligated for the Center for Rural Massachusetts at Amherst; provided further, that the College of Food and Natural Resources at the University of Massachusetts at Amherst shall maintain a level of support to the county cooperative program sufficient to maintain the federal base grant; and provided further, that of the sum appropriated herein, not less than one hundred fifty thousand dollars be expended for a college preparation program at the University of Lowell; provided further, that of the sum appropriated herein, not less than three hundred and sixty-three thousand dollars shall be obligated for the Massachusetts Institute for Social and Economic Research at Amherst to manage United States census data and provide state population estimates and projections; and provided further, that the chancellor of the board of regents shall require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary, including not more than six thousand three hundred and ninety-nine positions

\$236,871,369

7100-0201 Notwithstanding the provisions of any general or special law to the contrary, the boards of trustees of each state university

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	shall retain and may expend, for the administration and maintenance of each university, including the costs of personnel, in an amount not to exceed thirty-five million dollars in revenues which are attributable solely to the increase in authorized tuition rates approved by the board of regents in fiscal year <i>nineteen</i> hundred and ninety-two over the rates in existence in fiscal year <i>nineteen</i> hundred and eighty-eight; provided that, said funds shall be retained and expended from tuition retention accounts and shall be subject to regulations adopted by the board of regents; provided further that said regulations shall establish the maximum amount of revenues to be retained by each public university; and provided further, that pursuant to said regulations, each university shall prepare a spending plan for such funds; provided further, that all revenues credited to and all expenditures made shall be subject to an annual audit by the compliance unit of the board of regents, including not more than two hundred and sixty positions	\$35,000,000
7100-0300 For	the operation of state colleges governed by the board of regents; provided, that notwithstanding any provision of law to the contrary, the board of regents shall allocate such appropriation in accordance with an allocation plan approved by house and senate committees on ways and means, which such allocation plan shall be approved within forty-five days of this act; provided that said board may, on July one, <i>nineteen</i> hundred and ninety-one, allocate from this appropriation an amount equal to up to eighty percent of the fiscal year <i>nineteen</i> hundred and ninety-two appropriation for this purpose to cover the ordinary maintenance of the existing system of state colleges of higher education, pending legislative approval of said allocation plan; that the chancellor of the board of regents shall require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary, including not more than three thousand one hundred fifty-six positions	\$91,320,509
7100-0301 Notwithstanding	the provisions of any general or special law to the contrary, the boards of trustees of each state college shall retain and may expend, for the administration and maintenance of each college, including the costs of personnel, in an amount not to exceed eleven million one hundred thousand dollars in revenues which are attributable solely to the increase in authorized tuition rates approved by the board of regents in fiscal year <i>nineteen</i> hundred and ninety-two over the rates in existence in fiscal year <i>nineteen</i> hundred and eighty-eight; provided that, said funds shall be retained and expended from tuition retention accounts and shall be subject to regulations adopted by the board of regents; provided further that said regulations shall establish the maximum amount of revenues to be retained by each public college; and provided further, that pursuant to said regulations, each college shall prepare a spending plan for such funds; provided further, that all revenues credited to and all expenditures made shall be subject to an annual audit by the compliance unit of the board of regents, including not more than five hundred and forty-two positions	\$11,100,000
7100-0400 For	the operation of state community colleges governed by the board of regents, provided, that notwithstanding any provision of law to the contrary, the board of regents shall allocate such appropriation in accordance with an allocation plan approved by the house and senate committees on ways and means, which allocation plan shall be approved within forty-five days of this act; provided that said board may, on July one, <i>nineteen</i> hundred and ninety-two, allocate from this appropriation an amount equal to up to eighty percent of the fiscal year <i>nineteen</i> hundred and ninety-two appropriation for this purpose to cover the ordinary maintenance of the existing system	

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	of community colleges of higher education, pending legislative approval of said allocation plan; provided, that of the sum appropriated herein not less than five hundred thousand dollars be obligated for the LEEP project at Northern Essex Community College, and provided further, that the chancellor of the board of regents shall require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary including not more than three thousand two hundred seventy-five positions	\$104,377,477
7100-0401 Notwithstanding the provisions of any general or special law to the contrary, the boards of trustees of each state community college shall retain and may expend, for the administration and maintenance of each community college, including the costs of personnel, in an amount not to exceed ten million six hundred thousand dollars in revenues which are attributable solely to the increase in authorized tuition rates approved by the board of regents in fiscal year nineteen hundred and ninety-two over the rates in existence in fiscal year nineteen hundred and eighty-eight; provided that, said funds shall be retained and expended from tuition retention accounts and shall be subject to regulations adopted by the board of regents; provided further that said regulations shall establish the maximum amount of revenues to be retained by each public university; and provided further, that pursuant to said regulations, each university shall prepare a spending plan for such funds; provided further, that all revenues credited to and all expenditures made shall be subject to an annual audit by the compliance unit of the board of regents, including not more than two hundred and thirty positions		\$10,600,000
7100-9504 For the purchase of scientific, technological and other educational reference material for the libraries of the system of public higher education institutions		\$3,408,240
7220-0004 For the operation of the Toxics Use Reduction Institute at the University of Lowell, in accordance with the provisions of chapter twenty-one I of the General Laws as established by chapter two hundred and sixty-five of the acts of nineteen hundred and eighty-nine, including not more than twenty positions		\$1,082,289
	Toxic Use Reduction Fund	100.0%
EXECUTIVE OFFICE OF PUBLIC SAFETY.		
<i>Office of the Secretary.</i>		
8000-0100 For the office of the secretary; provided the executive office of public safety shall generate not less than thirty thousand dollars from fees collected for services performed through the auto etching program; and provided further, that three hundred thousand dollars shall be expended for the operation of the emergency telecommunications board of which an equivalent amount shall be collected pursuant to section eighteen F of chapter six A of the General Laws, as inserted by chapter two hundred and ninety-one of the acts of nineteen hundred and ninety, including not more than twenty-one positions	\$996,251	
	Highway Fund	85.0%
	General Fund	15.0%
8000-0105 For the administration of the office of chief medical examiner and payment for services to medical examiners as		



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	authorized by section one hundred and eighty-four of chapter six of the General Laws, including not more than fifty-eight positions		\$3,188,584
8000-0110 For	the administration and operation of the criminal justice information system, including not more than forty-six positions		\$2,459,547
	Highway Fund	50.0%	
	General Fund	50.0%	
8000-0111 The	criminal history systems board is hereby authorized to expend revenues collected up to a maximum of eighty thousand dollars from record check fees for the purpose of implementing the provisions of chapter three hundred nineteen of the acts of nineteen hundred and ninety, including the costs of personnel		\$80,000
8000-0112 The	criminal history systems board is hereby authorized to expend revenues collected up to maximum of five hundred twenty-two thousand dollars for user fee from the LEAPS/CJIS system		\$522,000
8000-1000 For	the operation of the building safety and access board; provided said board shall generate not less than two million three hundred thousand dollars from fees charged for inspections, including not more than seventy-four positions		\$3,005,160
8000-2000 For	a grant program for school crossing guards; provided the secretary of public safety shall promulgate said grant criteria; and provided further, not less than one hundred thousand dollars shall be expended for crossing guards in the city of Boston		\$450,000
	Local Aid Fund	100.0%	
	Department of Police.		
8100-0002 For	the administration and operation of the division of state police, including not more than one thousand two hundred and fifty positions		\$55,165,265
	Highway Fund	100.0%	
8100-0003 For	the division of the metropolitan district police; provided, that notwithstanding any provisions of chapter thirty-one of the General Laws, certain members may be temporarily allocated to special secondary ratings in accordance with schedules approved by the house and senate committees on ways and means, a copy of which is on file with the personnel administrator, including not more than six hundred and thirty positions		\$24,831,342
	Local Aid Fund	36.0%	
	Highway Fund	64.0%	
8100-0004 For	the administration and operation of the registry police, including not more than two hundred seventy-nine positions		\$8,397,766
	Highway Fund	100.0%	
8100-0005 For	the administration and operation of the capitol police, including not more than one hundred positions		\$2,576,018
8100-0100 For	the administration and operation of the crime laboratory, including not more than thirty positions		\$1,278,297

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8100-0150 For	the operation of an automated fingerprint identification system	\$1,029,792
8100-0200 For	the administration and operation of a motor carrier safety assistance program, including not more than sixteen positions	\$300,000
	Highway Fund	100.0%
8100-0201 The	division of state police is hereby authorized to expend revenues collected up to a maximum of seven hundred thousand dollars from reimbursements received from the motor carrier safety assistance program, including the cost of personnel	\$700,000
8100-0300 For	the administration and operation of a drug enforcement administration task force	\$73,720
8100-0400 For	reimbursing certain cities and towns for fifty percent of career incentive salary increases for police officers	\$6,700,000
	Local Aid Fund	100.0%
	<i>Massachusetts Criminal Justice Training Council.</i>	
8200-0200 For	the administration and operation of programs to be conducted by the Massachusetts criminal justice training council; provided, the secretary of public safety shall submit a plan for the consolidation of state training facilities; provided further, that notwithstanding any general or special law or agreement to the contrary, no cadet or police officer shall be compensated for travel time to and from any training facility; provided further, each cadet shall be charged one thousand two hundred dollars for said training programs; provided further, the criminal justice training council may accept gifts, contributions, grants and bequests of funds or other property from individuals, foundations, corporations, and federal, state or other governmental bodies, which funds or property may be expended or used with the approval of the council's members to discharge the council's responsibilities or to conduct its programs; and provided further, the criminal justice training council shall generate not less than ten thousand dollars from the sale of training materials and supplies, including not more than forty-nine positions	\$2,138,946
	<i>Department of Public Safety.</i>	
8311-1000 For	the administration of the department, including not more than forty positions	\$1,200,000
	<i>Division of Fire Prevention and Regulation.</i>	
8314-1000 For	the administration of the division, provided that one hundred thousand dollars of the amount appropriated herein shall be expended for a Suffolk county based arson prevention program; provided further, that said one hundred thousand dollars shall be assessed against insurance companies licensed to sell fire insurance in the commonwealth by the commissioner of insurance, and transferred to the General Fund, and such assessments shall be charged to the normal operating costs of each company; and provided further, that not more than ten percent of the amount designated for said arson prevention program shall be expended for the administrative cost of the program; provided further, that the expenses of the board of fire prevention regulations, pursuant to section fourteen of chapter twenty-two of the General Laws, be paid from this appropriation; provided further, that the expenses of the fire safety commission be paid from this item, including not more than sixteen positions	\$352,654

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8314-1100 For	expenses associated with the implementation of chapter twenty-one J, including not more than ten positions Underground Storage Tank Petroleum Product Cleanup Fund 100.0%	\$360,000
	<i>Massachusetts Fire Fighting Academy.</i>	
8350-0100 For	the administration of the academy including the estimated expenses of training facilities and curriculum for firefighting personnel and training programs, to be in addition to any federal funds available for the said purposes; provided, that notwithstanding the provisions of any general or special law to the contrary, sums for the estimated expenses of the administration of the academy including the estimated expenses of training facilities and curriculum for firefighting personnel and training programs, not to exceed one million nine hundred ten thousand dollars per year, provided that not less than fifty thousand dollars shall be available for the community based fire prevention program in the Fall River area, shall be paid to the commonwealth by insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth within thirty days after notice from the commissioner of estimated expenses; provided further, that the secretary of administration and finance shall report monthly to the house and senate committees on ways and means on the justification regarding any restriction on the hiring of fire training personnel, said report shall explain the derived savings to the general fund by not hiring said personnel in this item, including not more than twenty-five positions	\$1,910,000
	<i>Registry of Motor Vehicles.</i>	
8400-0001 For	the administration and operation of the registry of motor vehicles, including the title division; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar, and the director of employee relations shall not be subject to civil service laws and rules; provided, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the office of management information systems and pursuant to schedules by said office; provided further, that forty percent of the costs of personnel services associated with the computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section one hundred and eighty-three of chapter six of the General Laws, including not more than eight hundred positions Highway Fund 100.0%	\$24,397,650
8400-0002 The	registry of motor vehicles is hereby authorized to expend revenues collected up to a maximum of five hundred seventy-six thousand dollars from fees charged for salvage title certificates and inspections for the purpose of implementing the salvage title program, including the costs of personnel	\$576,000
8400-0006 For	the administration and operation of a motor carrier safety assistance program	\$150,000
8400-0007 The	registry of motor vehicles is hereby authorized to expend revenues collected up to a maximum of three hundred fifty thousand dollars from reimbursements received from the motor carrier safety assistance program	\$350,000
8400-0008 The	registry of motor vehicles is hereby authorized to expend (1) revenues collected up to a maximum of four million	

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	dollars from fees charged for class one and two commercial drivers' licenses, and (2) reimbursements received from federal commercial drivers' licenses grants for the purpose of implementing the federal commercial drivers' licensing program	\$4,000,000
8400-0024	Notwithstanding the provisions of section two of chapter two hundred and eighty of the General Laws, the registry of motor vehicles is hereby authorized to expend revenue collected up to a maximum of five million dollars pursuant to chapter ninety C of the General Laws from assessments for civil motor vehicle infractions, including the cost of personnel; provided, that the amount of this expenditure shall be subtracted from the amount that otherwise would be credited to the Highway Fund pursuant to said section two of chapter two hundred and eighty, and shall not affect or alter the amounts of payments to cities and towns pursuant to said section two of chapter two hundred and eighty	\$5,000,000
	<i>Merit Rating Board.</i>	
8400-0100	For expenses of the merit rating board authorized by chapter six of the General Laws; provided, however, that as of January first, nineteen hundred and eighty-five, that notwithstanding any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for non-criminal, motor vehicle traffic violations as described in chapter ninety C of the General Laws, including not more than eighty-eight positions	\$4,350,000
	<i>Committee on Criminal Justice.</i>	
8600-0001	For the administration of the committee on criminal justice, including not more than twelve positions	\$324,831
	<i>Military Division.</i>	
	<i>Notwithstanding the provisions of chapter thirty of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades, so-called.</i>	
8700-0001	For the administration of the military division, including the offices of the adjutant general and state quartermaster, the operation of the armories, the Camp Curtis Guild rifle range and certain national guard aviation facilities, including not more than one hundred and thirty positions	\$3,211,155
	<i>Military-State Quartermaster.</i>	
8700-1140	The state quartermaster is hereby authorized to expend revenues collected up to a maximum of seventy-five thousand dollars accrued from fees for the nonmilitary rental or use of armories of the first class for the cost of energy audits for said armories, for the cost of utilities and maintenance, and for the implementation of energy conservation measures with regard to said armories	\$75,000
8800-0001	For the service of the civil defense agency; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities; provided further, that not less than fifty thousand dollars shall be available for the fuel, insurance, equipment, maintenance and miscellaneous expenses to sustain the operation of the Massachusetts Civil Air Patrol relating to aerial surveillance of Massachusetts and water areas to monitor for environmental pollution discharges, toxic waste dumps, transportation of hazardous materials and wastes and	

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	accidents involving said transport, in conjunction with the responsible agency, including not more than forty positions		\$516,583
8800-0100 For	matters pertaining to nuclear safety emergency preparedness; provided, that the director of the office of civil defense and emergency preparedness may enter into agreements with other state agencies for the purposes of undertaking this effort; provided further, that the costs of this effort, including fringe benefits and indirect costs, shall be assessed on nuclear regulatory commission licensees operating nuclear power generating facilities in the commonwealth; provided further, that the department of public utilities shall develop an equitable method of apportioning said assessments among said licensees; provided further, that said assessments shall be paid during the current fiscal year as provided by the department of public utilities and shall be credited to the General Fund		\$381,108
	General Fund	96.9%	
	Local Aid Fund	3.1%	
8800-0200 The	Massachusetts Civil Defense Agency is hereby authorized to expend an amount not to exceed two hundred and fifty thousand dollars pursuant to section four hundred and twenty-nine of this act		\$250,000
	<i>Governor's Highway Safety Bureau.</i>		
8850-0001 For	providing matching funds for a federal planning and administration grant to the Governor's Highway Transportation Act of nineteen hundred and seventy-eight, section two hundred and seven (d), including not more than nine positions		\$127,163
	Highway Fund	100.0%	
8850-0015 For	the expense of the motorcycle safety program, including not more than two positions		\$190,000
	Motorcycle Safety Fund	100.0%	
	<i>Department of Correction.</i>		
8900-0001 For	the administration and operation of the commonwealth's correctional facilities; provided, that, notwithstanding any general or special law to the contrary, no collective bargaining agreement entered into by the commissioner of administration or his designee in fiscal year nineteen hundred and ninety-two shall contain an increase in roll-call pay for corrections officers, including not more than four thousand nine hundred and twenty positions		\$191,583,332
8900-0002 For	the administration of the department; provided, that the persons employed under the division of classification of prisoners shall not be subject to the civil service law and rules; provided further, that notwithstanding any provisions of law to the contrary, the director of civil service shall certify to the commissioner of correction, on receipt of permanent requisitions, names of correction officers to fill permanent vacancies; and provided further, that the department will provide monthly reports on overtime and excess quota position usage, by facility, to the house and senate committees on ways and means, including not more than one hundred and fifty positions		\$4,885,035
8900-0003 For	a program of correctional residential services, provided that not less than two hundred thousand dollars be obligated for assistance to incarcerated mothers, including not more than twenty-five positions		\$3,819,052

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8900-0004 For	a health services program; provided, that, as of January first, nineteen hundred and ninety-two, no position other than that of psychiatrist or physician shall be funded contractually; provided further, that the commonwealth shall contract individually with said psychiatrists and physicians; and provided further, that the commissioner of correction shall file quarterly reports detailing expenditure patterns of this item with the house and senate committees on ways and means, including not more than four hundred positions	\$26,280,000
8900-0005 For	a program of in-patient and out-patient hospital care for inmates; provided the commissioner of correction shall seek competitive bids for the provision of said care; provided further, said contracts shall be effective on or before September first, nineteen hundred and ninety-one, and provided further, the commissioner of correction shall file quarterly review audit reports detailing the utilization of funds expended from this item	\$4,945,667
8900-0007 For	the expenses of the comprehensive offenders employment resources system; provided, that increased emphasis be placed on the provision of services to female offenders, including not more than two positions	\$664,831
8900-0008 For	county and state overcrowding relief, including the modular program, so-called; provided, that the commissioner is hereby authorized to enter into agreements with the sheriffs in all counties for the operation of additional housing units, and for a day reporting center and a correctional alcohol treatment facility in Hampden County; provided further, that the commissioner is hereby authorized to make quarterly advances to the treasurers of the counties pursuant to said agreements; provided further, that said treasurers shall deposit said advances into a fund to be expended solely for the purpose of said agreements; provided further, that any interest earned by said funds shall be deposited to said funds and that any unexpended balances including interest remaining in said fund as of June thirtieth, nineteen hundred and ninety-two shall be returned to the commonwealth; provided further, that all persons employed by said sheriffs pursuant to said agreements shall be considered county employees; provided further, that funds advanced to the county treasurers pursuant to these agreements may be spent for any services or items of supply or equipment which the sheriffs require to carry out the purpose of said agreements; such expenditures may include but are not limited to salaries, travel, uniform allowance, purchase and maintenance of equipment, and selecting contractual and professional services; and provided further, that no permission will be required for the sheriffs to transfer funds among codes or subcodes at the county level	\$16,116,159
8900-0009 For	a program of education services, including not more than one hundred positions	\$3,652,246
8900-0010 For	a prison industries and farm program; provided, that the commissioner of correction shall determine the cost of manufacturing motor vehicle registration plates and certify to the comptroller the amounts to be transferred from the Highway Fund to the General Fund; provided further, that the commissioner of correction shall submit quarterly financial reports detailing revenues generated and expended, to the house and senate committees on ways and means, including not more than one hundred and forty-five positions	\$942,048
8900-0011 The	prison industries and farm program is hereby authorized to expend revenues collected from the sale of its products, up to a maximum of thirteen million one hundred and fourteen thousand two hundred and fifty-seven dollars sixty-eight thousand dollars, for the support of the program including costs of materials, supplies, equipment, maintenance of facilities and compensation of employees	\$13,114,257

## Item

*Except where otherwise specified, the following five items shall be subject to the authority of the Executive Office of Public Safety.*

8910-0010 For	a program of operational grants for the purpose of establishing alternatives to incarceration programs to reduce overcrowding in prisons, houses of correction and jails, pursuant to regulations established by the secretary for public safety		\$1,338,826
	Local Aid Fund	50.0%	
	General Fund	50.0%	
8910-0020 For	a program of operational grants to counties for the purpose of establishing and expanding minimum security and pre-release county correctional facilities and programs to reduce prison overcrowding, pursuant to regulations promulgated by the secretary for public safety; provided, that said regulations require the grant application to be filed by the sheriff of a county; provided further, that the secretary is hereby authorized to make advances to the sheriffs pursuant to said grants; and provided further, that no grant shall be awarded without the prior approval of the house and senate committees on ways and means		\$5,343,525
	Local Aid Fund	100.0%	
8910-0030 For	a reserve to fund county correctional expansion programs; provided, that funds may only be used for new beds opened in fiscal year nineteen hundred and ninety-one and nineteen hundred and ninety-two; provided further that of the sum appropriated herein, not less than five million dollars shall be expended for the new Suffolk House of Correction; provided further, that the department of correction, the county government finance review board, the Massachusetts' Sheriff's Association, and the division of capital planning and operations shall submit a joint plan to the secretary of administration and finance and to the house and senate committees on ways and means regarding the use of expansion reserve funds; such plan shall include facility opening dates, staffing requirements, number of beds, the annualized cost of the facilities, and an agreement on the number of state inmates to be housed in county facilities; provided further, that this same group shall submit, to the house and senate committees on ways and means, no later than the last Wednesday of January nineteen hundred and ninety-two, a joint comprehensive plan dealing with the county and state prison overcrowding problem which shall include the overall number of beds, estimated growth of inmates, alternatives to incarceration, and the most economical use of all available funding sources; provided further, that no expenditures shall be made from this item without prior approval of the house and senate committees on ways and means; and provided further, that, notwithstanding any provision of chapters one hundred and twenty-six or one hundred and twenty-seven of the General Laws or any other general or special law to the contrary, the current Suffolk County House of Correction and the new Suffolk County House of Correction shall be under the sole and exclusive control of the sheriff of Suffolk county who shall administer the same in the same manner and with the same authority as found in the statutes which govern the administration of the Suffolk County Jail, and under the provisions of sections 356 to 363 of this act; and provided further, that nothing herein contained shall affect the responsibility of the city of Boston to provide for the expenses of said Suffolk County Houses of Correction		\$33,350,000

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8910-0040 For a reserve to replace county taxes previously assessed upon municipalities for the operation of county jails, to be distributed in accordance with schedules prepared by the deputy commissioner of revenue for local services and approved by the house and senate committees on ways and means; provided, that each county shall expend during the fiscal year for the operation of county jails and houses of correction an amount not less than the sum of the amount distributed to it from this item and one hundred two and one-half percent of the amount expended for such purposes from tax revenues levied pursuant to sections thirty and thirty-one of chapter thirty-five of the General Laws in fiscal year nineteen hundred and eighty-nine; provided further, that the counties shall submit to the house and senate committees on ways and means, on or before January first, nineteen hundred and ninety-two, spending plans for all funds distributed to them from the commonwealth; provided further, that funds distributed from this item shall be paid to the treasurer of each county who shall place said funds in a separate account within the treasury of each county; provided further, that the treasurer shall authorize temporary transfers into this account for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the state under this item; provided further, that upon receipt of the state distribution, the treasurer shall be authorized to transfer out of said account an amount equal to funds advanced; provided, further, that, except as provided herein, all funds deposited in said accounts and any interest accruing thereto shall be used solely for the purpose of maintenance and operation of jails and houses of correction; provided further, that the commissioner of revenue is authorized to adjust the assessment limit of any county under section twenty A of chapter fifty-nine of the General Laws by the amount by which the sum of the county's distribution from this item in fiscal nineteen hundred and eighty-nine and the county's fiscal nineteen hundred and eighty-nine assessment limit, compounded at two and one-half percent per annum, exceeds the sum of its distribution from this line item in fiscal nineteen hundred and ninety-two and its otherwise applicable fiscal nineteen hundred and ninety-two assessment limit; provided further, that in fiscal year nineteen hundred and ninety-two, notwithstanding the provisions of section twenty A of chapter fifty-nine of the General Laws, any county except Suffolk and Nantucket may increase its county tax for said fiscal year by an additional amount if the total amount of such additional county tax is approved by two-thirds of the cities and towns in the county, in towns by a majority vote of the town meeting or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the mayor or manager; provided further, that any county that does not have a budget for fiscal year nineteen hundred and ninety-two approved by the county finance review board as of July first nineteen hundred and ninety-one may expend funds for the operation of county government in fiscal year nineteen hundred and ninety-two in accordance with its most recently approved budget; and provided further, that any county which borrowed under the provisions of section six of chapter one hundred and ninety-three of the acts of nineteen hundred and eighty-nine on or before July thirty-first, nineteen hundred and eighty-nine or which borrowed in fiscal nineteen hundred and eighty-nine under the provisions of section thirty-six A of chapter thirty-five of the General Laws, is hereby authorized to refund such debt for a term not to exceed seven years from the date of the original loan with payments on such refunding loan to be made in accordance with the provisions of chapter thirty-five of the General Laws and section twelve of chapter sixty-four D of the General Laws, so far as



Item	applicable		\$80,500,023
	Local Aid Fund	100.0%	
8910-0050 For	the transportation of prisoners to and from the several departments of the trial court by the sheriffs of the various counties, including the cost of personal services and the purchase of vehicles and other equipment for said purposes; provided, that the secretary for public safety is hereby authorized to advance funds to the county treasurer of each county for the purpose of this item; provided further, that the secretary for public safety, upon agreement of the respective sheriffs, may adjust said advances in such a fashion as is necessary to meet the actual cost of said transportation; provided further, that each such treasurer shall deposit said advances into a fund to be expended solely for the purpose of this item; and provided further, that any interest earned by said fund shall be deposited to said fund and made available for expenditure for the purpose of this item in addition to the amounts appropriated herein and that any unexpended balance of such fund as of June thirtieth, nineteen hundred and ninety-two, shall be returned to the Local Aid Fund		\$5,992,067
	Local Aid Fund	100.0%	
	<i>Parole Board.</i>		
8950-0001 For	the operation the parole board		\$10,840,845
	<i>Victim and Witness Program.</i>		
8950-0002 For	the victim and witness assistance program of the parole board, in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws		\$164,658
	Victim and Witness Assistance Fund	100.0%	
	EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.		
	<i>Office of the Secretary.</i>		
9000-0100 For	the office of the secretary, including not more than nine positions		\$480,970
9000-1801 For	the administration of the Massachusetts Office of Business Development; provided, however, that of the amount appropriated herein, not less than one hundred twenty-five thousand dollars shall be obligated for the support of programs operated by a farm workers' organization serving low income people and the Hispanic population of western Massachusetts; provided further, that no less sixteen thousand dollars shall be obligated for a corporate child care program, including not more than twenty-five positions		\$950,315
9000-1820 For	the purpose of financing the required state share of the cost of operating a small business development center; provided, that no funds shall be expended from this account until such time as the small business administration has executed a grant or contract with the University of Massachusetts for the operation of said center; provided further, that the funds expended from this account shall not exceed twenty-five percent of the gross operation cost of said center; and provided further, that quarterly reports of expenditures shall be filed with the house and senate		

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	committees on ways and means	\$621,238
9000-1900 For	the expenses of the office of travel and tourism provided, that of the amount appropriated herein not less than three hundred thousand dollars shall be expended for contracts for the promotion of vacation travel within the commonwealth; and provided further, that of the amount appropriated herein not less than three hundred thousand dollars shall be expended for the expenses of the Massachusetts Film Bureau; and provided further, that of the amount appropriated herein not less than seven hundred thousand dollars shall be expended for the expenses of the Massachusetts International Trade Council; and provided further, that the office of travel and tourism is hereby authorized and directed to provide: 1) services to and on behalf of local tourist councils, 2) services to bring the film industry into the commonwealth and 3) a program on international trade; provided further, that an annual report documenting the economic activity of the film industry in the commonwealth be filed with the house and senate committees on ways and means; and provided further, that the office of travel and tourism shall be a corporation for the purpose of entering into contracts with other public agencies including state authorities and said office is hereby authorized and directed to seek federal tax exempt status; and provided further, that notwithstanding any general or special law to the contrary, the office of travel and tourism is hereby authorized and directed to enter into an agreement or agreements with the Massachusetts Port Authority and the Massachusetts Turnpike Authority to provide services, in conjunction with or on behalf of the office of travel and tourism, for the purposes of domestic and international tourism and trade promotions and programs, including but not limited to grants to local tourist councils, which shall be developed and implemented by said authorities in consultation with the office of travel and tourism and the local tourist councils; provided further, that said agreement(s) shall be filed with the house and senate committees on ways and means by September first, nineteen hundred and ninety-one; and provided further, that no funds shall be expended for any travel by members of the general court, including not more than thirty-two positions	
9000-2200 For	the expenses of the state office of minority and women business assistance, including not more than twelve positions	\$4,100,000
9081-7006 For	the expenses of the MassJobs Southeast Projects	\$461,868
9081-7011 For	the expenses of Bay State Skills Corporation and the Industry Responsive Training Program; and employment training, and counseling of Displaced Homemakers; provided that a report of all revenues, expenditures, assets and liabilities of said corporation be filed quarterly with the secretary of administration and finance and the house and senate committees on ways and means; provided further, that said corporation shall remain as a quasi-public corporation; and provided further that not less than two hundred thousand dollars shall be expended for the purposes of teacher training programs; and provided further, that notwithstanding any general or special law to the contrary, said corporation shall cease to receive funding or financial support of any kind from the commonwealth on June thirtieth, nineteen hundred and ninety-two	\$177,279
		\$1,225,000

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EXECUTIVE OFFICE OF ELDER AFFAIRS.

*Office of the Secretary.*

9110-0100 For	the planning and administration of the executive office of elder affairs; provided, that the secretary of elder affairs shall, with the cooperation of the legislature, seek private funding of not more than thirty-seven thousand dollars for the elder advocacy organization known as the silver haired legislature; provided further, that the commissioner of capital planning and operations shall assign said executive office with adequate office space within state owned properties on or before October thirty-first, nineteen hundred and ninety-one; and provided further, that not more than one hundred and fifty thousand dollars shall be expended for the purposes of said transition, including not more than thirty-six positions	\$2,144,143
9110-1603 For	a reserve for home care and related services for individuals who maintain residence in a community environment in the event of changes in medicaid nursing home admittance criteria, which may be promulgated by the department of public welfare; provided said clients shall be subject to the same rules and regulations as those clients served under item 9110-1630 of this act	\$8,276,000
9110-1630 For	a home care program including home health and respite services, a protective services program and other programs which serve the elderly; provided that the secretary of elder affairs is authorized and directed to undertake a study of the feasibility of providing for the reimbursement of grocery delivery services, adaptive devices for personal care, and minor home modification services in those instances where such interventions would reduce the short or long term need for other, more costly interventions, and for the provision of adult day health care services and adult foster care to home care clients, including, but not limited to clients eligible for medical assistance under chapter 188E, subject to a determination of need pursuant to assessment procedures issued by the department; provided further that said secretary is further authorized and directed to undertake a study of the feasibility of promoting the use of such adult foster care as a cost-effective alternative to institutional respite care, long-term nursing home placement, and short-term placement following hospital discharge; provided that the home care program shall include a sliding fee program in which all qualified elders shall participate, which shall include provisions to waive said fee in cases where the secretary of elder affairs determines assessment would cause extreme financial hardship; provided further, that revenues accrued from said sliding fees be deposited in the General Fund and that not more than three hundred thousand dollars be expended for the administration of the home care program as defined in item 9110-1633; and provided further the secretary of elder affairs and the commissioner of welfare shall develop a plan for the most cost effective method of delivering services to elders who are eligible for both medicaid and home care services and said plan shall be filed with the house and senate committees on ways and means on or before December thirty-first nineteen hundred and ninety-one; provided further, that no new programs shall be established without the prior written approval of the house and senate committees on ways and means; provided further, that said secretary shall transmit to the house and senate committees on ways and means no later than thirty days after the effective date of this act a plan indicating the estimated monthly caseload to be supported by the appropriation in this item and	

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	<p>item 9110-1603; provided further, that anticipated monthly deviations from this initial estimated caseload of greater than two and one-half percent shall require said secretary to notify said committees no later than thirty days following the month reported; provided further, that not more than one million four hundred thousand dollars shall be obligated for the purchase of certified home health services for elders who are not eligible for Medicaid; provided further, that said certified home health services shall include, but are not limited to, home health aid, nursing management and nursing assessments; provided further, that not more than three million one hundred seventy-four thousand dollars shall be obligated for a program of respite care services to provide relief for caregivers who normally provide care to severely impaired individuals, especially those with Alzheimer's disease; provided further, that not more than two percent of the funds appropriated herein for home care services may be used to meet matching requirements of Title III of the Older Americans Act; provided further, that the department of elder affairs shall submit a detailed report of aggregate monthly home care purchase of service expenditures, as described in lines 38-43 of item 9110-1630 of section two of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight; provided further, that the department of elder affairs shall submit said report to the house and senate committees on ways and means and the secretary of administration and finance, no later than two months following the month reported; provided further that the secretary of elder affairs is hereby authorized and directed to work with the commissioner of public welfare and the director of the office of purchased services to identify all home care program services which meet the federal definition of personal care services in 42 CFR 440.170(f) and case management in 1915(g) of Title XIX, and to request federal matching funds for such services furnished to persons eligible for medical assistance under the provisions of chapter one hundred and eighteen E of the General Laws which are not presently reimbursable under any federal waiver program; and provided further, no funds appropriated herein shall be expended from this item for the expenses of home care corporations' administration or case management services</p>	\$72,002,305
9110-1633 For	<p>contracts between the executive office of elder affairs and home care corporations or other qualified bidders for the administration of the home care program funded through line item 9110-1630 and item 9110-1603 of this act; provided, that said contracts shall include the costs of administrative personnel, home care case managers, travel, rent and any other costs deemed appropriate by the executive officer; provided further, that the executive office of elder affairs may permit home care corporations to expend no more than three hundred thousand dollars statewide in revenues from sliding fees for the administration of the home care program</p>	\$30,977,000
9110-1635 For	<p>a demonstration program in Fall River to provide twenty-four hour in-home medical and social assessment services and crisis intervention to elders in need and to elderly patients recently discharged from acute facilities</p>	\$123,198
9110-1660 For	<p>a program of congregate and shared housing services for the elderly; provided, that the department of elder affairs shall submit to the house and senate committees on ways and means a quarterly update, no later than the last day of the following quarter, of all new and existing coordinator positions filled and salaries paid for said positions</p>	\$755,734
9110-1900 For	<p>programs providing local services to the elderly including volunteer programs for the elderly; provided further, that all funds appropriated under this item for an elder service corps shall be for corpsmen stipends, for the cost of mailing corpsmen stipends and for corpsmen participation in group insurance programs, as set forth in chapter one thousand</p>	

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	one hundred and sixty-eight of the acts of nineteen hundred and seventy-three; provided further, that the stipend for full-time corpsmen shall not exceed the maximum allowed under earnings limitation sections of the Social Security Act and the stipend for part-time corpsmen shall not exceed one hundred and thirty dollars per month; provided further, that not less than two million five hundred thousand dollars shall be obligated for the administration of a meals program for elderly persons; provided further, that one million one hundred forty-seven thousand two hundred dollars shall be expended for the school lunch program authorized pursuant to section one L of chapter fifteen of the General Laws as amended by this act; and provided further, that the department of elder affairs shall maximize federal reimbursement for meals served herein	\$4,554,771
	General Fund	74.81%
	Local Aid Fund	25.19%
9110-9002 For	grants to the councils on aging; provided the executive office of elder affairs shall establish an incentive grant program for those councils that implement long term care volunteer programs	\$2,046,873
	Local Aid Fund	100.0%
EXECUTIVE OFFICE OF CONSUMER AFFAIRS.		
<i>Office of the Secretary.</i>		
9200-0100 For	the office of the secretary, including not more than sixteen positions	\$542,324
9200-0160 For	the expenses of the automobile insurance public education program	\$96,000
<i>State Racing Commission.</i>		
9210-0001 For	the administration of the commission, including not more than thirty-nine positions	\$1,757,309
<i>Alcoholic Beverages Control Commission.</i>		
9212-0001 For	the administration of the commission, including not more than thirty positions	\$940,703
<i>Community Antenna Television Commission.</i>		
9215-0001 For	the administration of the community antenna television commission, including not more than nine positions	\$200,000
<i>Division of Standards.</i>		
9218-0100 For	the administration of the division of standards, including not more than seventeen positions	\$524,701
9221-1000 For	the office of the commissioner, including not more than two hundred and twenty-one positions subject however to the condition that sections 270 to 273 inclusive of this act take effect pursuant to the provisions of this act. No funds authorized under this item shall be expended unless said sections are enacted into law pursuant to the provisions of this act. It is the intent of the General Court that the enactment of said sections operate as a condition to the expenditure of any funds authorized under this item	\$7,044,355

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*Division of Insurance.*

9222-0100 For	the administration of the division, including expenses of the board of appeal, and certain other costs of supervising motor vehicle liability insurance and the expenses of the fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to the provisions of chapter thirty-one of the General Laws; provided further, that contracts or orders for the purchase of statement blanks for the making of annual reports to the commissioner of insurance shall not be subject to the restrictions prescribed by section one of chapter five of the General Laws; provided further, that notwithstanding the provisions of section three of chapter seven hundred and twenty-eight of the acts of nineteen hundred and seventy-five, the provisions of section two of said chapter seven hundred and twenty-eight, including the levels of compensation therein authorized, shall continue to be effective after December thirty-first, nineteen hundred and seventy-eight, including not more than one hundred and thirty-two positions		\$5,113,792
	General Fund	65.0%	
	Highway Fund	35.0%	
9222-0199 For	the expenses and administration of the board of appeal on motor vehicle liability policies and bonds, including not more than thirteen positions		\$418,167
	Highway Fund	100.0%	

*Division of Registration.*

9230-0001 For	the administration of the division; provided, that the position of investigator of radio-television technicians shall not be subject to chapter thirty-one of the General Laws, including not more than one hundred and twenty positions		\$3,484,775
9230-0150 For	the expenses of the board of registration and discipline in medicine and the committee on acupuncture, including not more than thirty-eight positions		\$1,646,601

*Department of Public Utilities.*

9270-0001 For	the general administration of the department; provided, that notwithstanding the provisions of the second sentence of the first paragraph of section eighteen of chapter twenty-five of the General Laws, the assessments levied pursuant to said first paragraph of said section for fiscal year nineteen hundred and ninety-two shall be made at a rate sufficient to produce not more than three million one hundred ninety-four thousand six hundred and ninety-two dollars, including not more than eighty-five positions		\$3,194,692
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*Transportation Division.*

9272-0001 For	the administration of the division, including not more than thirty-five positions		\$786,737
	Highway Fund	100.0%	

*Division of Energy.*

9275-0003 For	the administration of the office of energy resources; provided, that expenditures for the energy forecasting program		
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	shall be assessed upon utility companies as authorized by chapter twenty-five A of the General Laws, including not more than twenty-five positions	\$593,044
9275-0004 For	the administration of the residential conservation service program pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and eighty, and the commercial and apartment conservation service program pursuant to section twelve of chapter twenty-five A of the General Laws, including not more than five positions	\$184,650
9275-0500 For	the expenses of the energy facilities siting council; provided, that the expenditures from this item to the maximum amount of seven hundred thousand dollars shall be assessed upon utility companies in accordance with the provisions of chapter one hundred and sixty-four of the General Laws; provided further, that the excess over the appropriated amount shall be placed in an expendable trust account, to be spent or maintained from year to year by the council for the limited purpose of reviewing major energy facilities, without further appropriation and not subject to reversion to the General Fund; provided further, that the balance remaining in the expendable trust account shall be deducted from the following year's assessment of the electric and gas companies; provided further, that the amount collected from the utilities in the following year shall not be less than the amount appropriated for that year; provided, further, that amounts incurred on account of fringe benefits of state personnel compensated from this item shall be assessed upon utility companies in accordance with the provisions of said chapter one hundred and sixty-four of the General Laws and that amounts so assessed shall be credited to the General Fund; provided further, that the position of executive secretary of the council shall be exempt from the provisions and requirements of job classification under chapter thirty of the General Laws, including not more than sixteen positions	\$568,800
9275-0600 The	energy facilities siting council is hereby authorized to expend revenues collected from filing fees in order to fund the review of applications to construct energy facilities, including not more than fifteen positions	\$750,000
EXECUTIVE OFFICE OF LABOR.		
9400-0100 For	the office of the secretary including not more than eight positions	\$274,217
9400-1100 For	a program to promote employee involvement and ownership in the workplace	\$72,000
9400-1700 For	the expenses of administering the industrial service program and economic stabilization trust as provided by chapter twenty-three D of the General Laws, and for a reemployment assistance program as specified in section seventy-one D of chapter one hundred and fifty-one A of the General Laws; provided, that a report of all revenues, expenditures, assets and liabilities of the program and of the Economic Stabilization Trust be filed quarterly with the secretary for administration and finance and the house and senate committees on ways and means	\$150,000
<i>Department of Labor and Industries.</i>		
9410-0001 For	the expenses of the department of labor and industries; provided, that for a program to evaluate the asbestos level in public schools and other public buildings, the division of occupational hygiene may employ staff which shall not be subject to chapter thirty-one of the General Laws; provided further, that no position in the division of apprentice	

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	training shall be subject to chapter thirty-one of the General Laws provided further, that said agency shall administer the licensing and certification of deleaders; and provided further, that said agency shall conduct a program of recruitment and training for women in construction, including not more than one hundred and thirty-three positions	\$4,835,398
	<i>Board of Conciliation and Arbitration.</i>	
9420-0100 For	the expenses of the board of conciliation and arbitration, including not more than fifteen positions	\$624,089
	<i>Joint Labor-Management Committee.</i>	
9421-0100 For	the expenses of the joint labor-management committee, including not more than eight positions	\$351,107
	<i>Labor Relations Commission.</i>	
9430-0100 For	the administration of the commission, including not more than twenty-two positions	\$875,202
	<i>Department of Industrial Accidents.</i>	
9440-0200 For	the administration of the department and the advisory council; provided, that the General Fund shall be reimbursed for monies appropriated under this account and associated indirect and fringe benefit costs from assessments levied pursuant to section sixty-five of chapter one hundred and fifty-two of the General Laws, including not more than two hundred and eighty-five positions	\$13,310,740
	<b>LEGISLATURE.</b>	
	<i>Senate.</i>	
9511-0000 For	the compensation of senators	\$1,605,000
9511-8000 For	expenses of senators, including travel	\$168,208
9512-0000 For	the office of the senate clerk, prior appropriation continued	\$557,480
9512-0100 For	in-house printing, duplicating and other expenses, prior appropriation continued	\$99,072
9513-0000 For	the salary of the chaplain of the senate	\$4,000
9514-0000 For	the office of the senate counsel, prior appropriation continued	\$590,000
9515-0000 For	administrative and legislative aides to the senators, prior appropriation continued	\$3,936,000
9515-0100 For	the cost of unemployment, medicare and workmen's compensation charges assessed against the employees of the senate, prior appropriation continued	\$115,200
9516-0000 For	administrative, secretarial and clerical assistance to the senators, prior appropriation continued	\$1,000,000
9516-0030 For	a legislative intern and service program for the senate, prior appropriation continued.	
9517-0000 For	the office of the senate committee on ways and means, prior appropriation continued	\$1,122,612
9518-0000 For	the office supplies and other expenses of the senators, prior appropriation continued	\$620,160
9519-5000 For	the salaries of court officers and pages of the senate, prior appropriation continued	\$955,200
9519-6000 For	the office of legislative post audit and oversight bureau of the senate, prior appropriation continued	\$245,333



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9519-7000 For	legislative committee services for the senate, prior appropriation continued	\$1,400,000
9519-8000 For	the expenses of televising sessions of the senate	\$1,750,000
<i>House of Representatives.</i>		
9621-0000 For	the compensation of representatives	\$5,225,832
9622-8000 For	expenses of representatives, including travel	\$771,380
9623-0000 For	the office of the clerk of the house of representatives	\$475,000
9624-0000 For	the salary of the chaplain of the house of representatives	\$14,459
9625-0000 For	the office of the house counsel	\$956,054
9626-0000 For	the office of the house committee on rules	\$1,003,210
9627-0050 For	the cost of unemployment, medicare and workmen's compensation charges assessed against the employees of the house of representatives	\$270,000
9628-0000 For	the office of the house committee on ways and means	\$941,702
9629-0000 For	clerical and other expenses of the members of the house of representatives	\$2,487,347
9630-0020 For	administrative and legislative aides to the members of the house of representative	\$2,979,655
9631-0021 For	the two administrative assistants to work within the county in which they reside under the direction of the elected representative from the Cape and Islands District; provided, that such assistants shall be residents of the districts; provided further, that each reside in separate counties and neither shall reside in the county in which the elected representative resides; and provided further, that such assistants shall be appointed by said elected representative	\$44,097
9632-0040 For	office supplies and other expenses of the house of representatives	\$638,824
9633-0000 For	the expenses of televising sessions of the house of representatives	\$445,699
9634-2000 For	the expenses related to the House Information Systems, including maintenance of data and telecommunications equipment	\$154,349
9634-3000 For	the salaries of court officers and pages of the house of representatives	\$791,244
9634-4000 For	the expenses of the office of the house committee on personnel administration	\$34,452
9634-5000 For	legislative committee services for the house of representatives	\$4,614,286
9634-6000 For	the office of legislative post audit and oversight bureau of the house of representatives	\$831,686
<i>Sergeant-at-Arms.</i>		
9731-0000 For	the office of the sergeant-at-arms, prior appropriation continued	\$497,146
9734-1000 For	the salaries of clerks employed in the legislative document room, prior appropriation continued	\$316,800
9735-0000 For	contingent expenses of the senate and house of representatives and necessary expenses in and about the state house, with the approval of the sergeant-at-arms, prior appropriation continued	\$180,030
9736-0000 For	the rental, maintenance and updating of an electric roll call system	\$22,532
<i>Other Expenses.</i>		
9737-0000 For	the legislative service bureau	\$455,924

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9738-0001 For	the administration of the office of legislative data processing	\$705,107
9739-0003 For	the compilation, indexing, annotating, printing and other expenses in connection with the publication of the bulletin of committee hearings and of the daily list, with the approval of the joint committee on rules, prior appropriation continued	\$140,757
9742-0000 For	the administration of the legislative engrossing division, prior appropriation continued	\$182,400
9743-0000 For	printing, binding and paper ordered by the senate and house of representatives, or by concurrent order of the two branches, for printing the manual of the general court, with the approval of the clerks of the respective branches, and for biographical sketches of certain state and federal officials and other expenses, prior appropriation continued	\$1,825,541
9744-1000 For	telephone and telegraph service, prior appropriation continued	\$1,898,018
9745-0000 For	the emergency service of a physician, for medical supplies in the state house and for expenses, including the purchase of equipment in connection therewith, subject to the approval of the joint committee on rules; provided, that section twenty-one of chapter thirty of the General Laws shall not apply to the payments made under this item	\$26,170
9746-0000 For	the expenses of the joint committees on rules and for clerical and other assistance to the joint committees, prior appropriation continued	\$129,600
9747-0010 For	the expenses of joint standing and special committees authorized by joint order to sit and travel during the session and recess of the general court, said funds to be allocated to committees only upon written approval of the president of the senate and the speaker of the house of representatives, prior appropriation continued	\$31,341
9748-0000 For	membership fees and programs of legislative associations for the general court of the commonwealth, with the approval of the president of the senate and the speaker of the house of representatives	\$204,308
9749-0000 For	the expenses of the special commission on financial services, established by section one hundred and eleven of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine, provided, however, that this appropriation shall be fully funded by assessments on depository, nondepository and other financial institutions	\$480,000

#### **SECTION 2A.**

Item		
	DISTRICT ATTORNEYS.	
0340-0318 For	the purposes of a federally funded grant entitled, Priority Drug Prosecution	\$87,744
	SECRETARY OF THE COMMONWEALTH.	
	<i>Massachusetts Historical Commission.</i>	
0526-0105 For	the purposes of a federally funded grant entitled, Massachusetts Statewide Historical Survey	\$580,000
0526-0115 For	the purposes of a federally funded grant entitled, Massachusetts Historical Commission - Federal Preservation Grants	\$242,000

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TREASURER AND RECEIVER GENERAL.

*Massachusetts Cultural Council.*

0640-9717	For the purposes of a federally funded grant entitled, Promotion of Arts, Basic State Grant	\$510,000
0640-9718	For the purposes of a federally funded grant entitled, Promotion of Arts, Artists in Education	\$90,000

ATTORNEY GENERAL.

0810-6646	For the purposes of a federally funded grant entitled, Crime Victim Compensation	\$1,096,000
0840-0110	For the purposes of a federally funded grant entitled, Crime Victims Assistance	\$1,589,707

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

*Administration and Finance.*

1100-1514	For the purposes of a federally funded grant entitled, Protection and Advocacy Grant	\$363,000
1100-1703	For the purposes of a federally funded grant entitled, Administering Agency for Developmental Disabilities	\$750,000
1100-1704	For the purposes of a federally funded grant entitled, Protection and Advocacy for Mentally Ill Individuals	\$251,490
1100-1710	For the purposes of a federally funded grant entitled, Mass. Developmental Disabilities Council	\$230,000
1100-1711	For the purposes of a federally funded grant entitled, Services for Developmental Disabilities	\$280,000

*Office on Disability.*

1107-2450	For the purposes of a federally funded grant entitled, Client Assistance Program	\$170,537
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*Massachusetts Commission Against Discrimination.*

1150-5329	For the purposes of a federally funded grant entitled, Fair Housing Assistance Program - Type II	\$48,266
1150-5338	For the purposes of a federally funded grant entitled, Fair Housing Assistance Program - Type I	\$115,098
1150-5339	For the purposes of a federally funded grant entitled, Equal Employment Resolution Contract	\$485,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

*Environmental Affairs.*

2000-0141	For the purposes of a federally funded grant entitled, Coastal Zone Management Development	\$1,250,000
2000-0144	For the purposes of a federally funded grant entitled, Assessment of Sand Inside Plymouth Bay	\$25,000
2000-0147	For the purposes of a federally funded grant entitled, Massachusetts Bay National Estuary Project	\$63,000
2000-0148	For the purposes of a federally funded grant entitled, Massachusetts Bay National Estuary Project	\$437,000
2000-9701	For the purposes of a federally funded grant entitled, Hazardous Waste Small Generators	\$106,000
2000-9731	For the purposes of a federally funded grant entitled, Buzzards Bay Project - Comprehensive Estuarine Management	\$550,000
2030-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects	\$3,000,000

*Department of Environmental Management.*

2100-9702	For the purposes of a federally funded grant entitled, Lawrence HSP NEA Grant	\$19,580
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2100-9708 For	the purposes of a federally funded grant entitled, National Flood Insurance Program	\$140,000
2120-9701 For	the purposes of a federally funded grant entitled, Rural Community Fire Protection	\$28,000
2120-9707 For	the purposes of a federally funded grant entitled, Urban and Community Forestry	\$738,000
2120-9708 For	the purposes of a federally funded grant entitled, Improved Wood Utilization	\$125,000
2121-9709 For	the purposes of a federally funded grant entitled, Forestry Planning	\$267,000
2121-9710 For	the purposes of a federally funded grant entitled, Rural Fire Protection - Training and Excess Property	\$108,000
2121-9731 For	the purposes of a federally funded grant entitled, Recreational Capital Expenditures - Federal Share	\$20,935
2130-9703 For	the purposes of a federally funded grant entitled, Washington Mountain Brook Watershed Project	\$998,392
2130-9705 For	the purposes of a federally funded grant entitled, Suasco Watershed Flood Control Reservoir	\$48,909
2130-9711 For	the purposes of a federally funded grant entitled, Baiting Brook Watershed Project	\$350,000
2140-9705 For	the purposes of a federally funded grant entitled, Waquoit Bay National Estuarian Reserve	\$320,000

*Department of Environmental Protection.*

2200-9704 For	the purposes of a federally funded grant entitled, Solid Waste Disposal - Conservation and Recovery	\$1,645,700
2200-9705 For	the purposes of a federally funded grant entitled, Underground Water Source Protection Program	\$90,379
2200-9706 For	the purposes of a federally funded grant entitled, Water Quality Management Planning	\$622,356
2200-9709 For	the purposes of a federally funded grant entitled, Massachusetts Multi-Site Cooperative Agreement	\$1,939,479
2200-9712 For	the purposes of a federally funded grant entitled, Cooperative Agreement - Leaking Underground Storage Tank Program	\$1,650,000
2200-9713 For	the purposes of a federally funded grant entitled, Cooperative Agreement PSC Palmer Superfund Site	\$338,227
2200-9715 For	the purposes of a federally funded grant entitled, Core Cooperative Agreement Cercla Implementation Support	\$332,006
2200-9720 For	the purposes of a federally funded grant entitled, Blackstone Valley Project	\$100,000
2200-9740 For	the purposes of a federally funded grant entitled, Municipal Training Program	\$250,000
2240-9705 For	the purposes of a federally funded grant entitled, Shallow Injection	\$35,000
2240-9707 For	the purposes of a federally funded grant entitled, 1991 Water Pollution Control Program	\$1,850,000
2240-9709 For	the purposes of a federally funded grant entitled, Clean Lakes Program	\$365,380
2240-9710 For	the purposes of a federally funded grant entitled, State Management Assistance Grant	\$2,500,000
2240-9712 For	the purposes of a federally funded grant entitled, Technical Assistance and Training	\$35,000
2240-9713 For	the purposes of a federally funded grant entitled, Wastewater Laboratory Training Program	\$85,000
2240-9716 For	the purposes of a federally funded grant entitled, Non-point Source Assessment Report and Management Plan	\$400,000
2240-9717 For	the purposes of a federally funded grant entitled, Non-point Source Management Plan	\$424,000
2240-9718 For	the purposes of a federally funded grant entitled, NPS New Management Plan	\$300,000
2240-9719 For	the purposes of a federally funded grant entitled, Lake Water Quality Assessment	\$44,000
2250-9701 For	the purposes of a federally funded grant entitled, Public Water Supply Supervision Program	\$631,309
2250-9704 For	the purposes of a federally funded grant entitled, Toxic Use Reduction	\$108,534
2250-9710 For	the purposes of a federally funded grant entitled, Statewide Air Pollution Control Program	\$3,661,100

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2310-9701	For the purposes of a federally funded grant entitled, Whetstone Brook Acid Stream Mitigation Research Program <i>Department of Fisheries, Wildlife and Environmental Law Enforcement.</i>	\$31,002
2330-9709	For the purposes of a federally funded grant entitled, Commercial Fisheries Research and Development	\$84,000
2330-9712	For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics	\$140,000
2330-9714	For the purposes of a federally funded grant entitled, Commercial Fisheries Extension	\$15,000
2330-9718	For the purposes of a federally funded grant entitled, Characterization of Striped Bass Landing	\$2,000
2330-9719	For the purposes of a federally funded grant entitled, Fisheries Resource Assessment	\$75,000
2330-9721	For the purposes of a federally funded grant entitled, Anadromous Fish Management	\$78,000
2340-9701	For the purposes of a federally funded grant entitled, Safe Boating Program	\$645,000
2330-9722	For the purposes of a federally funded grant entitled, PCB Monitoring and Finfish Diseases Research - Buzzards Bay <i>Department of Food and Agriculture.</i>	\$13,200
2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement	\$262,500
2511-0320	For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators	\$31,400
2516-9002	For the purposes of a federally funded grant entitled, Development of Institutional Marketing	\$150,220
2516-9003	For the purposes of a federally funded grant entitled, Farmers' Market Coupon Program	\$373,125
2516-9004	For the purposes of a federally funded grant entitled, Food and Nutrition Data Base	\$12,500
EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.		
3722-9011	For the purposes of a federally funded grant entitled, Supportive Housing Demonstration Program	\$2,000,000
3722-9013	For the purposes of a federally funded grant entitled, Section 8 Existing Housing Program; provided, that the executive office of communities and development may provide monthly payments in advance to participating agencies	\$55,000,000
3722-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the executive office of communities and development may provide monthly payments in advance to participating agencies	\$13,000,000
3722-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the executive office of communities and development may provide monthly payments in advance to participating agencies	\$16,000,000
3722-9020	For the purposes of a federally funded grant entitled, Section 8 New Construction Program; provided, that the executive office of communities and development may provide monthly payments in advance to participating agencies	\$4,500,000
3724-3037	For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that revenues not to exceed an amount of two million dollars accrued from economic development programs may be expended without further appropriation; provided further, that consistent with applicable federal regulations and the state plan, the executive office of communities and development may provide monthly payments in advance to participating agencies	\$34,000,000
3724-3040	For the purposes of a federally funded grant entitled, Rental Rehabilitation Program	\$188,083
3724-9009	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the	

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	executive office of communities and development may provide monthly payments in advance to participating agencies	\$5,000,000
3743-2030 For	the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that consistent with applicable federal regulations and the state plan, the executive office of communities and development may provide monthly payments in advance to participating agencies	\$4,906,544
3743-2033 For	the purposes of a federally funded grant entitled, Low Income Home Energy Assistance Program; provided, that consistent with applicable federal regulations and the state plan, the executive office of communities and development may provide monthly payments in advance to participating agencies	\$59,424,914
3743-2034 For	the purposes of a federally funded grant entitled, Community Services Block Grant; provided, that consistent with applicable federal regulations and the state plan, the executive office of communities and development may provide monthly payments in advance to participating agencies	\$8,944,698
3743-2050 For	the purposes of a federally funded grant entitled, Emergency Community Services Homeless Program; provided, that consistent with applicable federal regulations and the state plan, the executive office of communities and development may provide quarterly payments in advance to participating agencies	\$858,537
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.		
<i>Office of the Secretary.</i>		
4000-0701 For	the purposes of a federally funded grant entitled, the Cooperative Agreement for Primary Care	\$122,958
4000-0804 For	the purposes of a federally funded grant entitled, Refugee Targeted Assistance Grant	\$985,816
4000-0805 For	the purposes of a federally funded grant entitled, Refugee Resettlement Program, Social Services	\$2,691,476
4000-0806 For	the purposes of a federally funded grant entitled, Refugee Cash, Medical and Administration	\$11,924,117
4000-0807 For	the purposes of a federally funded grant entitled, State Legalization Impact Assistance Grant	\$1,637,373
4000-9000 For	the purposes of a federal grant for Refugee Resettlement Services	\$329,360
4000-9400 For	the purposes of a federally funded grant entitled, Alcohol, Drug Abuse, and Mental Health Services Block Grant	\$202,561
<i>Massachusetts Commission for the Blind.</i>		
4110-3020 For	the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that any reimbursement received for successful vocational rehabilitation closures under the federal Social Security Act's Vocational Rehabilitation Program may be used by the commission for the blind to provide for essential client programming, including but not limited to pre-vocational and supported employment services; provided further, that no reimbursement received for such vocational rehabilitation closures shall be expended by the commission without the prior approval of the secretary of health and human services and the secretary of administration and finance	\$350,000
4110-3021 For	the purposes of a federally funded grant entitled, Basic Support Grant - Section 110	\$5,471,007
4110-3023 For	the purposes of a federally funded grant entitled, Independent Living Part A	\$36,750
4110-3024 For	the purposes of a federally funded grant entitled, Independent Living Part B	\$291,375
4110-3026 For	the purposes of a federally funded grant entitled, Independent Living Part C	\$248,924

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4110-3027 For	the purposes of a federally funded grant entitled, Rehabilitation Training - Section 4	\$29,283
4110-3028 For	the purposes of a federally funded grant entitled, Supported Employment	\$110,095
<i>Massachusetts Rehabilitation Commission.</i>		
4120-0020 For	the purposes of a federally funded grant entitled, Vocational Rehabilitation	\$28,700,000
4120-0037 For	the purposes of a federally funded grant entitled, Technical Assistance for Supported Employment Programs	\$90,000
4120-0039 For	the purposes of a federally funded grant entitled, Development of MIS for Supported Employment Programs	\$90,000
4120-0171 For	the purposes of a federally funded grant entitled, Teaching Grant and Traineeships in RSA Training	\$100,000
4120-0187 For	the purposes of a federally funded grant entitled, Supported Employment Program	\$800,000
4120-0511 For	the purposes of a federally funded grant entitled, Disability Determination Services	\$22,000,000
4120-0760 For	the purposes of a federally funded grant entitled, Independent Living	\$800,000
4120-2435 For	the purposes of a federally funded grant entitled, Employment Project for SSDI Beneficiaries	\$60,000
4120-4020 For	the purposes of a federally funded grant entitled, Disability Determination Service	\$1,533,370
<i>Massachusetts Commission for the Deaf and Hard of Hearing.</i>		
4125-0103 For	the purposes of a federally funded grant entitled, Assistive Technology Partnership	\$584,983
<i>Office for Children.</i>		
4130-2087 For	the purposes of a federally funded grant entitled, Dependent Care Planning and Development provided that, one hundred and twenty-two thousand three hundred and ninety-two dollars shall be expended for operating expenses of child care resource and referral programs that provide direct services to parents, and one hundred and eighty-three thousand five hundred and eighty-nine dollars shall be expended to provide through contracts basic day care services for school-age children of income eligible working families not eligible for child care as defined by Title IV-F of the Social Security Act	\$305,981
4130-2088 For	the purposes of a federally funded grant entitled, Child Development Assistance	\$46,170
4130-9001 For	the purposes of a federal grant entitled, the Licensing Grant	\$169,894
4130-9002 For	the purposes of a federal grant for Child Abuse Prevention Activities	\$76,974
<i>Veterans' Services.</i>		
4170-0009 For	the purposes of a federally funded grant entitled, Veterans' Aid and Attendance Benefits	\$400,000
4170-0014 For	the purposes of a federally funded grant entitled, Veterans J.T.P.A. Title IV-C	\$168,000
DEPARTMENT OF PUBLIC WELFARE.		
4400-1012 For	the purposes of a federally funded grant entitled, Medicaid Management; provided, that federal funds received for the purpose of Medicaid administration, not to exceed thirty-one million three hundred and ninety-two thousand dollars shall be credited to this item	\$31,392,000
4402-1734 For	the purposes of a federally funded grant entitled, Improving Access to Care for Pregnant Substance Abusers	\$111,734
4407-9002 For	the purposes of a federally funded grant entitled, HHS Employment and Training	\$18,000,000

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4407-9055 For	the purposes of a federally funded grant entitled, Emergency Shelter Grant	\$1,000,000
4407-9057 For	the purposes of a federally funded grant entitled, Transitional Housing	\$2,500,000
4407-9060 For	the purposes of a federally funded grant entitled, Systematic Alien Verification for Entitlements (SAVE)	\$350,000
4407-9065 For	the purposes of a federally funded grant entitled, Child Care Licensing and Monitoring; provided, that not less than one hundred fifty thousand dollars shall be expended through child care resource and referral agencies and other qualified community based child care training programs for the provision of child care training	\$300,000
DEPARTMENT OF PUBLIC HEALTH.		
4500-1000 For	the purposes of a federally funded grant entitled, Preventive Health Services Block Grant provided that not less than four hundred and fifty thousand dollars shall be obligated to the emergency medical services regions; and provided further, that not less than one hundred sixty-five thousand dollars be obligated for rape prevention and victim services	\$2,930,000
4500-2000 For	the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant; provided, that the department shall review and assess the process by which it allocates resources under this appropriation; provided further, that this process will involve the use of a needs assessment that clearly considers the magnitude, severity, and degree of risk for identified health problems within individual communities; and provided further, that a specific focus will be taken to support programs serving communities/neighborhoods with high rates of poverty	\$11,208,090
4502-1012 For	the purposes of a federally funded grant entitled, Cooperative Health Statistics System	\$350,000
4510-0109 For	the purposes of a federally funded grant entitled, State Loan Repayment Project	\$104,308
4510-0400 For	the purposes of a federally funded grant entitled, Grants Program to Support Alzheimer's Disease Research	\$2,500,000
4510-9019 For	the purposes of a federally funded grant entitled, Environmental Monitoring Program	\$56,463
4510-9039 For	the purposes of a federally funded grant entitled, A Model Statewide Cancer Control Program	\$218,000
4510-9040 For	the purposes of a federally funded grant entitled, Diabetes Control Program	\$200,000
4510-9043 For	the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Impact Health Assessments	\$286,353
4510-9048 For	the purposes of a federally funded grant entitled, Indoor Radon Development Program	\$170,408
4512-0102 For	the purposes of a federally funded grant entitled, Application of the Principles of the Control of Syphilis	\$784,700
4512-0179 For	the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$803,323
4512-9404 For	the purposes of a federally funded grant entitled, Alcoholism Block Grant	\$26,371,940
4512-9409 For	the purposes of a federally funded grant entitled, Community Youth Activity Block Grant	\$90,423
4512-9411 For	the purposes of a federally funded grant entitled, Urban Neighborhood Intervention Teams for Youth	\$496,905
4512-9412 For	the purposes of a federally funded grant entitled, Waiting List Reduction Grant	\$511,542
4512-9414 For	the purposes of a federally funded grant entitled, Drug Free Schools	\$1,950,247
4512-9415 For	the purposes of a federally funded grant entitled, Boston Drug Treatment Improvement Project	\$4,973,530
4512-9416 For	the purposes of a federally funded grant entitled, Treatment Program for Critical Populations	\$102,268
4513-9007 For	the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants and Children (WIC); provided,	



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	that the department shall report quarterly to the secretary of administration and finance and the joint committee on federal financial assistance on all expenditures from this item and the state nutrition program for women, infants, and children, including the numbers of participants in each program	\$40,606,308
4513-9011 For	the purposes of a federally funded grant entitled, AIDS Experimental Drug Program	\$1,500,000
4513-9018 For	the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education/ Risk Reduction Program	\$5,800,224
4513-9021 For	the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps	\$1,740,450
4513-9022 For	the purposes of a federally funded grant entitled, Prevention Disability State Based Project	\$445,500
4513-9023 For	the purposes of a federally funded grant entitled, Lawrence Prenatal Support System	\$165,300
4513-9026 For	the purposes of a federally funded grant entitled, Families C.A.N. - Care & Nurturance for At-Risk Families	\$328,492
4513-9033 For	the purposes of a federally funded grant entitled, AIDS Death Index	\$41,478
4513-9034 For	the purposes of a federally funded grant entitled, HIV Home Health	\$462,771
4513-9035 For	the purposes of a federally funded grant entitled, AIDS Surveillance	\$500,000
4513-9037 For	the purposes of a federally funded grant entitled, AIDS Care	\$1,454,614
4515-0113 For	the purposes of a federally funded grant entitled, Health Program for Refugees	\$204,688
4515-0115 For	the purposes of a federally funded grant entitled, Tuberculosis Control Project (317)	\$572,013
4516-1015 For	the purposes of a federally funded grant entitled, Lab Training Network	\$19,864
4516-1016 For	the purposes of a federally funded grant entitled, Tuberculosis Control Data Program	\$111,849
4518-1000 For	the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index (NDI)	\$50,000
4518-1001 For	the purposes of a federally funded grant entitled, National Linked Birth and Infant Data System	\$11,000
4518-1002 For	the purposes of a federally funded grant entitled, Social Security Administration - Massachusetts Death File	\$42,740
4518-1003 For	the purposes of a federally funded grant entitled, Massachusetts Birth Records for Social Security Administration	\$80,000
4518-9022 For	the purposes of a federally funded grant entitled, Sentinel Event Notification System for Occupational Risks	\$200,000
4535-6605 For	the purposes of a federally funded grant entitled, Shattuck AIDS Supportive Care Unit	\$222,000
5897-9104 For	the purposes of a federally funded grant entitled, Special Health Services for the Elderly	\$18,000

DEPARTMENT OF SOCIAL SERVICES.

4800-0005 For	the purposes of a federally funded grant entitled, Children's Justice Act	\$275,241
4800-0007 For	the purposes of a federally funded grant entitled, Family Violence Prevention and Support Services	\$154,614
4800-0009 For	the purposes of a federally funded grant entitled, Title IV-E Independent Living Program	\$340,635
4800-1000 For	the purposes of a federally funded grant entitled, Child Care and Development Block Grant; provided, that not less than nine million seven hundred thousand dollars shall be used to provide contracted child care for income eligible working families not eligible for transitional child care as defined in Title IV-F of the Social Security Act; provided further, that not less than five hundred thousand dollars shall provide operating support for community-based child care resource and referral programs contracted to provide services administered through item 4130-0001 in section two of this act	\$10,200,000

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4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services	\$4,474,633
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Basic Grant	\$239,815
4899-0024	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Medical Grant	\$56,903
DEPARTMENT OF MENTAL HEALTH.		
5012-9110	For the purposes of a federally funded grant entitled, Mental Health Services - Homeless	\$860,000
5012-9112	For the purposes of a federally funded grant entitled, Central Office Block Grant	\$9,889,501
5012-9115	For the purposes of a federally funded grant entitled, Plan to Implement Uniform Integrated Data Collection Systems	\$112,122
5021-9102	For the purposes of a federally funded grant entitled, Massachusetts C.S.P. State Service Improvement	\$50,000
5021-9116	For the purposes of a federally funded grant entitled, Children Services (P.L. 89-313, Title I)	\$149,000
5047-9102	For the purposes of a federally funded grant entitled, Child and Adolescent Service System	\$161,381
DEPARTMENT OF MENTAL RETARDATION,		
5947-0002	For the purposes of a federally funded grant entitled, Temporary Respite Care for Cambodian Families	\$150,000
5947-0003	For the purposes of a federally funded grant entitled, Respite Care and Family Support	\$141,006
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.		
<i>Office of the Secretary.</i>		
6000-0018	For the purposes of a federally funded grant entitled, Statewide Assistance Rural Public Transportation	\$935,424
6000-0023	For the purposes of a federally funded grant entitled, UMTA Technical Studies	\$183,325
6000-0049	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation	\$174,522
6000-0054	For the purposes of a federally funded grant entitled, Local Rail Service Assistance - Planning	\$27,992
6000-0180	For the purposes of a federally funded grant entitled, Statewide Assistance Rural Public Transportation	\$434,576
6000-9923	For the purposes of a federally funded grant entitled, UMTA Technical Studies	\$172,752
6000-9949	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation	\$796,771
6000-9953	For the purposes of a federally funded grant entitled, Berkshire County Line Project	\$800,000
6000-9954	For the purposes of a federally funded grant entitled, Local Rail Service Assistance - Planning	\$8,008
6000-9957	For the purposes of a federally funded grant entitled, Local Rail Service Assistance	\$700,000
MASSACHUSETTS AERONAUTICS COMMISSION.		
6006-0042	For the purposes of a federally funded grant entitled, Airport System Planning	\$1,287,586
DEPARTMENT OF PUBLIC WORKS.		
6030-8880	For the purposes of a federally funded grant entitled, Department of Public Works Slip Base Utility Pole Program	\$8,000

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## BOARD OF LIBRARY COMMISSIONERS.

7000-9666 For	the purposes of a federal grant entitled, Development of a Statewide Preservation Plan	\$17,000
7000-9703 For	the purposes of a federally funded grant entitled, Title III LSCA Interlibrary Cooperation	\$448,330
7000-9705 For	the purposes of a federally funded grant entitled, LSCA Program - Title I	\$2,300,830
7000-9707 For	the purposes of a federally funded grant entitled, Emergency Federal Jobs Bill - LSCA Title II	\$834,891
7000-9777 For	the purposes of a federally funded grant entitled, White House Conference: Library and Information Sciences	\$4,000
7000-9999 For	the purposes of a federally funded grant entitled, Library Services Construction Act, Title VI	\$25,417

## DEPARTMENT OF EDUCATION.

7010-0013 For	the purposes of a federally funded grant entitled, Racial Imbalance Programs	\$170,000
7010-9706 For	the purposes of a federally funded grant entitled, Common Core Data Project	\$21,165
7010-9711 For	the purposes of a federally funded grant entitled, Desegregation - Technical Assistance	\$350,000
7010-9728 For	the purposes of a federally funded grant entitled, Elimination of Sex Discrimination - Technical Assistance	\$170,000
7010-9732 For	the purposes of a federally funded grant entitled, Chapter 2 Education Consolidation and Improvement Act - Administration	\$1,649,000
7027-9116 For	the purposes of a federally funded grant entitled, Occupational Education - Distribution	\$15,750,000
7027-9126 For	the purposes of a federally funded grant entitled, Occupational Education - Administration	\$2,175,000
7028-0141 For	the purposes of a federally funded grant Adult Education Literacy Distribution	\$150,000
7028-0142 For	the purposes of a federal grant for the Adult Education Literacy Administration	\$70,000
7028-0601 For	the purposes of a federally funded grant entitled, Education of the Handicapped - Administration	\$2,500,000
7028-0816 For	the purposes of a federally funded grant entitled, Handicapped in Institutions - Distribution	\$11,500,000
7028-0890 For	the purposes of a federally funded grant entitled, Expanding Mainstreaming Opportunities for Children with Special Needs	\$122,000
7028-0891 For	the purposes of a federally funded grant entitled, Into the Mainstream	\$172,000
7030-0191 For	the purposes of a federally funded grant entitled, Coordination of Technical Assistance for Bilingual Education Programs by S.E.A.S	\$85,000
7030-9736 For	the purposes of a federally funded grant entitled, Chapter II, Education Consolidation and Improvement Act - Distribution	\$7,500,000
7030-9780 For	the purposes of a federally funded grant entitled, D. D. Eisenhower Math and Science Education Program - Administration	\$210,000
7030-9790 For	the purposes of a federally funded grant entitled, D. D. Eisenhower Math and Science Education Program - Distribution	\$2,300,000
7032-0207 For	the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program Administration	\$60,000
7032-0217 For	the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program Distribution	\$160,000
7032-0227 For	the purposes of a federally funded grant entitled, Drug Free Schools - Administration	\$700,000

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7032-0228 For	the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program	\$330,000
7032-0230 For	the purposes of a federal grant entitled, Drug Free Schools - Distribution	\$7,500,000
7032-0402 For	the purposes of a federally funded grant entitled, Chapter 2 - Administration	\$1,300,000
7035-0013 For	the purposes of a federally funded grant entitled, Education of the Handicapped - Discretionary Funds	\$2,600,000
7035-0116 For	the purposes of a federally funded grant entitled, Chapter I, Education Consolidation and Improvement Act - Distribution	\$115,000,000
7035-0126 For	the purposes of a federally funded grant entitled, Neglected and Delinquent Children	\$250,000
7035-0136 For	the purposes of a federally funded grant entitled, Children in State Adult Correctional Institutions	\$750,000
7035-0146 For	the purposes of a federally funded grant entitled, Migrant Education	\$5,750,000
7035-0151 For	the purposes of a federal grant entitled, Homeless Children Youth Exemplary	\$170,000
7035-0156 For	the purposes of a federal grant entitled, Chapter 1 Capital Expenses for Private Schools	\$1,200,000
7035-0157 For	the purposes of a federal grant entitled, Chapter 1 Program Improvement	\$450,000
7035-0158 For	the purposes of a federally funded grant entitled, Massachusetts Educational Program for Homeless Children	\$100,000
7035-0316 For	the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution	\$41,000,000
7035-0713 For	the purposes of a federally funded grant entitled, Early Childhood Incentive - Administration	\$400,000
7035-0716 For	the purposes of a federally funded grant entitled, Preschool Incentive - Distribution	\$5,500,000
7035-0718 For	the purposes of a federally funded grant entitled, Preschool Incentive - Discretionary	\$1,500,000
7038-0002 For	the purposes of a federally funded grant entitled, Adult Basic Education Administration	\$430,000
7038-0106 For	the purposes of a federally funded grant entitled, Adult Basic Education - Distribution	\$2,700,000
7038-0109 For	the purposes of a federally funded grant entitled, Adult Education for the Homeless	\$340,000
7038-0119 For	the purposes of a federally funded grant entitled, Workplace Literacy Partnership - Administration	\$460,000
7038-0121 For	the purposes of a federal grant program entitled, the Workplace Literacy Partnership Distribution	\$340,000
7038-9724 For	the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Administration	\$15,000
7038-9746 For	the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance Distribution	\$950,000
7053-2105 For	the purposes of a federally funded grant entitled, Special Food Distribution Cash	\$675,000
7053-2111 For	the purposes of a federally funded grant entitled, Special Milk Program	\$670,000
7053-2112 For	the purposes of a federally funded grant entitled, School Lunch, Section 11 - Special Assistance	\$39,100,000
7053-2113 For	the purposes of a federally funded grant entitled, Community School Lunch Program	\$14,200,000
7053-2114 For	the purposes of a federally funded grant entitled, School Breakfast Program	\$12,700,000
7053-2117 For	the purposes of a federally funded grant entitled, Child Care Program	\$37,250,000
7053-2118 For	the purposes of a federally funded grant entitled, School Food Service - Management and Related Activities	\$305,000
7053-2126 For	the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance	\$1,532,000
7053-2202 For	the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children	\$3,125,000
7062-0008 For	the purposes of a federally funded grant entitled, Nutrition Program - Administration	\$2,050,000

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EXECUTIVE OFFICE OF PUBLIC SAFETY.

*Executive Office of Public Safety.*

8000-0179 For the purposes of a federally funded grant entitled, Improving the Massachusetts Criminal History Record System \$59,911

*Department of Public Safety.*

8311-2057 For the purposes of a federally funded grant entitled, N.E.S.P.A.C. Regional Investigation \$1,693,000

8314-9707 For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program \$162,500

*Registry of Motor Vehicles.*

8400-0006 For the purposes of a federally funded grant entitled, Motor Carrier Safety Assistance Program \$262,183

8400-0008 For the purposes of a federally funded grant entitled, Commercial Driver Licensing Program \$228,039

*Committee on Criminal Justice.*

8600-0002 For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act Planning \$66,975

8600-0003 For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act \$735,491

8600-0008 For the purposes of a federally funded grant entitled, Drug Free Schools and Communities Act of 1986 \$1,950,247

8600-0009 For the purposes of a federally funded grant with an amount not to exceed five hundred thousand dollars to establish a demonstration security program for mission main in the Boston housing authority in the city of Boston, provided that said security program shall include education, police force participation, team police, crime watch and youth services; provided further, that any program authorized herein shall not violate federal standards or requirements governing the grants of this item; provided further, that the Massachusetts committee on criminal justice shall notify the joint committee on Housing and Urban Development on all grants distributed from this item, provided that said notification shall include a listing of grantees, program description, and amount awarded, entitled, Narcotics Control Assistance Program \$9,035,000

8600-0010 For the purpose of a federally funded grant entitled, Statistical Analysis Center \$29,987

*Civil Defense Agency.*

8800-0003 For the purposes of a federally funded grant entitled, Emergency Management Assistance - Personal and Administrative Expenses \$715,934

8800-0004 For the purposes of a federally funded grant entitled, Emergency Management Assistance - Distribution to Cities and Towns \$600,000

8800-0005 For the purposes of a federally funded grant entitled, Disaster Preparedness Assistance \$50,000

8800-0006 For the purposes of a federally funded grant entitled, Radiological Systems Maintenance \$208,159

8800-0007 For the purposes of a federally funded grant entitled, Radiological Defense Officer \$92,769

8800-0008 For the purposes of a federally funded grant entitled, Population Protection Planning Program \$240,000

8800-0009 For the purposes of a federally funded grant entitled, Emergency Management Training - State/Local Personnel \$85,000

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8800-0019 For	the purposes of a federally funded grant entitled, Superfund Amendment and Reauthorization Acts of 1986 <i>Governor's Highway Safety Bureau.</i>	\$43,000
8850-0003 For	the purposes of a federally funded grant entitled, Highway Safety Program - Administrative and Planning Expenses	\$200,000
8850-0004 For	the purposes of a federally funded grant entitled, State Agency Programs	\$2,600,000
8850-0008 For	the purposes of a federally funded grant entitled, Evaluation of Massachusetts Saving Lives	\$50,000
EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.		
<i>Office of the Secretary.</i>		
9000-1621 For	the purposes of a federally funded grant entitled, Job Training Partnership Act	\$52,954,973
9000-9764 For	the purposes of a federally funded grant entitled, Massachusetts Photovoltaic Evaluation and Training Program	\$500,000
<i>Department of Employment and Training,</i>		
9081-0100 For	the purposes of a federally funded grant entitled, Department of Employment and Training, Administration	\$101,293,083
9089-1000 For	the purposes of a federally funded grant entitled, trade expansion act program	\$2,300,000
EXECUTIVE OFFICE OF ELDER AFFAIRS.		
<i>Office of the Secretary.</i>		
9110-1074 For	the purposes of a federally funded grant entitled, Older Americans Assistance, Title III-74; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$8,291,500
9110-1076 For	the purposes of a federally funded grant entitled, Community Achievement Award	\$20,000
9110-1173 For	the purposes of a federally funded grant entitled, Older Americans Act - Title VII Nutrition Program FY73; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$11,300,600
9110-1178 For	the purposes of a federally funded grant entitled, Community Service Employment Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$1,575,400
9110-1181 For	the purposes of a federally funded grant entitled, Cash in Lieu of Commodities Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$2,970,800
EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION.		
<i>Division of Energy.</i>		
9200-9642 For	the purposes of a federally funded grant entitled, Institutional Conservation Program	\$49,325
9200-9741 For	the purposes of a federally funded grant entitled, Energy Extension Service	\$104,200
9200-9742 For	the purposes of a federally funded grant entitled, State Energy Conservation Plan	\$239,100
9200-9757 For	the purposes of a federally funded grant entitled, Northeast Regional Biomass Program	\$30,000

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EXECUTIVE OFFICE OF LABOR.

*Department of Labor and Industries.*

9411-2013 For	the purposes of a federally funded grant entitled, Mine Safety and Health Training	\$72,000
9411-4203 For	the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistical Survey	\$125,000
9411-9701 For	the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program	\$715,900

**SECTION 2B.** Notwithstanding the provisions of any general or special law to the contrary, the following agencies are hereby authorized to expend such amounts as are listed in this section for the provision of services to agencies listed in section two of this act; provided, however, that all expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section two or two A of this act to the Intergovernmental Service Fund, established pursuant to section two Q of chapter twenty-nine of the General Laws; provided further, that funds may be transferred between items within this section; provided further, that no expenditures shall be made from this fund which shall cause the Intergovernmental Service Fund to be in deficit at the close of fiscal year nineteen hundred and ninety-two; provided further, that, unless otherwise specified, all appropriations in this section shall be charged to the Intergovernmental Service Fund.

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STATE COMPTROLLER.

1000-0003 For	the cost of compliance with the mandate of the federal law and office of management and budget regulations for a comprehensive, statewide single audit of state operations; provided, that the state comptroller shall charge other items of appropriation for the cost of said audit from allocated federal funds transferred from federal reimbursement and grant receipts pursuant to line item 1000-0001 of section two of this act	\$525,000
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EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

*Office of Management Information Systems.*

1101-2310 For	the cost of computer resources and services provided by the bureau of computer services; provided that the commissioner of administration shall charge, pursuant to section eighteen of this act, to other items of appropriation for the purchase or lease of data processing and data communication goods and services for the bureau of computer services data center and data communications network	\$3,200,000
1101-4000 The	commissioner of administration is hereby authorized to expend five hundred thousand dollars generated from reimbursements received pursuant to this item for the purpose of conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communication lines, equipment, and services used by the commonwealth; provided, that all state departments and agencies shall participate or assist in such audits and surveys as directed by the commissioner. For the purpose of conducting such audits and surveys, the commissioner may enter	

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	into agreements with one or more private persons, companies, associations, or corporations; provided, that no such agreement shall be entered into unless proposals for the same have been invited by public notice; provided further, that any such agreement shall put forth the manner in which the compensation for such services shall be paid, including payment of a portion of, and only upon receipt of reimbursements from providers of communication services and equipment as a result of savings identified pursuant to this item; provided further, that the commissioner shall file quarterly status reports with the house and senate committees on ways and means; and provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item, including not more than one position	\$500,000
	<i>Department of Procurement and General Services - Micrographics.</i>	
1104-4028 For	the cost of micrographics production services rendered by the department of procurement and general services; provided, that the commissioner of administration shall charge to other items of appropriation for costs incurred by other agencies or other public entities, including not more than five positions	\$300,000
	<i>Department of Procurement and General Services - Vehicles.</i>	
1104-5211 For	the purchase, operation, and repair of certain vehicles under the authority of the state procurement department; provided, that the commissioner of administration shall charge to other items of appropriation for the cost of the operation and maintenance of all vehicles that are leased by other agencies	\$2,000,000
	<i>Department of Procurement and General Services - Postal and Supply</i>	
	<i>Chargeback.</i>	
1104-6600 For	the purchase, delivery and handling of, and contracting for, supplies, postage, and related equipment, and for other incidental expenses of the department of procurement and general services as provided pursuant to the provisions of section fifty-one of chapter thirty of the General Laws, as appearing in the 1988 Official Edition; provided, that the comptroller may certify for payment, expenses and liabilities in an amount not to exceed two hundred and fifty thousand dollars; provided further, that the commissioner shall charge to other items of appropriation for the costs incurred by other agencies for the provision of said supplies, postage and equipment, including not more than four positions	\$1,500,000
	<i>Department of Procurement and General Services - Central Reprographics.</i>	
1104-6603 For	the provision of printing, photocopying, and related graphic art or design work, including all necessary incidental expenses and liabilities; provided, that the commissioner of administration shall charge to other items of appropriation within the agencies of the executive branch for costs incurred for such services, including not more than four positions	\$300,000
	<i>Department of Procurement and General Services - Telecommunications.</i>	
1104-6608 For	the purchase, lease or rental of telecommunications lines, services and equipment; provided, that the commissioner	



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of administration shall charge to other items of appropriation for costs necessary to allocate fairly the costs of certain telecommunication lines, services, and equipment that are centrally billed to the commonwealth \$13,000,000

*Department of Personnel Administration - TIER Training.*

1108-1213 For the costs of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the department of personnel administration is authorized to collect a seventy-five dollar administrative fee from vendors who submit proposals in response to Requests for Proposals for the Commonwealth of Massachusetts Master Service Agreement for Specialized Training and Consultation Services at the time of proposal submission; provided further, that any vendor who fails to deliver the appropriate administrative fee with its submission shall be deemed non-responsive and its proposal shall not be considered for contract award; provided further, that the department may expend such administrative fees collected from such vendors for the administration of such training programs; and provided further, that the department shall charge to other items of appropriation for the cost of participants enrolled in programs sponsored by the department, or to state agencies employing said participants \$1,000,000

*Division of Public Employees Retirement Administration - Workers'*

*Compensation.*

1108-6201 For the purposes of workers' compensation paid to public employees; provided, that the commissioner of administration shall charge, pursuant to section thirty-three of this act, to other items of appropriation for the cost incurred on behalf of other agencies provided further, that the comptroller may transfer worker's compensation-related fringe benefit assessments from federal grants and trust accounts to this item \$29,500,000

*Reserves.*

1599-3100 Notwithstanding the provisions of any general or special law to the contrary, the office of the comptroller is authorized to perform the collection, accounting and payment of the commonwealth's employer contributions to the unemployment compensation fund and medical security trust fund; provided, that in executing these responsibilities the comptroller is authorized to charge against individual appropriation accounts and certain non-appropriated funds amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense, or related charges; provided further, that the comptroller may implement a system of chargebacks and payments that operates with adequate timeliness to encourage administrative efficiency and satisfy all requirements of the law \$13,500,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

*Department of Public Works.*

6030-7501 For the purchase of bulk fuel for certain vehicles under the authority of the state procurement department; provided, that the commissioner of the department of public works shall charge to other items of appropriation the cost of

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purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel

\$2,000,000

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, the total amounts to be distributed and paid to each city, town, regional school district and county maintaining an agricultural school from items 0611-5500, 7061-0003 and 7061-0008 of section two of this act shall be set forth in the following list; provided, that the specified amounts to be distributed from item 7061-0008 of said section two are hereby deemed to be in full satisfaction of the amounts due under the provisions of sections three, six, and seven of chapter seventy of the General Laws; provided further, that the amounts to be distributed from item 0611-5500 of said section two are hereby deemed to be in full satisfaction of the amounts due under section thirty-seven of chapter twenty-one of the General Laws. No payments to cities and towns pursuant to this section shall be paid after November thirtieth of the fiscal year by the state treasurer until he receives certification from the commissioner of revenue of said commissioner's acceptance of the prior fiscal year's annual financial reports submitted pursuant to the provisions of section forty-three of chapter forty-four of the General Laws. In the case of regional school districts, distributions pursuant to this section shall not be paid by the state treasurer after November thirtieth of the fiscal year until he receives certification from said commissioner of the acceptance of the prior year's annual financial reports as prescribed by the director of accounts. The unencumbered amount in the excess and deficiency fund established pursuant to section sixteen B of chapter seventy-one of the General Laws shall constitute the amount certified to the regional school committee and the commissioner by the director of accounts as available on July first of the current fiscal year. Said director shall promulgate and from time to time revise rules and regulations for determining the available funds of a regional school district. No payments to cities, towns or regional school districts pursuant to items 7061-0003 and 7061-0008 of section two shall be paid after November thirtieth of the fiscal year by the state treasurer until he receives certification from the commissioner of education of said commissioner's acceptance of the end of year pupil and financial report submitted pursuant to the provisions of section three of chapter seventy-two of the General Laws.

MUNICIPALITY	0611-5500	7061-0008 Chapter 70
	Additional Assistance	
ABINGTON	0	3,251,792
ACTON	37,368	481,047
ACUSHNET	30,043	1,491,330
ADAMS	44,096	221,323
AGAWAM	0	4,283,470
ALFORD	0	0
AMESBURY	0	3,727,870
AMHERST	280,503	2,183,026
ANDOVER	0	1,184,598
ARLINGTON	5,652,310	2,317,868

ASHBURNHAM	0	0
ASHBY	0	0
ASHFIELD	0	0
ASHLAND	366,937	457,349
ATHOL	5,507	964,030
ATTLEBORO	0	7,818,902
AUBURN	0	2,198,222
AVON	504,148	152,415
AYER	55,642	2,635,951
BARNSTABLE	0	19,250
BARRE	0	0
BECKET	10,797	0
BEDFORD	609,391	490,485
BELCHERTOWN	0	1,492,620
BELLINGHAM	0	3,484,144
BELMONT	1,041,278	657,059
BERKLEY	0	588,982
BERLIN	0	211,348
BERNARDSTON	0	109,592
BEVERLY	3,086,077	2,749,315
BILLERICA	2,956,313	4,327,062
BLACKSTONE	0	0
BLANDFORD	0	0
BOLTON	0	0
BOSTON	206,638,214	44,963,846
BOURNE	443,645	697,469
BOXBOROUGH	0	31,465
BOXFORD	45,818	66,760
BOYLSTON	0	123,201
BRAINTREE	4,250,822	1,219,876
BREWSTER	0	0
BRIDGEWATER	0	2,880,831
BRIMFIELD	0	203,702
BROCKTON	5,424,063	29,237,295
BROOKFIELD	0	458,859

BROOKLINE	4,401,448	910,428
BUCKLAND	0	60,077
BURLINGTON	1,744,603	1,149,103
CAMBRIDGE	22,595,349	1,473,559
CANTON	1,104,851	627,229
CARLISLE	18,534	105,601
CARVER	0	973,828
CHARLEMONT	0	54,847
CHARLTON	0	52,898
CHATHAM	0	0
CHELMSFORD	3,190,395	1,661,488
CHELSEA	4,274,507	9,036,966
CHESHIRE	0	49,957
CHESTER	0	57,706
CHESTERFIELD	0	0
CHICOPEE	1,504,526	12,908,998
CHILMARK	0	0
CLARKSBURG	16,502	463,231
CLINTON	220,865	3,209,829
COHASSET	209,013	361,084
COLRAIN	0	41,234
CONCORD	483,163	314,058
CONWAY	0	90,282
CUMMINGTON	0	179
DALTON	0	273,727
DANVERS	1,408,080	732,167
DARTMOUTH	0	2,560,980
DEDHAM	1,950,847	1,039,401
DEERFIELD	0	260,495
DENNIS	0	0
DIGHTON	0	0
DOUGLAS	0	569,309
DOVER	0	0
DRACUT	0	4,023,516
DUDLEY	0	143,821

DUNSTABLE	37,846	0
DUXBURY	0	678,361
EAST BRIDGEWATER	0	2,347,876
EAST BROOKFIELD	0	0
EAST LONGMEADOW	0	1,248,213
EASTHAM	0	0
EASTHAMPTON	137,004	3,706,629
EASTON	0	2,705,681
EDGARTOWN	35,873	24,658
EGREMONT	0	0
ERVING	16,548	88,888
ESSEX	42,569	119,013
EVERETT	5,139,628	1,200,671
FAIRHAVEN	492,569	2,611,111
FALL RIVER	2,882,862	35,476,423
FALMOUTH	0	563,415
FITCHBURG	270,312	11,188,559
FLORIDA	0	13,356
FOXBOROUGH	0	2,128,675
FRAMINGHAM	5,911,189	1,966,487
FRANKLIN	0	3,426,933
FREETOWN	0	407,093
GARDNER	151,944	4,600,615
GAY HEAD	0	0
GEORGETOWN	66,691	1,039,916
GILL	0	0
GLOUCESTER	2,419,911	1,046,988
GOSHEN	0	0
GOSNOLD	2,469	0
GRAFTON	0	1,656,475
GRANBY	0	1,129,475
GRANVILLE	0	74,678
GREAT BARRINGTON	0	428,467
GREENFIELD	0	4,764,816
GROTON	0	144,992

GROVELAND	0	526,902
HADLEY	174,084	124,967
HALIFAX	0	802,693
HAMILTON	53,967	30,021
HAMPDEN	0	507,944
HANCOCK	22,195	17,690
HANOVER	1,669,092	898,915
HANSON	0	1,639,292
HARDWICK	4,062	714
HARVARD	69,324	470,438
HARWICH	0	110,484
HATFIELD	0	160,004
HAVERHILL	3,149,881	9,636,205
HAWLEY	16,264	7,556
HEATH	0	0
HINGHAM	420,485	969,285
HINSDALE	0	32,636
HOLBROOK	5,987	2,651,849
HOLDEN	0	1,090,713
HOLLAND	0	56,295
HOLLISTON	518,826	1,726,786
HOLYOKE	763,384	17,006,708
HOPEDALE	0	609,758
HOPKINTON	151,365	437,641
HUBBARDSTON	0	0
HUDSON	0	3,381,625
HULL	1,747,307	1,267,196
HUNTINGTON	0	42,115
IPSWICH	975,780	503,164
KINGSTON	0	465,596
LAKEVILLE	0	434,728
LANCASTER	0	1,023,899
LANESBOROUGH	0	290,228
LAWRENCE	239,970	25,113,557
LEE	0	924,360

LEICESTER	0	2,537,143
LENOX	90,787	680,332
LEOMINSTER	14,714	7,184,711
LEVERETT	0	5,430
LEXINGTON	0	1,304,196
LEYDEN	0	0
LINCOLN	367,459	0
LITTLETON	207,535	305,234
LONGMEADOW	0	1,464,183
LOWELL	7,978,998	24,064,451
LUDLOW	0	3,032,767
LUNENBURG	0	1,421,859
LYNN	11,926,220	18,904,918
LYNNFIELD	455,892	493,143
MALDEN	7,030,168	10,474,021
MANCHESTER	0	167,341
MANSFIELD	912,368	1,010,515
MARBLEHEAD	49,583	544,056
MARION	0	0
MARLBOROUGH	3,433,241	1,063,702
MARSHFIELD	255,142	2,844,629
MASHPEE	0	0
MATTAPOISETT	0	70,193
MAYNARD	738,519	954,884
MEDFIELD	937,000	453,552
MEDFORD	8,094,393	7,057,568
MEDWAY	235,317	1,341,573
MELROSE	3,402,865	2,950,378
MENDON	0	0
MERRIMAC	0	739,700
METHUEN	205,147	6,017,870
MIDDLEBOROUGH	0	4,294,480
MIDDLEFIELD	0	16,956
MIDDLETON	159,272	30,159
MILFORD	0	5,058,249

MILLBURY	0	2,588,802
MILLIS	403,862	713,755
MILLVILLE	0	0
MILTON	1,566,851	592,215
MONROE	17,526	3,785
MONSON	0	1,601,633
MONTAGUE	0	230,936
MONTEREY	15,777	0
MONTGOMERY	0	0
MOUNT WASHINGTON	41,886	1,787
NAHANT	157,791	79,419
NANTUCKET	0	0
NATICK	2,444,348	1,187,919
NEEDHAM	259,216	886,773
NEW ASHFORD	9,203	5,045
NEW BEDFORD	901,313	37,718,158
NEW BRAINTREE	0	0
NEW MARLBOROUGH	0	0
NEW SALEM	0	0
NEWBURY	0	235,160
NEWBURYPORT	1,736,621	1,174,988
NEWTON	1,732,789	2,150,086
NORFOLK	0	498,606
NORTH ADAMS	233,872	5,462,033
NORTH ANDOVER	151,695	961,447
NORTH ATTLEBORO	0	4,051,189
NORTH BROOKFIELD	0	1,114,200
NORTH READING	1,189,787	564,127
NORTHAMPTON	727,239	5,375,379
NORTHBOROUGH	76,900	858,566
NORTHBRIDGE	3,865	3,042,656
NORTHFIELD	0	68,830
NORTON	0	2,908,315
NORWELL	680,878	604,164
NORWOOD	3,354,660	989,287



OAK BLUFFS	0	0
OAKHAM	0	0
ORANGE	2,661	1,410,553
ORLEANS	0	0
OTIS	0	23,238
OXFORD	0	3,130,887
PALMER	0	2,151,169
PAXTON	0	259,017
PEABODY	3,951,625	4,908,932
PELHAM	0	0
PEMBROKE	0	1,372,712
PEPPERELL	0	0
PERU	0	36,735
PETERSHAM	0	4,969
PHILLIPSTON	5,519	0
PITTSFIELD	1,107,722	12,848,751
PLAINFIELD	0	0
PLAINVILLE	0	506,847
PLYMOUTH	0	558,683
PLYMPTON	0	67,793
PRINCETON	0	164,419
PROVINCETOWN	27,912	59,405
QUINCY	14,555,556	6,872,356
RANDOLPH	2,297,597	4,019,549
RAYNHAM	0	1,075,932
READING	1,931,472	1,110,155
REHOBOTH	0	0
REVERE	6,712,698	6,324,106
RICHMOND	0	45,714
ROCHESTER	0	254,522
ROCKLAND	496,221	4,418,526
ROCKPORT	0	184,757
ROWE	0	0
ROWLEY	143,746	194,989
ROYALSTON	0	377

RUSSELL	0	0
RUTLAND	0	805,380
SALEM	4,151,021	2,923,955
SALISBURY	0	458,768
SANDISFIELD	0	3,256
SANDWICH	111,247	338,256
SAUGUS	2,245,040	1,263,134
SAVOY	17,367	146,448
SCITUATE	1,101,119	966,852
SEEKONK	0	1,546,617
SHARON	78,642	1,705,991
SHEFFIELD	15,023	0
SHELBURNE	0	120,952
SHERBORN	26,364	39,248
SHIRLEY	233,500	1,208,494
SHREWSBURY	376,077	2,112,272
SHUTESBURY	0	0
SOMERSET	0	429,869
SOMERVILLE	20,410,649	10,261,323
SOUTH HADLEY	25,437	2,877,893
SOUTHAMPTON	0	421,974
SOUTHBOROUGH	0	180,777
SOUTHBRIDGE	0	4,902,784
SOUTHWICK	0	0
SPENCER	0	0
SPRINGFIELD	2,302,181	61,004,244
STERLING	0	322,777
STOCKBRIDGE	0	0
STONEHAM	2,553,177	645,079
STOUGHTON	129,781	4,740,372
STOW	8,776	198,946
STURBRIDGE	0	310,024
SUDBURY	807,321	369,870
SUNDERLAND	0	255,067
SUTTON	0	846,000

SWAMPSCOTT	443,359	470,679
SWANSEA	0	2,747,828
TAUNTON	0	13,175,415
TEMPLETON	0	447,489
TEWKSBURY	0	4,489,070
TISBURY	0	0
TOLLAND	12,413	0
TOPSFIELD	318,725	39,107
TOWNSEND	0	0
TRURO	0	0
TYNGSBOROUGH	0	890,973
TYRINGHAM	0	0
UPTON	0	0
UXBRIDGE	0	1,447,840
WAKEFIELD	1,809,635	1,739,408
WALES	0	159,188
WALPOLE	1,112,115	1,367,651
WALTHAM	6,869,270	2,430,681
WARE	19,199	2,253,952
WAREHAM	0	2,809,923
WARREN	0	0
WARWICK	36,354	51,342
WASHINGTON	29,889	35,107
WATERTOWN	5,571,114	607,792
WAYLAND	352,813	577,404
WEBSTER	78,026	3,480,560
WELLESLEY	121,858	640,569
WELLFLEET	0	0
WENDELL	32,131	28,355
WENHAM	175,913	0
WEST BOYLSTON	85,259	585,583
WEST BRIDGEWATER	59,411	1,045,577
WEST BROOKFIELD	0	0
WEST NEWBURY	0	99,042
WEST SPRINGFIELD	0	3,757,642

WEST STOCKBRIDGE	0	0
WEST TISBURY	229,569	19,768
WESTBOROUGH	182,536	613,672
WESTFIELD	0	7,512,679
WESTFORD	1,126,887	946,117
WESTHAMPTON	0	18,050
WESTMINSTER	0	0
WESTON	0	104,153
WESTPORT	0	1,667,977
WESTWOOD	45,632	529,947
WEYMOUTH	3,050,391	9,516,774
WHATELY	0	9,753
WHITMAN	0	2,591,736
WILBRAHAM	0	825,429
WILLIAMSBURG	0	198,190
WILLIAMSTOWN	0	563,670
WILMINGTON	1,578,564	945,504
WINCHENDON	31,919	2,480,889
WINCHESTER	433,387	944,830
WINDSOR	35,260	0
WINTHROP	2,878,558	2,309,266
WOBURN	4,513,710	1,206,069
WORCESTER	14,860,192	46,287,515
WORTHINGTON	0	0
WRENTHAM	0	721,013
YARMOUTH	0	0
	7061-0003	
	Regional	7061-0008
Regional School District	School Aid	Chapter 70
ACTON-BOXBOROUGH	814,347	732,675
ADAMS-CHESHIRE	2,429,365	2,116,460
AMHERST-PELHAM	1,690,473	2,231,489
ASHBURNHAM-WESTMINSTER	2,125,565	1,263,128

ASHFIELD-PLAINFIELD	169,331	112,399
ATHOL-ROYALSTON	2,154,830	2,699,934
BERKSHIRE HILLS	735,940	712,346
BERLIN-BOYLSTON	301,200	264,226
BLACKSTONE-MILLVILLE	2,662,399	2,016,274
BRIDGEWATER-RAYNHAM	1,517,499	1,225,161
BUCKLAND-SHELBURNE	328,689	372,540
CENTRAL BERKSHIRE	2,599,093	1,080,089
CHESTERFIELD-GOSHEN	122,770	89,913
CONCORD-CARLISLE	430,636	466,567
DENNIS-YARMOUTH	1,246,176	1,472,442
DIGHTON-REHOBOTH	3,474,687	2,769,983
DOVER-SHERBORN	304,322	305,097
DUDLEY-CHARLTON	3,366,264	2,704,708
NAUSET	348,218	561,110
FREETOWN-LAKEVILLE	1,525,120	977,723
FRONTIER	343,642	222,207
GATEWAY	2,069,192	989,403
GROTON-DUNSTABLE	1,343,844	648,854
GILL-MONTAGUE	1,804,477	1,286,657
HAMILTON-WENHAM	749,971	662,299
HAMPDEN-WILBRAHAM	1,085,122	726,746
HAMPSHIRE	672,707	478,676
HAWLEMONT	103,736	41,413
KING PHILIP	1,366,327	1,263,665
LINCOLN-SUDBURY	467,399	679,463
MARTHA'S VINEYARD	179,612	191,229
MASCONOMET	664,923	700,749
MENDON-UPTON	1,372,010	740,604
MOUNT GREYLOCK	746,680	683,007
MOHAWK TRAIL	639,911	390,076
NARRAGANSETT	1,895,795	1,521,388
NASHOBA	492,988	290,254
NEW SALEM-WENDELL	129,665	108,847
NORTHBORO-SOUTHBORO	594,952	324,727

NORTH MIDDLESEX	4,878,873	3,086,205
OLD ROCHESTER	458,997	340,813
PENTUCKET	1,123,596	830,357
PIONEER	378,200	116,704
PLYMOUTH-CARVER	1,955,568	1,290,288
QUABBIN	2,455,952	2,253,795
RALPH C. MAHAR	1,016,971	955,555
SILVER LAKE	2,263,814	2,346,712
SOUTHERN BERKSHIRE	338,367	386,494
SOUTHWICK TOLLAND	1,867,805	2,110,905
SPENCER-EAST BROOKFIELD	3,116,407	4,190,501
TANTASQUA	1,242,098	868,222
TRITON	687,131	455,698
WACHUSETT	1,653,989	1,021,065
QUABOAG	1,722,082	1,780,471
WHITMAN-HANSON	1,455,550	1,534,015
ASSABET VALLEY	842,945	1,522,952
BLACKSTONE VALLEY	839,958	1,681,238
BLUE HILLS	581,660	2,141,702
BRISTOL-PLYMOUTH	1,229,150	1,703,890
CAPE COD	300,169	1,171,782
FRANKLIN COUNTY	812,700	646,979
GREATER FALL RIVER	1,028,799	2,389,829
GREATER LAWRENCE	1,785,663	3,743,277
GREATER NEW BEDFORD	2,258,454	4,563,011
GREATER LOWELL	3,065,328	4,865,706
SOUTH MIDDLESEX	546,938	1,456,672
MINUTEMAN	414,535	1,573,199
MONTACHUSETT	1,289,084	2,415,307
NORTHERN BERKSHIRE	658,018	1,035,636
NASHOBA VALLEY	673,441	944,391
NORTHEAST METROPOLITAN	898,298	1,927,573
NORTH SHORE	202,303	737,870
OLD COLONY	682,312	912,340
PATHFINDER	554,696	598,396

SHAWSHEEN VALLEY	966,861	1,667,186
SOUTHEASTERN	1,353,571	2,964,341
SOUTH SHORE	633,804	736,834
SOUTHEASTERN WORCESTER	1,203,612	1,752,122
TRI COUNTY	803,291	1,052,884
UPPER CAPE COD	148,037	488,304
WHITTIER	1,440,552	2,555,459
BRISTOL COUNTY	650,069	498,916
ESSEX COUNTY	644,027	1,026,536
NORFOLK COUNTY	183,786	366,001

**SECTION 4.** The first paragraph of section 2 of chapter 118 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended in line 4 by striking the period after the word "commonwealth" and inserting therein the following words:- and unless the applicant has resided in the commonwealth for at least ninety consecutive days prior to the date of application.

**SECTION 5.** Notwithstanding the provisions of clause forty-first of section seven of chapter four of the General Laws or any other general or special law to the contrary, the commissioner of revenue or any other official responsible for a local reimbursement or assistance program reported by said commissioner pursuant to section twenty-five A of chapter fifty-eight of the General Laws shall use the nineteen hundred and eighty-eight city and town population estimates of the United States bureau of the census in calculating distributions or assessments under said local reimbursement or assistance programs. Such distribution programs shall include, but not be limited to, the chapter seventy school aid program and regional public libraries. Such assessments shall include but not be limited to air pollution control districts; the metropolitan area planning council; the old colony planning council; and the Massachusetts bay transportation authority, and any other for which said commissioner is required to give notice pursuant to said section twenty-five A.

**SECTION 6.** Notwithstanding the provisions of any general or special law to the contrary, for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, the lottery distribution to cities and towns of the balance of the State Lottery Fund, as paid by the treasurer from the Local Aid Fund in accordance with the provisions of clause (c) of section thirty-five of chapter ten of the General Laws, shall consist of a "base distribution" and an "incremental adjustment". The base distribution for each city and town shall equal the distribution to each city and town in fiscal year nineteen hundred and ninety-one. The incremental adjustment shall equal the amount by which the total balance under said clause (c) exceeds or is less than the total base distribution. The distribution of said incremental adjustment to each city and town shall be made according to the provisions of section eighteen C of chapter fifty-eight of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, the first seventy-five million dollars available for transfer from the Lottery Fund to the Local Aid Fund for the purposes of lottery distribution to cities and towns, in the fiscal year ending June thirtieth, nineteen hundred and ninety-two, shall be transferred to and shall be expended for the purposes set forth in item 7061-0008 of section two, in accordance with the distribution of local aid set forth in section three of this act.

**SECTION 7.** (a) The division of local services within the department of revenue shall develop guidelines governing the

disbursement of emergency assistance funds retained by the state treasurer pursuant to item 1599-3850 of section two of this act. Said guidelines shall require that said division certify, after study and analysis, that a serious financial emergency exists in a city or town requesting such assistance. Certification of a serious financial emergency shall be based upon (1) the city's or town's excess levy capacity, net free cash and overlay surplus; (2) the total bonded indebtedness as a percentage of equalized property valuation of the municipality, less reserves or appropriations available for payment thereof; (3) the inability of the municipality to provide for the public safety, health, education and welfare within the revenues available to the municipality; (4) the degree to which the city or town has taken advantage of opportunities to lower the costs of municipal government or to raise own-source revenues as provided in various sections of this act or of any other general or special law; and (5) any other financial criteria deemed appropriate by said division.

(b) Guidelines developed pursuant to this section shall also require: (1) that each city or town develop and implement financial management plans to remediate the cause of its financial emergency; (2) that no city or town may receive more than twenty percent of the total amount appropriated in said item; and (3) that the house and senate committees on ways and means shall be notified of the approval of any distribution of monies to be made from said item at least fifteen days prior to such distribution.

(c) The state treasurer shall, in addition, make advance payments for some or all of periodic local reimbursement or assistance programs to any city, town, or regional school district that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of administration and finance, pursuant to guidelines established by said secretary.

**SECTION 8.** Notwithstanding the provisions of section thirty-one of chapter eighty-one of the General Laws or any other general or special law to the contrary, the portion of the Highway Fund allocated for reimbursements to cities and towns for costs actually incurred in constructing, maintaining and policing city or town streets or roads, as appropriated in item 6005-0017 of section two of this act, shall be distributed in fiscal year nineteen hundred and ninety-two proportionally to the fiscal year nineteen hundred and ninety distribution of said Highway Fund reimbursements.

**SECTION 9.** Notwithstanding the provisions of any general or special law to the contrary, monies received by the commonwealth from rentals, commission fees, and parking fees and from any and all other sources pertaining to the operation of the state transportation building shall be credited to a fund on the books of the commonwealth to be known as the State Transportation Building Management Fund. Said fund shall be used for the maintenance and operation of said building.

The division of capital planning and operations shall enter into a contract for the provision of building management services for the operation and maintenance of the state transportation building with one of the public agency tenants of said building; said agency shall have experience in operating building facilities.

The building manager shall collect all monies payable to the commonwealth relating to the operation of the state transportation building and deposit the same in the State Transportation Building Management Fund to be expended as provided in item 1102-3214 of section two of this act.

The division of capital planning and operations shall file, on a quarterly basis, an itemization of all such expenditures paid from said fund with the secretary of administration and finance and the house and senate committees on ways and means.

**SECTION 10.** Notwithstanding the provisions of any general or special law to the contrary, monies received by the commonwealth



from rents charged to agencies occupying the Springfield state office building pursuant to agreements entered into between the division of capital planning and operations and such agencies shall be credited to a fund on the books of the commonwealth to be known as the Springfield State Office Building Management Fund. Said fund shall be used solely for the maintenance and operation of said building.

The division of capital planning and operations, with the approval of the secretary of administration and finance, shall collect all monies relating to the operation of said building and deposit the same in the Springfield state office building management fund, to be expended as provided in item 1102-5231 of section two of this act.

The commissioner of said division shall file with the secretary of administration and finance and the house and senate committees on ways and means, no later than September first of each year, an annual report of the fund's income, expenditures, and balances, based upon the status of the fund on June thirtieth of the preceding fiscal year.

**SECTION 11.** In accordance with the provisions of section forty G of chapter seven of the General Laws, the commissioner of capital planning and operations is hereby authorized to include an escalator clause in state agency leases of space entered into between July first, nineteen hundred and ninety-one and June thirtieth, nineteen hundred and ninety-two, provided that the maximum escalation rate shall not exceed limits to be established in regulations promulgated by the commissioner. The commissioner shall file with the house and senate committees on ways and means any regulations adopted pursuant to this section and any amendments thereto, immediately upon their adoption, and shall report quarterly to said committees on any leases entered into subject to the provisions of this section and the maximum escalation rate pertaining thereto.

**SECTION 12.** The division of capital planning and operations is hereby authorized and directed to conduct a study relative to the operational and maintenance costs, including long-term costs, of certain state-owned buildings, which shall include the McCormack Building, the Saltonstall Building, the Lindemann Center, the Hurley Building, and 100 Nashua street. The study shall evaluate building costs including, but not limited to, general cleaning, extermination, trash removal, seasonal maintenance, elevator maintenance, fire alarm maintenance and testing, utilities, energy savings initiatives, and capital repairs and improvements, and compare these costs, with analysis of any differences, to the costs of the state transportation building and the Springfield state office building. The study shall also recommend ways to reduce these costs and shall be filed with the house and senate committees on ways and means on or before January first, nineteen hundred and ninety-two.

**SECTION 13.** The division of capital planning and operations is hereby authorized and directed to conduct a study relative to the market rent that could be charged for space in certain state-owned buildings, which shall include the McCormack Building, the Saltonstall Building, the Lindemann Center, the Hurley Building, and 100 Nashua street. The study shall consider factors including, but not limited to, the locations, conditions, and amenities of the buildings. The study shall also recommend a method to establish a chargeback system based on market rents, with or without adjustments or credits to phase in the system, in order to promote the efficient utilization of state-owned space and to provide funds for the operation and maintenance of these state-owned buildings. The study shall be filed with the house and senate committees on ways and means on or before January first, nineteen hundred and ninety-two.

**SECTION 14.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of administration shall report quarterly to the house and senate committees on ways and means any lease, tenancy-at-will or other rental agreement,

or any extensions thereof, made pursuant to section forty G of chapter seven of the General Laws; provided, that said quarterly report shall include, by agency, the amount and location of such rental space, any new or additional space, the duration of the lease or agreement, the cost per square foot of such rental space, any increase or decrease in said cost, and the cost of the preceding lease or agreement.

**SECTION 15.** The division of capital planning and operations is hereby directed to prepare a report regarding the current status of all higher education capital projects. Said report shall include, but not be limited to, the following information for each project: the total expenditure through fiscal year nineteen hundred and ninety-one, the total planned expenditure and the legislative history. The report shall be submitted to the house and senate committees on ways and means no later than September first, nineteen hundred and ninety-one.

**SECTION 16.** Notwithstanding the provisions of section forty-four A of chapter one hundred and forty-nine of the General Laws, the commissioner of the division of capital planning and operations is hereby authorized, during fiscal year nineteen hundred and ninety-two, to solicit proposals for and award contracts to the lowest bidder demonstrably possessing the skill, ability, and integrity necessary to perform faithfully energy management services at buildings owned by state agencies or building authorities; provided, however, that such awards shall be made pursuant to the provisions of section twenty A of chapter nine, and sections forty-four D and forty-four J of chapter one hundred and forty-nine of the General Laws; and provided further, that any invitation to bid on such energy conservation contracts, as authorized in this section, shall be filed with the division of energy resources at least fourteen days prior to the publication of any notice of such invitations to bid.

Such contracts shall be subject to appropriation and may include terms of ten years or less, provisions allocating between the parties any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to contractor's services which are aimed at energy and water cost savings, and authorization for the contractor, subject to the approval of said commissioner, to undertake various repairs and modifications to the mechanical systems of said buildings. Energy management contracts that include cogeneration projects shall include terms of twenty years or less.

Notwithstanding the provisions of sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine of the General Laws, cities, towns, local housing authorities, and counties are hereby authorized, during fiscal year nineteen hundred and ninety-two, to award contracts for the purchase of energy management services to the bidder demonstrably possessing the skill, ability, and integrity to perform faithfully such services on the terms most favorable to the awarding authority; provided, that such awards shall be made after (i) public advertising for proposals, at least two weeks before the date specified for the submission of proposals, in at least one newspaper, if any, published in the town, city, or county and in the central register published by the state secretary pursuant to section twenty A of chapter nine of the General Laws and (ii) prompt publication of the successful bidder.

Contracts awarded under this paragraph may include provisions allocating between the parties any cost savings attributable to a reduction in energy consumption due to the contractor's performance. Any invitation to bid on such energy conservation contracts offered by any city, town, housing authority, or county shall be filed with the division of energy resources at least sixty days prior to the publication of any notice of such invitations to bid.

For the purposes of this section, the term "energy management services" shall include, but not be limited to, energy audits, energy conservation projects as defined by section three of chapter twenty-five A of the General Laws, as well as building maintenance and

financing services designed to decrease the cost of energy and water in operating said buildings.

**SECTION 17.** Notwithstanding the provisions of any general or special law to the contrary, the office of management information services is hereby authorized and directed to develop a plan for the bureau of computer services to become fully self-funded as of July first, nineteen hundred and ninety-two. The plan shall include a financial report with current and projected monthly revenues derived from computer service provision and other sources, and an expenditure report outlining current and projected monthly costs, broken down by personnel number, job title and category, salary levels, civil service classifications, equipment purchase and leasing costs, as well as an assessment of office space rental needs and a market price assessment of current and projected office space use. The plan shall also set forth the services that would be provided, the method by which prices would be established by the bureau, how the provision of credits to state agencies would be changed or eliminated, and the prices charged by comparable public and private vendors. The plan shall be filed with the house and senate committees on ways and means by November first, nineteen hundred and ninety-one.

**SECTION 18.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration is authorized and directed to charge agencies, other than the general court, for the cost of computer resources and services provided by the office of management information system's bureau of computer services in accordance with policies, procedures and rates approved by the secretary of administration and finance.

The bureau shall submit a report to the house and senate committees on ways and means by the end of each month summarizing each agency's charges for the preceding month and for the fiscal year to date, each agency's monthly credits, the credits carried forward for each agency from previous months, the difference between the charges and the sum of the credits, and the rate structure upon which the charges were based. The report shall also show the balance in the bureau's revenue account at the beginning of the month, the amount of funds deposited to the account during the month, the amount billed to but not yet paid by agencies, the amount of funds expended from the account during the month, a listing of the goods or services obtained by those expenditures, and the balance at the end of the month.

The secretary of administration is authorized to establish regulations and procedures to further implement this section including, but not limited to, the development and distribution of forms and instructions to be included as part of the agency's submission to the budget director under section three of chapter twenty-nine of the General Laws for the fiscal year nineteen hundred and ninety-two budget cycle.

**SECTION 19.** Section 13 of chapter 29 of the General Laws, as so appearing in the 1990 Official Edition, is hereby amended by striking the first paragraph, and by inserting in place thereof the following paragraph:-

That portion of an appropriation for ordinary maintenance representing encumbrances outstanding on the records of the comptroller's bureau at the close of the fiscal year may be applied to the payment thereof in the two months immediately succeeding such fiscal year; provided, however, that the budget director at the written request of the spending agency may, prior to the close of said two months, extend for an additional two months the recorded encumbrances outstanding and the funds reserved therefor, by furnishing the comptroller with a copy of such request and the approval thereof.

**SECTION 20.** The department of procurement and general services is hereby authorized and directed to conduct a study relative to agencies' use of micrographics, reprographics, and postal services. The study shall identify those services that are independently

procured by state agencies and their associated costs, and compare them with the costs of providing these services centrally, taking into account any courier services that may be needed and any other ancillary costs incurred to centrally procure those services. The study shall be filed with the house and senate committees on ways and means on or before January first, nineteen hundred and ninety-two.

**SECTION 21.** The secretary of administration and finance shall annually on or before February first submit to the house and senate committees on ways and means the following information for each state authority as defined by section one of chapter twenty-nine of the General Laws and for each regional transit authority which has debt authorized but unissued, or currently outstanding, whether or not such state or regional transit authority receives a periodic appropriation from the commonwealth: (1) a statement of authorized but unissued, and currently outstanding bonds and notes of the authority as of the end of the preceding state fiscal year; (2) an estimate of the amounts of said bonds and notes to be authorized but unissued and currently outstanding at the end of the current state fiscal year; and (3) an estimate of the amount of said bonds and notes, including the amounts to be sold, retired, or refinanced, at the end of the subsequent state fiscal year; and (4) a summary, by sources, of revenues to finance said bonds and notes including any dedicated funding or any other financial assistance from the commonwealth, such as guarantees, contract assistance, or other such assistance.

Notwithstanding the provisions of any general or special law to the contrary, every chief executive officer of each such state or regional transit authority is hereby authorized and directed to provide the necessary information to the secretary of administration and finance to ensure his timely compliance with the provisions of this section.

To defray the costs to the commonwealth of complying with the provisions of this section, the secretary of administration and finance is hereby authorized to make an assessment against each state or regional transit authority subject to the reporting requirements of this section sufficient to produce an annual amount from all such authorities equal to two hundred thousand dollars. Said amount shall be assessed proportionally against each such state or regional transit authority, in the ratio of the reported amount of authorized but unissued, and currently outstanding bonds and notes of each such authority as of the end of the preceding fiscal year to the total reported amount of authorized but unissued, and currently outstanding bonds and notes of all such authorities as of the end of the preceding fiscal year.

The secretary shall annually bill each such state or regional transit authority on or before March first for such assessment. Upon receipt of said bill, each state or regional transit authority shall, within thirty days, pay said assessment to the secretary provided that all amounts so received shall be credited to the General Fund.

**SECTION 22.** Notwithstanding any general or special law to the contrary, no expenditure shall be made from any revenue retention account established in section two of this act until any applicable personnel schedule and an expenditure subsidiary classification schedule which have been established therefor, are approved by the house and senate committees on ways and means.

**SECTION 23.** All sums appropriated under the provisions of this act shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women, and handicapped persons. All officials and employees of any agency, board, or division of the commonwealth receiving monies under section two of this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth.

Each agency, board, or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures

to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in service or apprenticeship training programs, and all terms and conditions of employment. Such affirmative action program shall include efforts required to remedy the effects of present and past discriminatory patterns and practices and any action necessary to guarantee equal opportunity for members of minority groups, women, and handicapped persons.

The secretary of administration and finance shall conduct an ongoing review of affirmative action steps taken by various agencies, boards, or divisions, to determine whether such agencies are complying with the intent of this section. Whenever such noncompliance is determined by the commissioner, he shall hold a public hearing on the matter and report his resulting recommendations to the head of the particular agency, board or division, to the governor, and to the Massachusetts commission against discrimination.

**SECTION 24.** Notwithstanding any general or special law to the contrary, amounts appropriated for permanent offices and positions in section two are authorized to be expended at the salary rates indicated in the schedules approved by the house committee on ways and means, a copy of which is filed with the personnel administrator. No part of the sums appropriated in section two shall be available for payment of salaries for any additional permanent positions or for payments due to reallocations of permanent positions, or for payments due to changes in salaries or compensation rates except as approved in said schedules.

**SECTION 25.** Notwithstanding the provisions of any general or special law or sections of this act to the contrary, no funds shall be expended for excess quota positions without prior approval of the house committee on ways and means.

**SECTION 26.** Each member of the general court shall be paid an allowance for each day after prorogation of the general court when on legislative business affairs at the state house in accordance with the schedule contained in section nine B of chapter three of the General Laws.

**SECTION 27.** All positions vacant, or which become vacant, other than positions essential for the care of patients, on or after June thirtieth, nineteen hundred and ninety-one, shall remain vacant during the fiscal year nineteen hundred and ninety-two; provided, that vacancies for which there exists a critical need may be filled upon certification of such critical need by the commissioner of administration and the house committee on ways and means and notification of such critical need to the senate committee on ways and means. No funds shall be allocated for overtime compensation unless it is essential to the safety and care of persons under the care and jurisdiction of the commonwealth.

**SECTION 28.** The state treasurer shall prepare and submit to the house and senate committees on ways and means on or before August fifteenth, November fifteenth, February fifteenth, and May fifteenth official cash-flow projections for the current fiscal year and for the fiscal quarters beginning October first, January first, April first, and July first, respectively. Included in said projections shall be estimated spending and revenue, along with assumptions used to derive said estimates and identification of any cash-flow gaps. Variance reports, which compare actual revenues and spending with planned revenues and spending, shall be produced weekly by the treasurer and distributed to the comptroller's division, the department of revenue, and the executive office for administration and finance. All data required by the treasurer's office for production of annual and quarterly cash-flow projections and weekly variance reports shall be submitted by state agencies in a timely fashion, on or before deadlines established by the treasurer's office. The department of revenue shall be responsible for providing estimates of receipts and the office of the comptroller for providing estimates of agency spending and non-tax revenue receipts.

The executive office for administration and finance and the treasurer's office shall jointly develop and approve annual and quarterly

cash management plans to address gaps identified by cash-flow projections and variance reports. Said management plans shall clearly identify the roles to be played by short-term borrowing, investment policy, expenditure controls, and revenue.

**SECTION 29.** The commissioner of the division of capital planning and operations is hereby authorized and directed to develop a project accounting system for all pool accounts including, but not limited to, asbestos, handicapped access, demolition, fire protection improvement, environmental hazards, air pollution, energy, preventive maintenance, waste water treatment and toxic waste clean up. Said project accounting system shall be utilized to assess charges for all project related costs including, but not limited to, administrative overhead. The commissioner may, in accordance with schedules approved by the secretary of administration and finance, employ or reassign employees of the division to said project as may be required; provided, that the salaries and administrative expenses shall be charged to the accounts funding the project. Said charges shall not exceed seven percent of the following appropriation accounts: 1100-1561, 1102-7881, 1102-7882, 1102-7885, 1102-7886, 1102-7887, 1102-7890, 1102-7893, 1102-7894, 1102-7895, 1102-7896, 1102-7897, 1102-7898, 1102-8869, 1102-8880, 1102-8890, 1102-8891, 1102-8892, 1102-8893, 1102-8895 and 1102-8899.

**SECTION 30.** The secretary of administration and finance is hereby authorized and directed to seek certification of state employee benefits, including, but not necessarily limited to, benefits offered by the group insurance commission, as a section one hundred and twenty-five qualified benefit plan pursuant to rules and regulations of the federal internal revenue service. Said secretary shall further implement such certification by ensuring that employee contributions under said section one hundred and twenty-five qualified benefit plan are not subject to federal taxation; provided, however, that prior to such implementation, said secretary shall submit to the clerks of the house and the senate draft legislation to amend the general laws with respect to taxation, to assure that said employee benefit contributions shall remain included within the definition of income subject to taxation by the commonwealth. In the event said certification cannot be obtained, the secretary of administration and finance shall prepare a plan, including all estimates of costs, and necessary statutory and regulatory changes, to achieve said certification and shall file said plan with the clerks of the house and the senate not later than November first, nineteen hundred and ninety-one.

**SECTION 31.** The group insurance commission is hereby authorized and directed to analyze the effects of transferring retirees, their spouses and dependents to medicare with respect to the health coverage available to said retirees and the health insurance expenditures of the commonwealth, and shall report its findings and recommendations, if any, by filing a report with the clerks of the house and the senate, who shall forward the same to the house and senate committees on ways and means no later than January first, nineteen hundred and ninety-three.

**SECTION 32.** Notwithstanding the provisions of any general or special law to the contrary, no funds of the state employees' retirement system, the state teachers' retirement system, or the Pension Reserves Investment Trust Fund shall be loaned or pledged to the commonwealth, or used for the purchase of any bond, note or other obligation of the commonwealth without the prior approval of the investment committee established under paragraph (a) of subdivision (1) of section twenty-three of chapter thirty-two of the General Laws or of the pension reserves investment management board, as applicable, and the prior written notification of the house and senate committees on ways and means; provided, that the requirements of this section shall be in addition to and not in lieu of any other requirements established under any general or special law for the investment and use of such funds.

**SECTION 33.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and

finance is hereby authorized and directed to charge agencies for a portion, as set forth below, of the workers' compensation costs incurred on behalf of the employees of said agencies.

The division of public employee retirement administration will allocate to each agency a quarterly workers' compensation credit equaling sixty percent of one-fourth of the agency's fiscal year nineteen hundred and ninety workers' compensation costs.

When an agency incurs quarterly workers compensation costs which exceed the amount of its quarterly credit, the comptroller shall charge the difference between the agency's workers' compensation costs and its credit to the agency's appropriation accounts and transfer this amount to the commonwealth's account for the purposes of workers' compensation paid to public employees for any additional costs incurred during the fiscal year. The division of public employee retirement administration may expend any amounts collected from all agencies under this workers' compensation chargeback, not to exceed twenty-nine million, five hundred thousand dollars, to pay for the hospital, physician, benefits, and other costs normally paid out of this account, subject to item 1108-6201 in section two B of this act, without further appropriation. Should the amount of an agency's quarterly credit exceed its quarterly workers' compensation costs, the difference shall be applied as a credit to the next invoice; provided, that no such credits shall be carried forward into the next fiscal year.

By no later than fourteen days after the effective date of this act, the secretary of administration and finance shall determine and notify each agency of its annual credits and estimated annual costs of charges, as herein described, and shall require all agencies to encumber funds that are sufficient to meet the estimated annual charges. Within thirty days after the effective date of this act, for any agency that fails to encumber funds that are sufficient to meet the annual estimated charges, the comptroller is hereby authorized to encumber funds that are sufficient to meet the annual charges on behalf of such agency.

The secretary of administration and finance is authorized to establish regulations and procedures to implement this section, including those procedures necessary to adjust charges to any agency which incurred no workers' compensation costs in fiscal year nineteen hundred and ninety to reflect quarterly credits reasonably based upon the size of the agency's staff and their functions; provided, however, that all regulations and procedures to further implement this section and amendments thereto shall be filed with the house and senate committees on ways and means prior to implementation. Said secretary shall file a quarterly report, which shall include the quarterly credit allocation, quarterly charge, and the balance of each agency's credit level for the year to date, with the house and senate committees on ways and means.

**SECTION 34.** Notwithstanding the provisions of any general or special law to the contrary, no department, board, commission, or other agency within the jurisdiction of the executive office of health and human services shall authorize contracted or purchased services to their client populations at an annualized cost which exceeds the amount of monies appropriated for such services in section two of this act; provided, however, that the above provisions shall not apply to new programs funded in or by transfers from items 5095-4000 and 4099-1501 and 5983-0100 in section two of this act from which accounts new programming may be authorized at an annualized cost which is not greater than twice the amount of six month funding; provided that the annualized cost of such new programming shall achieve at least an equal reduction in expenditures from other items appropriated herein for any department, board, commission, or other agency which undertakes said new programming. No public institution of higher education shall begin a new program unless sufficient funding is available from an appropriation in section two of this act. No such expenditures or commitment of monies for such services, either by contract or other agreement, shall be made in excess of the amount of monies

appropriated for such services.

**SECTION 35.** Notwithstanding the provisions of any general or special law to the contrary, no executive or administrative head of a state department, agency, commission or board shall file a consent decree which would require the expenditure of funds not previously appropriated by the commonwealth unless such decree has been approved in writing by the commissioner of administration and unless notice of such decree has been provided to the house and senate committees on ways and means thirty days prior to the filing of the decree. Any consent decree filed without such prior approval and notice shall be a violation of this section and shall be null and void.

No court settlement shall be made final and entered into as a result of litigation to which the commonwealth is a party, which would require the expenditure of funds not previously appropriated by the commonwealth, unless such settlement document has been approved in writing by the commissioner for administration and unless notice of such settlement has been provided to the house and senate committees on ways and means thirty days prior to the signing of such settlement agreement.

**SECTION 36.** Notwithstanding the provisions of any general or special law to the contrary, amounts appropriated in line items 0611-5500, 7061-0003 and 7061-0008 in section two of this act shall be held in trust for the purposes of state aid to cities, towns and regional school districts, and shall not be reduced by any amount.

**SECTION 37.** The secretary of administration and finance, in consultation with the secretary of health and human services, is hereby authorized and directed to prepare and submit to the house and senate committees on ways and means a plan, and any necessary legislation, to transfer the powers, duties, and functions of the disabled persons protection commission to the office on disability under the executive office for administration and finance on or before October first, nineteen hundred and ninety-one. Said plan shall include, but not be limited to, the following: an organizational structure for the agency; reallocation of employees, positions, property, legal obligations, legal proceedings, orders, rules and regulations within the new organizational structure; and any necessary revisions to existing appropriations or spending authority including, but not limited to, capital spending authorizations, retained revenue spending authorizations, trust funds, and federal funds.

**SECTION 38.** The secretary of administration and finance is hereby authorized and directed to promulgate regulations governing the use of state passenger vehicles and light-duty pickup trucks. Said regulations shall be aimed at proscribing the purchase or lease of such passenger vehicles and light-duty pickups unless documentary evidence available prior to any such purchase or lease indicates that the passenger vehicle or light-duty pickup will likely be driven, by the assigned employee or department, more than fifteen thousand business miles per year, excluding commuting miles, subject to such exceptions deemed by said secretary to be appropriate, given the intended use of the particular vehicle. Said regulations shall provide for the enforcement of this mileage guideline, including a system for annual re-evaluation of the use of all state passenger vehicles and light-duty pickups, and subsequent disposition of any vehicle or pickup whose use unreasonably fails to meet this guideline.

The secretary of administration and finance shall submit a semi-annual report to the house and senate committees on ways and means on the utilization of passenger vehicles and light duty pickups that are owned, leased or assigned to any agency within the executive branch of state government. Said report shall include the following:

(a) a complete listing of passenger vehicles and light duty pickups, including the year, make, registration number, and actual monthly mileage of any vehicle leased, owned, or assigned to each agency; the name, position number, and position title of the



employee assigned to each vehicle; and a detailed explanation of the need for each vehicle. Said report shall not include vehicles with confidential plates, as provided in administrative bulletin 89-6 issued by the executive office for administration and finance; provided, however, that said report shall state the number of confidential plates that have been issued;

(b) a complete listing of passenger vehicles and light duty pickups that were subject to disposition during the prior month identifying the former state vehicle by the year, make, registration number, and actual monthly mileage, and the name, position number, and position title of the employee last assigned to each vehicle;

(c) a complete listing of new leases entered into by any agency and new purchases made by agencies for which the secretary shall identify the funding source; said list shall include the year, make, registration number, and actual monthly mileage of any vehicle leased, owned, or assigned to each agency; the name, position number, and position title of the employee assigned to each vehicle; and a detailed explanation of the need for each vehicle;

(d) a complete listing of the name, office location, position number and position title of any employee authorized by the secretary to use a passenger vehicle or light duty pickup to travel from the employee's place of residence to the employee's place of work; the year, make, registration number and actual monthly mileage of the vehicle assigned to such employee; and a detailed explanation of the need for such authorization.

The secretary of administration and finance shall ensure that all employees shall be prohibited from using motor vehicles for personal uses.

**SECTION 39.** There is hereby established a Commonwealth Quality Improvement Council for the purpose of incorporating the principles and practices of "total quality management", so called, into the operation of state agencies and programs. The Council shall also examine the role and influence of government regulation in the context of total quality management. The Council shall consist of one member of the house of representatives to be named by the speaker, one member of the senate to be named by the president, five representatives of different agencies within the executive branch to be named by the governor, three individuals from the private sector who have had experience with total quality management theory and practice to be named by the governor, two individuals representing public-sector labor unions to be named by the governor, and two individuals representing the judicial branch to be named by the chief justice of the supreme judicial court. The Council shall annually submit a report on its activities to the governor and to the clerks of the senate and the house of representatives.

**SECTION 40.** Notwithstanding the provisions of chapter two hundred and eleven D of the General Laws, or any general or special law to the contrary, the committee for public counsel services may accept and disburse royalty income from contracts entered into during current and prior fiscal years, not to exceed five thousand dollars per year.

**SECTION 41.** The chief administrative justice of the trial court is hereby authorized to transfer amounts among the following line items in section two of this act, as necessary to ensure the proper administration of justice: items 0330-0100 through 0339-2100, excluding items 0330-2030, 0330-2040, 0330-2200, 0330-2410, 0335-0001, and 0337-0100; provided, however, that said justice shall provide the house and senate committees on ways and means with at least twenty-one days' advance notice of any such proposed transfer, and shall make no such transfer unless it is approved by the house committee on ways and means; provided, further, that any such proposed transfer shall be deemed approved if such house committee has not disapproved it within said twenty-one day period; provided, further, that the notice of a proposed transfer shall include a justification of the necessity of such transfer with

reference to actual and projected expenditures throughout the trial court for the fiscal year.

**SECTION 42.** Section 27 of chapter 537 of the acts of 1986 is hereby amended by striking out, in line 3, the word "ninety-one" inserted by section 2 of chapter 188 of the acts of 1989, and inserting in place thereof the following word:- ninety-two.

**SECTION 43.** The first paragraph of section 2 of chapter 111H of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking the words "within the executive office for administration and finance" and inserting in place thereof the words:- as an independent agency within, but not subject to the control of, the executive office of environmental affairs.

**SECTION 44.** The governor, the secretary of environmental affairs, and the commissioner of the department of environmental management are hereby authorized to enter into a cooperative forestry agreement with the United States Department of Agriculture Forest Service for the provision of forest firefighting services. At least sixty days before its effective date, said commissioner shall file a copy of said agreement with the house and senate committees on ways and means.

**SECTION 45.** The Massachusetts Water Resources Authority is hereby authorized and directed to conduct a study of the environmental impact of its effluent outfall tunnel on marine life in Massachusetts Bay, Stellwagen Bank, and Cape Cod Bay. Said study shall be directed by a board of nine persons, known as the Cape Cod Bay/Stellwagen Bank Research and Monitoring Board, and consisting of the executive director of the Massachusetts Water Resources Authority, the director of the Provincetown Center for Coastal Studies, the chairman of the Barnstable County Selectmen's Association, the chairman of the Cape Cod Commission, the director of the Barnstable County Health and Environmental Department, or their designees, a marine biologist designated by the Woods Hole Oceanographic Institution; and three fishermen, one appointed by the Plymouth County Commissioners, one appointed by the Barnstable County Commissioners and the third appointed by the Director of Marine Fisheries. Said board shall file annual reports with the secretary of environmental affairs, the Massachusetts Water Resources Advisory Board, the commissioners of Barnstable county, and the commissioners of Plymouth county on or before July first, nineteen hundred and ninety-two.

**SECTION 46.** On or before September thirtieth, nineteen hundred and ninety-one, the Massachusetts Water Resources Authority shall pay to the commonwealth the amount of one hundred and twenty million dollars. Said amount shall be in consideration for costs borne by the commonwealth on behalf of the Massachusetts Water Resources Authority and its predecessor agency. Such costs include, but are not limited to, the payment of interest and principal on debt issued and charged to the Metropolitan District Commission Water Fund and the Metropolitan District Commission Sewer Fund.

**SECTION 47.** The town of Sandwich is hereby authorized to disconnect the wastewater treatment plants at the Oakridge and Forestdale Schools. Said schools are hereby authorized to operate using a conventional septic system. The department of environmental protection shall continue to monitor nitrate loading at both such system locations.

**SECTION 48.** Notwithstanding the provisions of section twenty A of chapter fifty-nine of the General Laws or any other general or special law to the contrary, the state treasurer shall assess the members of any mosquito control district up to one hundred percent of the amount appropriated during fiscal year nineteen hundred and ninety-two for expenditures on behalf of said district and for the cost of the state reclamation board.

**SECTION 49.** Notwithstanding the provisions of any general or special law to the contrary, the division of fisheries and wildlife shall assume all game biology needs and jurisdiction on watershed lands under the jurisdiction of the metropolitan district commission. All personnel currently employed by said commission for the purposes of game biology shall be transferred to said division without

loss of seniority, salary or civil service status. This section shall not be construed to allow hunting on watershed lands under the jurisdiction of the metropolitan district commission.

**SECTION 50.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of environmental management is hereby authorized and directed to develop a plan to make the division of forest and parks financially self-sufficient and the commissioner of the metropolitan district commission is hereby authorized and directed to develop a plan to make the division of parks and reservations financially self-sufficient for fiscal year nineteen hundred and ninety-two. Said plans shall each include a financial report with monthly revenue projections from all new proposed and increased fees, fines or other revenue sources, and an expenditure report outlining projected monthly costs, including personnel levels in each district and facility, administration expenses, leasing costs, equipment and other costs anticipated for fiscal year nineteen hundred and ninety-two. Said plan shall be submitted to the house and senate committees on ways and means and subject to the approval of said committees. There is hereby established and set up on the books of the commonwealth for fiscal year nineteen hundred and ninety-two, two revolving funds to be known as the metropolitan parks revolving fund and the environmental management revolving fund for the metropolitan district commission and the department of environmental management respectively. Ten million dollars, subject to appropriation, may be expended from the environmental management revolving fund in fiscal year nineteen hundred and ninety-two for recreational activities and one million eight hundred thousand dollars, subject to appropriation, may be expended for the operation of hockey rinks from the metropolitan parks revolving fund and three million dollars, subject to appropriation, may be expended on recreational activities from the metropolitan parks revolving fund in fiscal year nineteen hundred and ninety-two. Said committees shall develop subsidiary limits within each revolving fund on or before October first, nineteen hundred and ninety-one based on the fiscal year nineteen ninety-two revenue estimates provided in each agency's financial self-sufficiency plan.

**SECTION 51.** Notwithstanding the provisions of any general or special law to the contrary, a housing authority, as defined by section one of chapter one hundred and twenty-one B of the General Laws, is hereby authorized to purchase materials, supplies or services pursuant to the consolidated supply program of the United States Department of Housing and Urban Development; provided, however, that the provisions of section thirty-nine M of chapter thirty, and sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine of the General Laws shall not apply to such purchases; and provided further, that no such purchase shall be undertaken if the amount involved therein is one thousand dollars or over, unless a notice thereof shall have been posted, not less than one week prior to the time of said purchase in a conspicuous place on or near the premises of the officer having charge of any such housing authority making such purchase, and, if the amount therein is in excess of five thousand dollars, unless such a notice shall also have been posted at least once not less than two weeks prior to the time so specified and published at such other times prior thereto if any, as the commissioner of administration shall direct, in the central register published by the state secretary pursuant to section twenty A of chapter nine of the General Laws.

**SECTION 52.** Notwithstanding the provisions of chapter four hundred and ninety of the acts of nineteen hundred and eighty, the executive office of communities and development may authorize neighborhood housing services corporations to retain and reloan funds received in repayment of loans made pursuant to the neighborhood housing services rehabilitation program; provided, that a report detailing loan activities and amounts be submitted annually to the house and senate committees on ways and means.

**SECTION 53.** Notwithstanding the provisions of any general or special law to the contrary, no contract for services purchased under

expenditure classification subsidiary "MM", with the exception of contracts executed pursuant to items 3722-9201, 4400-1000, 4401-1000, 4406-3000, 4800-0020, 4800-0030, 4800-0050, 5011-0100, 5049-0000, 5095-4000, 5911-0025, 5911-0100, 7028-0302, 7061-0012, 9110-1601, 9110-1602 and 9110-1603, in section two of this act, shall be executed by any department, agency or office of the commonwealth in fiscal years nineteen hundred and ninety-two and nineteen hundred and ninety-three unless they meet the following requirements:

(a) the rate of reimbursement paid for services purchased under such contracts in fiscal year nineteen hundred and ninety-two shall be two and one-half percent less than the rate paid for such services in fiscal year nineteen hundred and ninety-one and the rate of reimbursement paid for services purchased under such contracts in fiscal year nineteen hundred and ninety-three shall be two and one-half percent less than the rate of reimbursement paid for services purchased under such contracts in fiscal year nineteen hundred and ninety-two; provided, that such reduction in the rate of reimbursement shall not result in any reduction in the level of service or the number of clients served by such contracts; and provided further, that for contracts for which rates of reimbursement are not paid to said vendors but for which another payment method is used, the reduction required by this paragraph shall be applied to said payment method, or may be applied to the total expenditure under the contract; and

(b) any such reductions in said rate of reimbursement, or other payment method, or total expenditure, shall be applied, first, against expenditures on managerial personnel, including but not limited to management fees, salaries, benefits and other compensation paid to managers, and shall be applied, in the last instance, against expenditures on direct service workers; and

(c) any contracts for which funds expended by the commonwealth thereunder reimburse or compensate the contract vendor for the amortization of mortgages for the ownership of property, whether owned directly or indirectly by said vendor, shall contain provisions for the recoupment of said reimbursement or compensation by the commonwealth in the event said property is sold and may, if necessary, allow for the execution of liens to ensure such recoupment.

The provisions of this section shall take effect not later than August first, nineteen hundred and ninety-one, provided that services delivered by a vendor prior to such date under any previously executed contract for fiscal year nineteen hundred and ninety-two shall not be bound by the requirements of this section. The commissioner of administration shall ensure that the division of purchased services, the rate setting commission and all departments, agencies and offices of the commonwealth executing contracts under expenditure classification subsidiary "MM" comply with the requirements of this section.

**SECTION 54.** Notwithstanding the provisions of chapter one hundred and twenty-two of the General Laws and sections sixty-three, sixty-three A, sixty-four B through sixty-four M inclusive, and sixty-nine E of chapter one hundred and eleven of the General Laws, or any other general or special law to the contrary, the commissioner of the department of public health, for the purpose of closing or consolidating public health hospitals, is hereby authorized to plan and direct the admission, discharge, or other assignment of patients at the several public health hospitals in accordance with the policies established by the department of public health; provided, that any actions taken by said commissioner pursuant to this paragraph shall be in accordance with a plan prepared by said commissioner and filed with the secretary of health and human services, the secretary for administration and finance, the house and senate committees on ways and means, and the committees on health care and human services and elder affairs; provided further, that said plan shall reflect the commonwealth's primary concern for the welfare of all patients effected, and shall provide for the care of all said patients after the closing or consolidation of any public health hospitals. Said plan shall be prepared after consultation

with the superintendent and trustees at the various institutions and in consideration of the recommendations of the governor's special commission on state institutions.

There is hereby established a special commission to study any proposed closing of Rutland Heights Hospital and the impact of such closing, including, but not limited to, such issues as the effect of such closing on patients, employees, the town of Rutland and the future use of the facility. This commission shall consist of one member of the senate, one member of the house of representatives, the commissioner of the department of public health or his designee, a representative of the Friends of Rutland Heights, the director of the office of employee relations or his designee, the superintendent of Rutland Heights Hospital, a member of the board of selectman of the town of Rutland or a designee, and one representative each from the Service Employees International Union, the American Federation of State, County and Municipal Employees, the National Association of Government Employees, the Massachusetts Nurses Association and the Massachusetts Organization of State Engineers and Scientists. Said commission shall file a report of the results of its investigation and study, and its recommendations, if any, together with any drafts of legislation necessary to carry said recommendations into effect, with the clerks of the senate and the house of representatives on or before September thirtieth, nineteen hundred and ninety-two.

**SECTION 55.** There is hereby dedicated in the uncompensated care pool trust fund, as established by section seventeen of chapter one hundred and eighteen F of the General Laws, a separate account to be administered by the department of medical security for the benefit of Boston City Hospital. The amount of total private sector liability to the pool for hospital fiscal year nineteen hundred and ninety-one, as set forth in section eighty-seven of chapter six A of the General Laws, shall be increased by an amount sufficient to generate six million two hundred and fifty thousand dollars in uncompensated care pool trust fund payments to be maintained in said account for the benefit of said hospital with reference to the period from July first, nineteen hundred and ninety-one through September thirtieth, nineteen hundred and ninety-one. The amount of total private sector liability to said pool for hospital fiscal year nineteen hundred and ninety-two, if said pool is reestablished for such fiscal year, shall be increased by an amount sufficient to generate eighteen million seven hundred and fifty thousand dollars in uncompensated care pool trust fund payments to be maintained in said account for the benefit of said hospital with reference to the period from October first, nineteen hundred and ninety-one through June thirtieth, nineteen hundred and ninety-two.

Revenue collected from acute care hospitals pursuant to this section shall be held and disbursed by the department of medical security solely for the benefit of said hospital and shall not be counted in nor commingled with other uncompensated care revenue collected, maintained or distributed by the department. The revenue paid to said hospital under this section shall not be counted in the determination of maximum reimbursable uncompensated care costs as defined in chapter one hundred and eighteen F of the General Laws, and the revenue paid to said hospital under this section shall be in addition to, and assume first priority for, whatever revenue said hospital is due to receive from said pool.

Payments otherwise due said hospital for Title XIX services under the provisions of section thirty-two B of chapter six A of the General Laws shall be reduced by six million two hundred and fifty thousand dollars during the period from July first, nineteen hundred and ninety-one through September thirtieth, nineteen hundred and ninety-one in a manner to be determined by the rate setting commission. Payments otherwise due said hospital for Title XIX services under the provisions of section thirty-two B of chapter six A of the General Laws, shall be reduced by eighteen million seven hundred and fifty thousand dollars during the period from

October first, nineteen hundred and ninety-one through June thirtieth, nineteen hundred and ninety-two in a manner to be determined by the rate setting commission; provided, however, that if for any reason less than said amount is paid from the uncompensated care pool to said hospital pursuant to the first paragraph for such period, the difference shall be paid in accordance with said section thirty-two B of said chapter six A. Nothing herein shall be interpreted to preclude or jeopardize federal financial participation in Title XIX payments. Such federal financial participation shall be maximized to the extent possible where appropriate.

**SECTION 56.** Notwithstanding the provisions of any general or special law to the contrary, the rate setting commission, where it deems necessary, shall adjust a hospital's allowance for uncompensated care if it has determined that such adjustment is necessary to adequately compensate such hospital for the provision of care and services to recipients of the healthy start program established by section twenty-four D of chapter one hundred and eleven of the General Laws.

**SECTION 57.** The department of social services is hereby directed to develop a plan to review all cases of the department at intake and not less than once in each three-month period thereafter with respect to the appropriateness of intervention and out-of-home placements; provided, that such plan shall include a set of standards for use in such reviews to determine when cases shall be closed; provided further, that the department shall promulgate and implement said plan and standards on or before September first, nineteen hundred and ninety-one, subject to the approval of the secretary of human services.

**SECTION 58.** The department of public health and the department of correction are hereby directed to develop criteria that will establish the basis for referral and admission of correctional facility inmates to medical facilities. Said criteria shall define the minimum medical necessity standards for said admissions and shall serve as the basis for said admissions, effective October first, nineteen hundred and ninety-one. A report describing said criteria, the expected impact of said criteria and implementation requirements for department of correction referrals to other facilities shall be submitted to the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-one.

The department of corrections is further directed to submit, by February fifteenth of each year, annual utilization review audit reports of all such transfers to the house and senate committees on ways and means. Said reports shall include, but not be limited to, the number of referrals treated, the types of services provided, the cost of these services, and whether or not the services provided comply with the medical necessity criteria.

**SECTION 59.** Notwithstanding the provisions of section sixty-five A of chapter six A of the General Laws or any other general or special law to the contrary, no acute hospital shall deny access to care and services to recipients of the healthy start program established by section twenty-four D of chapter one hundred and eleven of the General Laws; provided, that such recipients shall be exempt from any collection action, preadmission deposit or any other form of billing or collection procedures arising from treatment by an acute care hospital provided under the healthy start program; provided further, that the healthy start card will constitute sole verification of application and eligibility for free care for inpatient hospital services.

**SECTION 60.** Notwithstanding the provisions of any general or special law to the contrary, benefits that have been terminated by the department of public welfare after timely notice shall not be reinstated until such time as an appeal has been decided in favor of the appellant.

**SECTION 61.** Notwithstanding the provisions of any general or special law to the contrary, the department of public welfare and the division of capital planning and operations are hereby authorized and directed to develop and implement a plan to close the

welfare central office located at 180 Tremont street in the city of Boston, and to transfer the functions and staff from said office to the department of public welfare's central office located at 600 Washington street in the city of Boston. Said plan shall be implemented no later than August first, nineteen hundred and ninety-one.

**SECTION 62.** Notwithstanding any general or special law to the contrary, the department of public welfare shall require the head of each assistance unit receiving benefits from the department to display a photographic identification card in connection with the receipt of cash benefits from the department. The department shall, by regulation, define valid photographic identification documents; provided, however, that such regulations shall permit identification cards issued under the federal food stamp program or by the registry of motor vehicles to be used. The department shall not delay the provision of benefits under this section to an otherwise eligible household if the head of such household has applied for a valid photographic identification card. The provisions of this section shall not apply to persons who certify that their religious beliefs do not permit them to be photographed or to persons who are homebound or institutionalized. The department shall issue regulations to enforce the provisions of this act. The department shall, prior to January first, nineteen hundred and ninety-two, conduct a study to determine whether the provision of this section or any alternate identification card or system will provide more cost-effective safeguards against fraudulent receipt of benefits from the department.

**SECTION 63.** The department of public welfare shall establish a pilot demonstration project to determine the feasibility and advisability of an emergency assistance escrow program. For fiscal year nineteen hundred and ninety-two, said department is hereby authorized and directed to establish for families receiving emergency assistance shelter benefits a program requiring that not less than twenty-five percent of said family's monthly grant shall be placed into an escrow account, to be accessed by the family when establishing a permanent home; provided, that said pilot program shall be established in one region of the commonwealth, to be determined by the department. Said department shall evaluate the program and file a report with the house and senate committees on ways and means no later than January first, nineteen hundred and ninety-two.

**SECTION 64.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the commission for the blind shall prepare and implement a plan, subject to the approval of the secretary of human services, in consultation with the board of library commissioners, for the privatization of the Ferguson Industries for the Blind established under section one hundred and forty-three of chapter six of the General Laws; provided, however, that such plan shall provide for the transfer of the machine lending agency to the Board of Library Commissioners with appropriate funding; provided further, that the implementation of said plan shall not require supplemental funding for said industries and agency; provided further that such plan shall be submitted to the secretary of human services by November first, nineteen hundred and ninety-one, with appropriate legislation, if necessary; provided further, that said plan shall be implemented by May first, nineteen hundred and ninety-two; and provided further, that said commissioner shall report quarterly to the secretary of human services on the implementation of said plan.

**SECTION 65.** The medical assistance program established pursuant to chapter one hundred and eighteen E of the General Laws is hereby authorized and directed to establish a prescription drug utilization review program that shall provide for, but not be limited to, the identification of utilization patterns of individual recipients which are inconsistent with norms expected for individuals with similar demographic characteristics and medical conditions, and the identification of dispensing and prescribing patterns of individual health care providers which are inconsistent, both in volume and schedule of prescriptions, with norms expected of providers of

similar size and type. Any patterns of utilization, prescribing and dispensing which appear excessive with respect to such norms shall be investigated by said program and corrective actions shall be undertaken, including, as necessary, referral to appropriate law enforcement authorities, the food and drug division of the department of public health and applicable state boards of registration. Said drug utilization review program may further identify patterns of underutilization, drug therapy failure, adverse reactions and contraindicated drug use that risk harm to the beneficiaries of said program. A drug utilization evaluation and education committee comprised of members of the state pharmaceutical association and the state medical society may be appointed to assist said medical assistance program in implementing the drug utilization review requirements established by this section.

**SECTION 66.** A special commission on medicaid estate recovery is hereby established to consist of five members, one of whom shall be the commissioner of the department of public welfare or his designee, who shall serve as chairman, one of whom shall be the commissioner of the department of revenue or his designee, one of whom shall be the chief justice of the probate and family court department or his designee, and two members appointed by the governor who shall be attorneys with expertise in probate and conveyancing.

Said commission shall review the medical assistance estate lien provided for by section sixteen C of chapter one hundred and eighteen E of the General Laws, and any other means by which the commonwealth may recover the cost of medical assistance from recipients. Said commission shall submit to the judiciary committee and the house and senate committees on ways and means the results of its study and any legislation it may recommend on or before October first, nineteen hundred and ninety-one.

**SECTION 67.** The second paragraph of section 141 of chapter 653 of the acts of 1989 is hereby amended by striking out the words "and eight million dollars for fiscal year nineteen hundred and ninety-one", and inserting in place thereof the following words:- eight million dollars for fiscal year nineteen hundred and ninety-one and ten million seven hundred thousand dollars for fiscal year nineteen hundred and ninety-two.

**SECTION 68.** The medical assistance program established pursuant to chapter one hundred and eighteen E of the General Laws is hereby authorized and directed to adopt a management information system that shall identify cost and utilization patterns for each category of program beneficiary by each category of health care provider. Not later than four months after the close of the prior fiscal year, the program shall report to the house and senate committees on ways and means the following information for such prior fiscal year: total expenditures and total units of service rendered by date of service for each category of assistance by each category of provider, including acute hospitals, skilled nursing facilities, intermediate care nursing facilities, chronic hospitals, physicians, dentists and such miscellaneous categories of participating health care providers as provided for by the medicaid state plan; for each category of participating health care provider, the total number of providers eligible to bill and the distribution of providers at and above the fiftieth percentile for receipt of payments from the program; for each category of assistance, the total caseload and total number of recipients; the mean and median units of service and the mean and median expenditures by category of assistance and category of participating health care provider; in the case of institutional providers, the total number of admissions and discharges, the mean and median lengths of stay and the total units of service and total expenditures for ancillary services billed by institutional providers for such admissions; the total units of service and the average units of service for each category of program beneficiary delivered by non-institutional providers to institutionalized beneficiaries; surgical use rates and regional variations for the fifty most frequent surgical procedures; and the incidence and costs per case of recipients by category of assistance whose costs of care exceed the



seventy-fifth percentile. Said reports shall separately distinguish such cost and utilization data required by this section for each category of categorically eligible and medically needy beneficiaries of said program, including beneficiaries under the jurisdiction of the Massachusetts commission for the blind and qualified medicare beneficiaries entitled solely to medicare cost sharing or dually entitled to medicare and medicaid.

**SECTION 69.** Notwithstanding the provisions of any general or special law to the contrary, the department of mental retardation is hereby authorized to select one or more individuals, partnerships, corporations, or joint ventures, and to enter into contracts and agreements with such individuals or entities for the lease of not more than forty-seven community based residences to facilitate the relocation of the residents of the Belchertown State School and the closing of said facility, pursuant to section seventy of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight. The department shall make said selections in accordance with a single comprehensive and competitive proposal process carried out in cooperation with the division of capital planning and operations; provided, however, that said selection process shall comply with the requirements of sections forty G and forty H of chapter seven of the General Laws except as otherwise provided in this section. The commissioner of capital planning and operations is authorized to enter into rental or lease agreements pursuant to this section for a period not to exceed thirty years. Any residential property leased pursuant to this section shall meet all applicable regulations of the department and applicable requirements of the state building code for residential programs for handicapped individuals.

**SECTION 70.** Any person who has been employed by the department of mental retardation at the Belchertown state school who is an "employee" for the purposes of chapter thirty-two A of the General Laws who requests and is granted a voluntary layoff by his appointing authority prior to June thirtieth, nineteen hundred and ninety-two and who, subsequent to such voluntary layoff, is eligible for and receives unemployment benefits pursuant to the provisions of chapter one hundred and fifty-one A of the General Laws shall continue to be deemed an "employee" for the purposes of said chapter thirty-two A for the duration of the period that said person actually receives such unemployment benefits in accordance with said chapter one hundred and fifty-one A; provided, however, that any person who so requests and is so granted a voluntary layoff shall be deemed to waive any right to appeal his selection for such layoff and any rights for recall or reinstatement provided in accordance with the provisions of any special or general law or regulation or applicable collective bargaining agreement.

**SECTION 71.** Notwithstanding the provisions of any general or special law to the contrary, the department of mental retardation and the town of Monson are hereby authorized, subject to the filing of a home rule petition, to enter into an agreement concerning the provision by said town of emergency medical services for residents of the Monson developmental center. Said agreement shall include, but not be limited to, the provision of necessary services, the scope of emergency medical personnel and the use of equipment, and shall address issues of liability for the provision of such services. Any expenditures made by the Monson developmental center pursuant to said agreement shall comply with the rules and regulations of the rate setting commission, pursuant to chapter six A of the General Laws.

**SECTION 72.** The commissioner of the department of mental health or his designee, in consultation with the commissioner of the department of mental retardation or his designee, the commissioner of the department of social services or his designee, the commissioner of the department of youth services or his designee, the commissioner of the department of public health or his designee, the commissioner of the department of education or his designee and selected representatives from local school systems,

is hereby authorized and directed to study the implementation of an interagency system of care to provide a comprehensive network service system for children and adolescents up to the age of eighteen years. Said study shall focus on the development and implementation of a pilot program for at-risk youths in selected areas of the Metro Boston region. Said study shall also take into consideration the findings and recommendations of the Ventura County California Children's Demonstration Project. Said study shall further examine the requirements and costs, if any, associated with restructuring the existing service and delivery systems to meet the needs of the most at-risk children and adolescents in said targeted region. Such new system shall include an educational and job training component. The department of mental health, in consultation with the above mentioned persons, shall submit a report detailing the findings and recommendations for implementation of a comprehensive network service system to the house and senate ways and means committees on or before April fifteenth, nineteen hundred and ninety-two.

**SECTION 73.** Notwithstanding the provisions of chapter nineteen of the General Laws, or any other general or special law to the contrary, the commissioner of the department of mental health, for the purpose of closing or consolidating mental health hospitals, is hereby authorized to plan and direct the admission, discharge, or other assignment of patients at the several mental health hospitals in accordance with the policies established by the department of mental health; provided, that any actions taken by said commissioner pursuant to this paragraph shall be in accordance with a plan prepared by said commissioner and filed with the secretary of human services, the secretary for administration and finance, the house and senate committees on ways and means, and the committees on health care and on human services and elder affairs; provided further, that said plan shall reflect the commonwealth's primary concern for the welfare of all patients affected, and shall provide for the care of all said patients after the closing or consolidation of any mental health hospitals. Said plan shall be prepared after consultation with the superintendent and trustees at the various institutions and in consideration of the recommendations of the governor's special commission on state institutions.

**SECTION 74.** Notwithstanding any general or special law to the contrary, the department of public works and the department of social services are hereby authorized and directed to submit a performance based plan for their fiscal year nineteen hundred and ninety-two appropriations. Each such plan shall contain, but not be limited to, a mission statement, goals and objectives for the fiscal year, detailed performance criteria, and levels of service or outputs upon which department performance, service and management can be measured. Each such plan shall be filed with the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-one. Each such department shall submit reports on a quarterly basis thereafter to the house and senate committees on ways and means on their performance levels or service and outputs as estimated in the plan.

**SECTION 75.** There is hereby established a "Joint Government/Industry Task Force to Promote Economic Competitiveness and Innovation". Said task force shall have the duty and responsibility to study and identify state laws and regulations which may impede research, competitiveness, or hinder the innovation of Massachusetts employers. The study shall include, but not be limited to, the identification of statutes and regulations which are or may be duplicative of federal or local statutes, ordinances, by-laws or regulations, do not reflect changing technology or business practices, that contribute to or create excessive delays and costs related to business expansion, innovation or job growth, and/or generally impose conditions which might place Massachusetts businesses at a competitive disadvantage with businesses in other states.

The task force shall consist of the governor or his designee, who shall serve as chairman, the secretary of the executive office of economic affairs, the secretary of the executive office of environmental affairs, the secretary of the executive office of public safety,

two members of the house, to be appointed by the speaker of the house of representatives, and two members of the senate, to be appointed by the president of the senate, and three members of the business community, one of whom shall be a representative of industrial manufacturers, one of whom shall be a representative of small business, and one of whom shall be a representative of the general business community, to be appointed by the governor.

The task force shall, on or before January first, nineteen hundred and ninety-two, prepare a report identifying the types of statutes and regulations previously listed. Said report shall include a recommended course of action for each statute or regulation identified. Said report shall include recommendations for legislative reform and regulations for regulatory reform. The governor shall file said legislation with the clerks of the house of representatives and the senate no later than January first, nineteen hundred and ninety-two.

**SECTION 76.** The governor is hereby authorized to create a "Massachusetts Excellence in Innovation Program". The governor shall appoint a panel of eleven members from industry, academia, small business, labor, and other professional areas to serve as judges in the awarding of "Massachusetts Excellence in Innovation" awards. The secretary of economic affairs shall submit to the clerks of the house and senate no later than September first, nineteen hundred and ninety-one, recommendations for the composition of the panel, the cost of said program, and procedural requirements related thereto.

**SECTION 77.** Notwithstanding the provisions of any general or special law to the contrary, including the standards established in sections thirty-two to forty-six, inclusive, of chapter six A of the General Laws and the provisions of section of this act, the rates for programs pursuant to chapter seventy-one B of the General Laws in fiscal year commencing July first, nineteen hundred and ninety-one shall be the same rates as those in effect for the fiscal year beginning July first, nineteen hundred and ninety. Nothing herein shall preclude the division of purchased services from setting a price at any time for a new program established for the first time under chapter seventy-one B of the General Laws, or individual or sole source prices as provided in the regulations governing said programs; provided, further, that the division may grant extraordinary relief if a provider cannot, within the current rate of reimbursement, satisfy governmental regulations or meet costs necessary to eliminate conditions which pose a threat to the health and safety of students and which are beyond the reasonable control of a provider. The division shall report on all actions taken pursuant to this section to the house and senate committees on ways and means no later than December first, nineteen hundred and ninety-one.

**SECTION 78.** The department of education is hereby authorized and directed to conduct a review of the eligibility criteria for children with special needs pursuant to chapter seventy-one B of the General Laws for the purpose of tightening said requirements. Said review shall include, but not be limited to, an examination of the original intent of the special education statute, the reasons for the high number of special education students in the commonwealth, the costs to the commonwealth of the current special education mandates, and the cost savings to be achieved by implementing recommended changes; provided, that said review to streamline eligibility will take into consideration the requirements of the federal mandate under 20 USC ss. 1400 et seq. Said review, together with drafts of any legislation necessary to carry out its recommendations, shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than September first, nineteen hundred and ninety-one.

**SECTION 79.** The board of education, in conjunction with the department of education, is hereby directed to prepare a comprehensive report on the issue of mainstreaming children with special needs into the least restrictive environment. Said report

shall include a study of teacher certification standards as set forth in section thirty-eight G of chapter seventy-one of the General Laws. Said study shall examine the possible expansion of requirements for certification of teachers and administrators in order to facilitate the accommodation of special needs children into the classroom setting, and shall examine the Horace Mann program as it relates to mainstreaming. Said report shall also include information on the status of the department's activities with regard to mainstreaming, including an in-depth study and review of the report filed by the auditor with the clerk of the house of representatives on March twenty-seventh, nineteen hundred and ninety-one relative to special education. Said report shall outline measures which are being taken, as well as make recommendations for further action; in the following areas: coordination and collaborative activities between the department and school districts and within districts, available training and technical assistance to schools and parents, and program development and monitoring activities. The report shall also include the following: information on any additional resources available for mainstreaming activities; a review of the role of other state agencies in accelerating the mainstreaming process; a review of different activities undertaken by other states to mainstream children with special needs; and proposals for other mainstreaming incentives, including an investigation of creative support systems which would enable special needs children who are living away from their families or who are in danger of being moved away from their families to be able to live in their local communities. Said report, which shall include recommendations for legislation, if any, shall be filed with the house and senate committees on ways and means and the joint committee on education, arts and the humanities no later than October first, nineteen hundred and ninety-one.

**SECTION 80.** The board of trustees of the University of Massachusetts, in conjunction with the state health education center at the University of Massachusetts medical center, shall develop and implement provisions for payback in learning contracts entered into by students admitted for the academic year commencing in nineteen hundred and ninety-one and for every year thereafter, which shall require payback service, so-called, of at least two years within the commonwealth in areas of primary care; public or community service; or underserved areas as determined by the dean of the University of Massachusetts medical school and the learning contract committee in coordination with the area health education center and state and regional health planning agencies. In the case of any student who has entered into a learning contract and who does not perform payback service, the difference between the tuition paid and the amount of the tuition charged shall be required to be repaid together with eight percent interest per annum; provided, however, that no payback service or tuition loan repayment shall be required prior to the termination of any internship and residency requirements; and provided further, that interest shall begin to accrue upon completion of any internship requirement. The dean shall provide, on an annual basis, a report outlining the number of students participating in said learning contracts, the area of medicine within which payback will be performed, and the number of students utilizing the repayment option. The report will further outline the effects of payback in the underserved areas of the commonwealth. Said report shall be submitted to the house and senate committees on ways and means by September first, nineteen hundred and ninety-one.

**SECTION 81.** Notwithstanding the provisions of any general or special law to the contrary, amounts appropriated in each of the following items in section two are hereby authorized to be expended, pursuant to the court judgment in *Quirk v. Anrig*, for the costs of retroactive salary adjustments for services provided through August thirty-first, nineteen hundred and ninety-one by institutional school personnel funded from said items: 4513-1000, 4540-0900, 5046-0000, 5047-0000, 5051-0100, 5095-0000, 5948-0000, 5983-0100, and 8900-0009.

**SECTION 82.** Notwithstanding the provisions of section forty-one of chapter seventy-one of the General Laws, or any general or

special law to the contrary, for any reduction in force initiated by any school district or regional school district in fiscal year nineteen hundred and ninety-two, notification to any teacher affected by such reduction in force must be received by such teacher not later than July fifteenth, nineteen hundred and ninety-one.

**SECTION 83.** The board of regents is hereby authorized and directed to report on the amounts and varieties of tuition waivers granted to students enrolled at any institute of public higher education in the commonwealth. Said report shall identify categories of tuition waiver, their authorization, whether statutory, regulatory, bargained for or otherwise, the number of students taking advantage of said waivers, and the total financial worth of said waivers. The board shall file its report with the house and senate committees on ways and means by October first, nineteen hundred and ninety-one.

**SECTION 84.** Notwithstanding the provisions of any general or special law to the contrary, the Board of Regents of Higher Education is hereby directed to establish and set final tuition rates for public institutions of higher education for the subsequent academic year no later than March fifteenth.

**SECTION 85.** Notwithstanding the provisions of any general or special law to the contrary, students attending Massachusetts public colleges and universities who are not Massachusetts residents shall pay tuition charges which are equal to one hundred percent of the costs of their education; effective July first, nineteen hundred and ninety-two; provided, that the provisions of this section shall not apply to students participating in the New England Regional Student Program. The board of regents shall file a report defining said costs of education with the secretary of administration and finance within thirty days of the effective date of this act.

**SECTION 86.** Notwithstanding the provisions of any general or special law to the contrary, in order to meet the estimated costs of employee fringe benefits provided by the commonwealth on account of employees of the Massachusetts State College Building Authority, the University of Lowell Building Authority, the University of Massachusetts Building Authority and the Southeastern Massachusetts University Building Authority and in order to meet the estimated cost of heat, light, power and other services to be furnished by the commonwealth to projects of the Massachusetts State College Building Authority and the University of Lowell Building Authority, the boards of trustees of state colleges and universities shall transfer to the General Fund from the funds received from the operation of said projects such costs as will be incurred for the aforesaid purposes in the current fiscal year, as determined by the appropriate building authority, verified by the chancellor of higher education, and approved by the commissioner of administration and the house and senate committees on ways and means.

**SECTION 87.** The Massachusetts state scholarship office is hereby authorized and directed to develop, no later than January first, nineteen hundred and ninety-two, a no-interest loan program for the purpose of providing financial assistance to students domiciled in the commonwealth, and enrolled in and pursuing a program of higher education in the commonwealth in any approved public or independent college, scientific or technical institution, or any other approved institution furnishing a program of higher education; provided, that for fiscal year nineteen hundred and ninety-two, the total amount of loans offered by said office under this program shall not exceed the sum of ten million dollars. Such assistance shall consist of full or partial loans to students in need of said assistance. Repayment shall commence within six months of graduation, provided that no repayment schedule shall exceed a term of ten years. The Massachusetts state scholarship office shall establish guidelines to govern said program which shall include, but not be limited to, eligibility requirements for students, eligibility requirements for participating institutions, terms of repayment, deferment options, provisions for default, and the maximum and minimum loan award as determined by an indexing system. Said office shall also provide

the estimated costs of operating said program and a schedule of estimated revenue to be generated by application fees and loan repayment. The Massachusetts state scholarship office is further authorized and directed to generate revenues from the collection of nominal application fees to defray the additional costs of administering said program. Said office shall submit said guidelines, cost estimates and revenue schedule to the clerk of the house of representatives, the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than October first, nineteen hundred and ninety-one.

**SECTION 88.** Notwithstanding any general or special law to the contrary, the commissioner of education shall designate those public schools in school districts eligible for equal educational opportunity grants, as determined by chapter seventy A of the General Laws, that are "most at risk" schools, as determined pursuant to guidelines promulgated by said commissioner, which guidelines shall include student body performance on the statewide basic skills and assessment tests, and other such school performance factors as the commissioner deems appropriate. The commissioner shall require all school districts that are eligible for equal educational opportunity grants and that contain one or more "most at risk" schools to: (1) give priority regarding the distribution of equal educational opportunity grants for a fiscal year, as that term is defined in section two of said chapter seventy A, to the "most at risk" schools within the school district; and (2) develop a plan, to be approved by the commissioner, for each "most at risk" school within the school district, outlining the specific uses of equal educational opportunity grants that will improve the learning and performance of students within these "most at risk" schools.

**SECTION 89.** The estimated cost of fringe benefits associated with the operation of training facilities and curriculum for fire fighting personnel of the Massachusetts Fire Fighting Academy shall be paid to the commonwealth by insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated within the commonwealth within thirty days after notice from the commissioner of public safety of such estimated expenses; provided, further, that said cost shall be apportioned according to the provisions set forth in section one hundred and ninety-five of chapter one hundred and seventy-five of the General Laws.

**SECTION 90.** Electric companies in Massachusetts which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section two B of chapter six hundred and thirty-nine of the acts of nineteen hundred and fifty, as added by section twenty-four of chapter seven hundred and ninety-six of the acts of nineteen hundred and seventy-nine, include communities located within the commonwealth, shall be assessed two hundred and fifty thousand dollars plus estimated fringe benefits, as calculated by the secretary of administration and finance pursuant to section five D of chapter twenty-nine of the General Laws, for the evaluation, development and implementation of radiological emergency response plans and the analysis of work plans concerning the preparedness of the commonwealth to respond to accidents at said plants and for the monitoring of safety-related issues at said plants. The department of public utilities shall develop an equitable method of apportioning said assessment among said companies. Said assessments shall be deposited into an account administered by the Massachusetts civil defense agency and may be expended by the agency for equipment, personnel, services and related expenses to evaluate, develop, and implement radiological emergency response plans and to monitor safety issues concerning said nuclear power plants. For purposes of this section, electric companies shall mean all persons, firms, associations and private corporations which own or operate works or a distributing plant for the manufacture and sale, or distribution and sale, of electricity within the commonwealth; provided that the term electric company shall not include municipalities or municipal light plants.

**SECTION 91.** The commissioner of the department of police is hereby authorized to charge the various offices of the district attorney of the commonwealth and the office of the attorney general for overtime payments made to state police officers assigned by the commissioner to duty with said district attorneys and attorney general and paid pursuant to item 8100-0002 of section two of this act. The proceeds received from such charges shall be credited to said item 8100-0002 and made available for expenditure. The district attorneys of the commonwealth and the attorney general shall designate the account to be charged; provided, however, that accounts established pursuant to section forty-seven of chapter ninety-four C of the General Laws may also be charged, notwithstanding any provisions of said section forty-seven to the contrary.

**SECTION 92.** The secretary of economic affairs is hereby authorized and directed to study, in consultation with the board of regents, the feasibility of establishing a program to allow tax credit offsets and other incentives to Massachusetts companies which contract for research and training with Massachusetts private and public colleges and universities. Said report shall be submitted to the house and senate committees on ways and means by the first Wednesday in December, nineteen hundred and ninety-one.

**SECTION 93.** (a) On or before September first, nineteen hundred and ninety-one, the governor shall file legislation with the office of the clerk of the house of representatives relative to recommending the establishment of a long-term funding mechanism for meeting the expenses of the administration of an hazardous waste cleanup program, as authorized by chapter twenty-one E of the General Laws and as funded by item 2260-8870 of section two of this act. Said long-term funding mechanism shall not include or depend upon the utilization of general fund revenues. All revenues derived from the establishment and implementation of said long-term funding mechanism shall be credited to the Environmental Challenge Fund as established by section two J of chapter twenty-nine of the General Laws.

(b) Notwithstanding any provision of law to the contrary, the department of environmental protection shall not enforce subsection (g) of section three A of said chapter twenty-one E after July first, nineteen hundred and ninety-two, unless and until there has been enacted legislation providing for a dedicated revenue source for the Environmental Challenge Fund other than revenues dedicated to the said fund on the effective date of this act.

**SECTION 94.** Section eighty-six of chapter six of the acts of nineteen hundred and ninety-one is hereby repealed.

**SECTION 95.** Section 9A of chapter 6A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 19, the word "fifteen" and inserting in place thereof the following:- twenty-two.

**SECTION 96.** Said chapter 6A is hereby amended by inserting after section 32C the following section:-

Section 32D. The commission shall promulgate such regulations as may be necessary to ensure the uniform reporting of revenues, charges, costs and utilization of health care services that are delivered by institutional and non-institutional providers. Such uniform reporting shall enable the commission to identify, on a patient-centered and provider-specific basis, statewide and regional trends in the cost, availability and utilization of medical, surgical, diagnostic and ancillary services provided by acute hospitals, nursing homes, chronic care and rehabilitation hospitals, other specialty hospitals, clinics, including mental health clinics, and such ambulatory care providers as the commission may specify.

The commission shall, before adopting such regulations, consult with other agencies of the commonwealth, and the federal government, and affected providers, as applicable, to ensure that the reporting requirements imposed from time to time under such regulations are not duplicative, excessive, or costly. To the extent that any requirements imposed by the commission result in

additional costs to the reporting providers, such additional costs shall be included in the rates the commission promulgates for such providers. The commission may specify, by regulation, categories of information which may be furnished under a promise of confidentiality to the provider. Such promise may only be extended by the commission if the data furnished is not to be used for setting rates.

**SECTION 97.** Section 82A of said chapter 6A, as so appearing, is hereby amended by inserting, at the end thereof, the following subsection:-

(d) Any hospital whose 1988 inpatient MAC cost per case mix adjusted discharge, as set forth in the CMAD Study, dated July 17, 1989, conducted by the Rate Setting Commission in the matter of Atlanticare Medical Center's request for relief (the "CMAD Study"), is less than \$3,300 shall have its 1991 patient care costs adjusted to incorporate a "low cost case mix adjustment". Such adjustment shall be calculated by determining the difference between the average 1988 inpatient MAC cost per case mix adjusted discharge per the CMAD Study for the hospitals in the similar licensed bed size group and the 1988 inpatient MAC cost per case mix adjusted discharge per the CMAD Study for the hospitals qualifying for the "low cost case mix adjustment". For the purposes of this section, similar licensed bed size group shall be comprised of hospitals included in the CMAD Study whose 1988 licensed beds are in the following licensed bed ranges: 1-99, 100-199, 200-299, 300 and over.

One-half of the difference in 1988 inpatient MAC cost per case mix adjusted discharge between the qualifying hospital and the average of the similar licensed bed sized group shall be multiplied by the qualifying hospital's 1988 case mix adjusted discharges per the CMAD Study and the product inflated by the qualifying hospital's 1989, 1990 and 1991 inflation adjustments. The result will be deemed to be the qualifying hospital's "low cost case mix adjustment" and will be added to the qualifying hospital's 1991 patient care costs.

**SECTION 98.** For the last quarter of hospital fiscal year nineteen hundred and ninety-one, the total private sector liability for the uncompensated care pool established pursuant to section eighty-seven of chapter six A and section fifteen of chapter one hundred and eighteen F of the General Laws shall be increased by six million, two-hundred and fifty thousand dollars for the benefit of the Boston City Hospital Account. For the first three quarters of hospital fiscal year nineteen hundred and ninety-two, the total private sector liability for said uncompensated care pool, if such fund shall be then in existence, shall be increased by eighteen million, seven-hundred and fifty thousand dollars for the benefit of the Boston City Hospital Account and by ten million, seven hundred thousand dollars for the benefit of the Vaccine Trust Fund.

**SECTION 99.** Section 1. Notwithstanding any general or special law to the contrary, there shall be established within the department of procurement and general services, but not subject to its control, a division of purchased services. The division shall have primary responsibility for the implementation and coordination of an efficient and accountable system of procurement, selection, pricing, contract administration, program monitoring and evaluation, contract compliance and post audit for any department, agency, board or commission of the commonwealth which procures or pays for social service programs from providers.

For the purposes of this chapter, the term "social service program" shall mean any social, special educational, mental health, mental retardation, habilitative, rehabilitative, vocational, employment and training, or elder services program or accommodations, purchased by a governmental unit, including any program provided pursuant to chapter seventy-one B of the General Laws, but excluding any program or service which is reimbursable under Title XIX of the Social Security Act. The term "governmental unit"



shall mean the commonwealth and any school district or other political subdivision of the commonwealth.

The division shall be headed by an assistant commissioner, who shall be appointed by and serve at the pleasure of the secretary of administration and finance, and who shall have administrative responsibility for said division. The position shall be classified in accordance with section forty-five of chapter thirty, and the salary therefor shall be determined in accordance with section forty-six C of said chapter thirty.

The division shall be comprised of such bureaus as may be necessary to carry out the mission of the division, which may include, but not be limited to: an audit bureau, a bureau of data base management and a bureau of program pricing, which may be comprised of a unit for special education program pricing and a unit for other social service programs. The assistant commissioner shall report annually to the house and senate committees on ways and means on the activities and operations of the division, including any recommendations for legislation. Said report shall also summarize any findings, opinions and recommendations of the social service policy advisory board established pursuant to section two.

Section 2. There shall be a social service policy advisory board consisting of the secretary of health and human services or his designee, the secretary of elder affairs or his designee, the commissioner of education or his designee, a representative of the Massachusetts association of school committees who shall be selected by that organization, a representative of the associated industries of Massachusetts who shall be selected by that organization, a representative of the Massachusetts association of approved private schools who shall be selected by that organization, and twelve members to be appointed by the governor, one of whom shall be a representative of a provider contracting with one or more agencies within the executive office of health and human services, one of whom shall be a representative of a provider contracting with the executive office of elder affairs, one of whom shall be a consumer of services provided by one or more agencies within the executive office of health and human services, one of whom shall be a consumer of services provided by an agency contracting with the executive office of elder affairs, one of whom shall be a representative of the Massachusetts superintendents of schools association or a special education administrator for a city or town of the commonwealth, and one of whom shall be a parent of a child with special education needs. Each appointed member of said board shall be appointed for a term of three years and may be reappointed; provided, that among the initial appointed members, four shall be appointed for a term of one year, four shall be appointed for a term of two years, and four shall be appointed for a term of three years. The chairperson of said board shall be selected by the governor and shall serve in this function for a term of not more than one year.

Said board shall meet quarterly and shall make recommendations to the assistant commissioner on matters of policy of the division. Except in the case of emergency regulations, at least thirty days before the promulgation of any proposed regulation, the assistant commissioner shall provide a copy thereof, together with an explanatory statement, to said board. The assistant commissioner shall give due consideration to comments on such proposed regulation submitted by said board or any members thereof.

Section 3. The division shall have the responsibility for prescribing the methods to be used in determining the prices to be reimbursed to providers of social services programs by governmental units. The methods prescribed by the division in determining prices shall be fair, reasonable and adequate. All governmental units shall pay the prices developed in accordance with the methods prescribed by the division.

The rates determined by the division of purchased services pursuant to chapter seventy-one B shall be set annually by the first

Wednesday in February for the next fiscal year. If said division fails to determine said final annual rates on or before the first Wednesday in February, said rates in effect shall continue to be in effect for the next fiscal year. In addition, program rates may be adjusted prospectively to account for unanticipated emergencies beyond the reasonable control of the provider, or to reflect costs attributable to extraordinary changes in volume, or to account for noncompliance with federal or state statutory or local regulatory requirements, all as set forth in regulations of the division. No such rate may be adjusted retroactive to its effective date except to account for the results of administrative reviews, if any, as provided in the regulations of the division. Nothing herein shall preclude the division from setting a rate for a new program established for the first time under said chapter seventy-one B, or individual or sole source rates as provided in the regulations of the division after the first Wednesday in February of any fiscal year.

The division shall submit an estimated rate of inflation for social service programs to the secretary of administration and finance annually by December first for consideration in the preparation of the governor's annual budget recommendation.

Any provider or governmental unit aggrieved by the division's action or failure to act with respect to the determination of a price pursuant to the division's pricing methods, and desiring a review thereof, may file, pursuant to regulations promulgated by the division, an appeal with the division of administrative law appeals in accordance with section four H of chapter seven. The question on appeal of the decision of the division of purchased services shall be whether said division, in taking the action challenged by the aggrieved party, has properly applied its regulations. This paragraph shall not be construed to confer a right upon any aggrieved party to challenge, in a proceeding before the division of administrative law appeals, the procedural or substantive validity of any regulation of general applicability promulgated by the division of purchased services. Any such challenges shall be brought exclusively in the superior courts of the commonwealth in accordance with the provisions of chapter thirty A.

Section 4. The division shall establish guidelines and standards, consistent with generally accepted governmental auditing standards, for independent financial and performance audits of providers of social service programs and governmental units purchasing programs. The division shall coordinate or conduct audits of providers as needed to monitor compliance with applicable fiscal policies. The division shall develop and administer a uniform system of financial accounting, allocation, reporting and auditing of all providers which conforms to generally accepted governmental auditing standards. The division may conduct quality assurance reviews of provider financial statements and their auditors' reports and work papers.

Section 5. The assistant commissioner may, in accordance with chapter thirty A, and after notice to the social service policy advisory board as provided in section two, promulgate rules and regulations required to develop, implement, administer and monitor the programs and functions of the division. Said regulations shall provide for a right of appeal, to the division or appropriate other bodies, for any procuring governmental unit or provider aggrieved by any action or failure to act under color of this chapter or said regulations.

Section 6. All proposed regulations of the office for children and the department of education, and any other licensing or certification standards proposed by any department procuring social service programs, shall be forwarded to the division of purchased services with a statement describing the anticipated financial impact of the regulations fourteen days prior to publication of the notice of rule making required under chapter thirty A.

**SECTION 100.** Chapter 12 of the General Laws is hereby amended by inserting after section 20C the following section:-

Section 20D. The district attorneys may appoint a suitable person to serve as executive director to the Massachusetts District Attorneys Association for the purpose of promoting prosecutorial resources and improving prosecutorial functions through the

coordination and standardization of services and programs, together with providing information, technical assistance and educational services to ensure standardization in organization, goals, operations and procedures. The executive director may expend such funds as are appropriated therefor, together with additional funds from federal grants and other contributions that may be made available for these purposes, and may hire such professional assistants as shall be authorized. The executive director shall devote his time during ordinary business hours to his duties and shall neither directly nor indirectly engage in the practice of law.

**SECTION 101.** The second paragraph of section 6 of chapter 15A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the last sentence.

**SECTION 102.** Section 16 of chapter 18 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

When a timely request for a hearing is made because of a termination or reduction of assistance, involving an issue of fact, or of judgment relating to an individual case, between the agency and the appellant, assistance shall be continued during the period of the appeal. If the decision is adverse to the appellant, assistance shall be terminated immediately. If assistance has been terminated prior to a timely request for a hearing, assistance shall be reinstated.

**SECTION 103.** Section 2 of chapter 19C of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words "within but not subject to the control of the executive office of human services".

**SECTION 104.** Section 6 of chapter 20 of the General Laws is hereby repealed and inserting in place thereof the following:-

Section 6. The Commissioner shall organize the department into divisions and bureaus and shall assign to said divisions their functions. The commissioner, with the approval of the board, may appoint a director to each division and a chief to each bureau thereunder, to have charge of the work of the division and the bureau and may, with like approval, remove such directors or chiefs at any time. The compensation of the directors and chiefs shall be fixed by the commissioner with the approval of the board. The commissioner, with the approval of the board, shall appoint such scientific experts as the work of the department may require, and may assign them to divisions, may transfer and remove them, and the provisions of chapter thirty-one shall not apply. He shall, subject to the provisions of said chapter, appoint such inspectors, clerks and other assistants as he may deem necessary.

**SECTION 105.** Notwithstanding the provisions of any general or special law to the contrary, in addition to the provisions of chapter one hundred and sixty-six A of the General Laws, the Community Antenna Television Commission is hereby authorized to make an assessment for fiscal year nineteen hundred and ninety-two, against each licensee under this chapter with operating revenues exceeding one million dollars based upon the operating revenues of each licensee derived from sales within the commonwealth of such community antenna television service as shown in the most recent annual report to the commission of each said licensee. Said assessment shall be determined and certified by the commission as to produce not more than two hundred and fifty thousand dollars in revenue to be allocated among such licensees in the proportion that each licensee's share of such operating revenues bears to the total of all such licensees in the commonwealth during the previous calendar year. The funds produced by such assessment shall be allocated to the administrative, operational, equipment and personnel expenses of said commission.

**SECTION 106.** Section 12M of chapter 25 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 41, the word "fifteen" and inserting in place thereof the following:- twenty-two.

**SECTION 107.** Section 18 of said chapter 25 of the General Laws, as so appearing, is hereby amended by striking out, in lines

15 and 23, in each instance, the word "fifteen" and inserting in place thereof, in each instance, the following:- twenty-two.

**SECTION 108.** Chapter 29 of the General Laws is hereby amended by inserting after section 2S the following section:-

Section 2T. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Watershed Management Fund. There shall be credited to such fund the following:

(a) all fees assessed against the authority including, but not limited to, fees established pursuant to section one hundred and thirteen of chapter ninety-two, and against any other public or private entity by the commissioner;

(b) all revenues generated by the commission's watershed division which shall include, but not be limited to, the sale of hydroelectricity, recreational or permit fees, and any access fees established pursuant to chapter four hundred and thirty-six of the acts of nineteen hundred and ninety;

(c) all revenues from the sale of wood products harvested on watershed lands; and

(d) all interest earned on monies within the fund.

Amounts credited to the Watershed Management Fund shall be used, subject to appropriation, for the maintenance and operating costs of the commission's watershed division, as established in sections one hundred and four to one hundred and twenty, inclusive, of chapter ninety-two, including the costs of capital improvements necessary to ensure the safety and purity of the water supply and protection of watershed lands pursuant to state and federal standards; and any open space land acquisitions deemed necessary to protect the commission's water supply, including the purchasing of watershed preservation restrictions pursuant to sections seven, eight, and nine of chapter twenty-eight.

**SECTION 109.** Notwithstanding the provisions of any general or special law to the contrary, for the fiscal year beginning July first, nineteen hundred and ninety-one, no transfer between any subsidiary account shall occur without the prior approval of the house committee on ways and means.

**SECTION 110.** Section 1 of chapter 30B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause (12) of subsection (b) and inserting in place thereof the following clause:-

(12) a contract for the procurement of insurance or surety bonds, including an agreement subject to the provisions of sections one to sixteen, inclusive, of chapter forty M or the provisions of sections twenty-five E to twenty-five U, inclusive, of chapter one hundred and fifty-two;

**SECTION 111.** Said section 1 of said chapter 30B, as so added, is hereby further amended in clause (13) of subsection (b), by striking out the words, "labor relations representatives, lawyers, designers, or certified public accountants".

**SECTION 112.** Said section 1 of said chapter 30B, as so added, is hereby further amended by adding, after clause (14) of subsection (b), the following clauses:-

(15) contracts with labor relations representatives, lawyers, designers, or certified public accountants;

(16) contracts with physicians, dentists, and other health care individuals or persons including nurses, nurses' assistants, medical and laboratory technicians, health care providers including diagnosticians, social workers, psychiatric workers, and veterinarians;

(17) a contract for snow plowing by a governmental body;

(18) a contract or lease by a governmental body of its boat slips, berths, or moorings;

(19) a contract for retirement board services;

(20) a contract which is funded by proceeds derived from a gift to a governmental body or a trust established for the benefit of a governmental body;

(21) a contract for the towing and storage for motor vehicles;

(22) a contract to provide job-related training, educational or career development services to the employees of a governmental body;

(23) a contract pursuant to which a governmental body obtains services from a bank, as defined in section one of chapter one hundred and sixty-seven, subject to the maintenance of a compensating balance;

(24) a contract for ambulance service by a governmental body; or

(25) a contract to sell or lease industrial or commercial real property by a public or quasi-public economic development agency or urban renewal agency engaged in the development and disposition of said real property in accordance with a plan approved by the appropriate authorizing authority;

(26) a contract for the collection of delinquent taxes or for the services of a deputy tax collector.

**SECTION 113.** Chapter 31 of the General Laws is hereby amended by striking out section 44, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 44. Any party aggrieved by a final decision of the commission following a hearing pursuant to any section of this chapter or chapter thirty-one A may institute proceedings for judicial review in the appeals court within thirty days after receipt of such decision. The proceedings in the appeals court shall, insofar as applicable, be governed by the provisions of section fourteen of chapter thirty A.

**SECTION 114.** Clause (a) of subdivision (7) of section 22 of said chapter 32, as appearing in the 1990 Official Edition, is hereby amended by inserting, in line 795, after the word "systems" the following:- provided, however, that the PRIM board, on or before January first of each such fiscal year, shall reimburse the commonwealth the amounts appropriated for said expense funds from the PRIT fund.

**SECTION 115.** The second paragraph of subdivision (1) of section 22D

of said chapter 32, as so appearing, is hereby amended by striking out, in line 39, the word "ninety-one", and inserting in place thereof the word:- ninety-two.

**SECTION 116.** The fourth paragraph of subdivision (1) of said section 22D of said chapter 32, as so appearing, is hereby amended by striking out, in line 72, the word "ninety", and inserting in place thereof the word:- ninety-one.

**SECTION 117.** Section 11 of chapter 32A of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 to 16, inclusive, the words "said surviving spouse or surviving dependent shall pay ten percent of the monthly premium for such insurance and the commonwealth shall contribute the remaining ninety percent of said premium, subject, where applicable, to reimbursement as provided under section ten B" and inserting in place thereof the following:- the commonwealth shall contribute the same percent share of the total monthly premium or rate for coverage under this section as the percent share it contributes, pursuant to section eight, on behalf of retired employees, subject, where applicable, to reimbursement as provided under section ten B, and that eligible persons having elected coverage under this section shall pay the remainder premium or rate.

**SECTION 118.** Said chapter 32A is hereby further amended by adding the following section:-

Section 18. Notwithstanding any other provision of this chapter, all retirees, their spouses and dependents insured or eligible to be insured under sections five, ten B and twelve, if enrolled in medicare part A at no cost to the retiree, spouse or dependents, or eligible for coverage thereunder at no cost to the retiree, spouse or dependents, shall be required to transfer to a medicare health benefits supplement plan offered by the commission under section ten C or section fourteen; provided, that benefits under said plan and medicare part A and part B together shall be of comparable actuarial value to those under the retiree's existing coverage. Each retiree shall provide the commission, in such form as the commission shall prescribe, such information as is necessary to transfer to a medicare health benefits supplement plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The commonwealth shall pay any medicare part B premium penalty assessed by the federal government on said retirees, spouses and dependents as a result of enrollment in medicare part B at the time of transfer into the medicare health benefits supplement plan.

**SECTION 119.** Said chapter 32A, as so appearing, is hereby amended by adding the following section:-

Section 19. The commission is hereby authorized to pay to any active or retired employee of the commonwealth who is insured by the commonwealth as of July first, nineteen hundred and ninety-one pursuant to the provisions of this chapter for hospital, surgical, medical or other health insurance benefits and who gives written notice in accordance with the provisions of section seven indicating his desire not to be so insured by the commonwealth, an amount of money to be determined by the commissioner of administration; provided that such amount shall equal no less than twenty-five percent of twelve times the total monthly rate for individual insurance coverage as determined by the commission; provided further that the commission may pay such amount to such active or retired employee in payments or in one lump sum.

The commission shall require that any employee choosing to accept such payment shall verify that he is insured under a qualifying policy toward which the commonwealth makes no contribution; provided, however, that for the purposes of this section, "a qualifying policy" shall be any policy as determined by the commissioner of medical services, which provides a schedule of benefits comparable to that to which the employee would be eligible to receive if he were insured by the commonwealth under this chapter; provided, further, that no policy shall be deemed a qualifying policy which does not provide at least the benefits provided under the basic schedule of health care services under clause (i) of section six of chapter one hundred and eighteen F. The commission shall provide that if such active or retired employee ceases to be so insured under such a qualifying policy, such employee shall thereupon be insured by the commonwealth pursuant to this chapter on the date on which he informs the commission of such termination of insurance coverages; provided, however, that any amounts to be paid to such employee in accordance with this section shall be ratably reduced and any amounts paid hereunder which are allocable to periods of employment after such insurance coverages are reinstated or instituted may be recovered by the commission under such terms and such conditions as the commission shall determine.

**SECTION 120.** Section 3A of chapter 32B, as appearing in the 1990 Official Edition, is hereby amended by striking the first sentence and inserting in place thereof the following two sentences:- A city, town, county, except Worcester county, or other subdivision of the commonwealth, when providing hospital, surgical, medical, dental and other health care coverage as authorized by this chapter, and subject to the adequacy of a claims trust fund as hereinafter described, may, in lieu of or in addition to entering into the insurance policies, agreements, or contracts described in this chapter, enter into an administrative services or other contract with one or more insurance companies, nonprofit hospital, medical or dental service corporations organized under chapter one hundred and

seventy-six A, chapter one hundred and seventy-six B, or chapter one hundred and seventy-six E, or with one or more health care organizations, or with one or more third-party administrators or other entities to organize, arrange, or provide for the delivery or payment of health care coverage or services, whereby the funds for the payment of claims of eligible persons, including appropriate service charges of the insurance carrier, third party administrator or other intermediary, shall be furnished by the respective subdivision from the claims trust fund for the payment by such intermediary to the health care vendors or persons entitled to such payment in accordance with the terms and provisions of said contract. Subject to the adequacy of a claims trust fund, as hereinafter described, a city, town, county, except Worcester county, or other subdivision of the commonwealth may itself provide all or a portion of the administrative services authorized by this section without contracting with an insurance company, third party administrator or other intermediary for such services.

**SECTION 121.** Section 11C of said chapter 32B, as so appearing, is hereby amended by adding the following clause:-

(e) The medicare extension coverage permitted by this section shall be mandatory, rather than optional, for any governmental unit that accepts section eighteen.

**SECTION 122.** Said chapter 32B, as so appearing, is hereby further amended by adding the following section:-

Section 18. In a governmental unit which has accepted the provisions of section ten and which accepts the provisions of this section, all retirees, their spouses and dependents insured or eligible to be insured under this chapter, if enrolled in medicare part A at no cost to the retiree, spouse or dependents or eligible for coverage thereunder at no cost to the retiree, spouse or dependents, shall be required to transfer to a medicare extension plan offered by the governmental unit under section eleven C or section sixteen; provided, that benefits under said plan and medicare part A and part B together shall be of comparable actuarial value to those under the retiree's existing coverage. Each retiree shall provide the governmental unit, in such form as the governmental unit shall prescribe, such information as is necessary to transfer to a medicare extension plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The governmental unit may from time to time request from any retiree, a retiree's spouse and dependents, proof certified by the federal government of their eligibility or ineligibility for medicare part A and part B coverage. The governmental unit shall pay any medicare part B premium penalty assessed by the federal government on said retirees, spouses and dependents as a result of enrollment in medicare part B at the time of transfer into the medicare health benefits supplement plan.

This section shall take effect in a county, except Worcester county, city, town or district upon its acceptance in the following manner:- In a county by vote of the county commissioners; in a city having a Plan D or Plan E charter by a majority vote of its city council; in any other city by vote of its city council, approved by the mayor; in a district, except as hereinafter provided, by vote of the registered voters of the district at a district meeting; in a regional school district by vote of the regional district school committee; and in a town either by vote of the town at a town meeting or, by a majority of affirmative votes cast in answer to the following question which shall be printed upon the official ballot to be used at an election of said town:- "Shall the town require that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to a retiree, their spouse or dependents, be required to enroll in a medicare health benefits supplement plan offered by the town?"

**SECTION 123.** Chapter 40, as appearing in the 1988 Official Edition, is hereby amended by inserting, after section twenty-two E,

the following section:-

Section 22F. Any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department thereof, for any person or class of persons.

A fee or charge imposed pursuant to this section shall supersede fees or charges already in effect, or any limitations on amounts placed thereon for the same service, work, license, permit or certificate, provided that this section shall not supersede the provisions of chapter six A sections thirty-one through seventy-seven, chapter eighty, chapter eighty-three, or chapter one hundred and thirty-eight. The fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate service or work will be utilized until a new fee or charge is fixed under this section.

The provisions of this section may be accepted in a city by a vote of the city council, with the approval of the mayor if so required by law, and in a town by vote of the town meeting, or by vote of the town council in towns with no town meeting.

**SECTION 124.** The first paragraph of section 108L of chapter 41 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "safety", in line 7, the following words:- any special state police officer, appointed under the provisions of section two of chapter one hundred and forty-seven, commissioned prior to January first, nineteen hundred and seventy, who has served in the department of public safety for not less than twenty years and who assumed the duties and responsibilities of a state police officer.

**SECTION 125.** The fifth paragraph of said section 108L of said chapter 41, as so appearing, is hereby amended by inserting after the word "safety", in line 48, the following words:- any special state police officer, appointed under the provisions of section two of chapter one hundred and forty-seven, commissioned prior to January first, nineteen hundred and seventy, who has served in the department of public safety for not less than twenty years and who assumed the duties and responsibilities of a state police officer.

**SECTION 126.** The first paragraph of clause forty-first A of section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Any city or town may also, by vote of its legislative body, adopt a higher maximum qualifying gross receipts amount for the purposes of this section; provided, however, that such maximum qualifying gross receipts amount shall not exceed forty thousand dollars.

**SECTION 127.** Said chapter 59, as so appearing, is hereby amended by striking out section 25 and inserting in place thereof the following section:-

Section 25. The assessors of each city, town and tax-levying district shall annually raise by taxation such reasonable amount of overlay as the commissioner may approve. The overlay account may be used only for avoiding fractional divisions of the amount to be assessed and to fund abatements granted on account of taxes assessed for the fiscal year for which the overlay is raised. Only so much of such overlay as is approved by the commissioner as exceeds two and one-half of the maximum levy limit shall be included in calculating the "total taxes assessed" in paragraph (a), or the maximum levy limit in paragraph (f), of section twenty-one C. Any balance in the overlay account in excess of the amount of the warrant remaining to be collected or abated, as certified by the board of assessors, shall be transferred by the board of assessors upon its own initiative or within ten days of a written request by the chief



executive officer, with written notice to the chief executive officer, to a reserve fund to be appropriated for any lawful purpose. Any balance in said reserve fund at the end of the fiscal year shall be closed out to surplus revenue.

**SECTION 128.** Section 1 of chapter 60A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

Except as hereinafter provided, there shall be assessed and levied in each calendar year on every motor vehicle and trailer registered under chapter ninety, for the privilege of such registration, an excise measured by the value thereof, as hereinafter defined and determined, at the rate of twenty-five dollars per thousand of valuation; provided, however, that the minimum excise shall in all cases be equal to twenty-five dollars.

**SECTION 129.** Section 21 of chapter 62C of the General Laws, as amended by section 1 of chapter 439 of the acts of 1989, is hereby further amended by striking out the first paragraph of clause (11) and inserting in place thereof the following:-

(11) the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, one hundred and twenty-one A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than twenty-five thousand dollars for a period of six months from the time the taxes were assessed, or the disclosure to the commissioner of public welfare or his designee of information as provided in section three A of chapter one hundred and eighteen. Said list shall contain the names, address, types of taxes, month and year assessed and amounts outstanding of said delinquent taxpayers.

**SECTION 130.** Chapter 63 of the General Laws is hereby amended by inserting after section 38L, inserted by section 122 of chapter 240 of the acts of 1989, the following section:-

Section 38M. A domestic or foreign corporation shall be allowed a credit against the amount determined in excise due under this chapter in accordance with section forty-one of the "Internal Revenue Code", except as follows:-

(A) The applicable percentage shall be ten percent of the excess of the qualified research expenses for the income year over the base period research expenses and fifteen percent of the basic research payments.

(B) "Qualified research" and "basic research" shall only apply to research conducted in the commonwealth.

(C) (1) The provisions of this section shall apply to expenditures incurred after January first, nineteen hundred and ninety-one.

(2) In the case of the taxable year which begins on or before January first, nineteen hundred and ninety-one, and ends on or after December thirty-first, nineteen hundred and ninety-one, any amount for any base period with respect to that taxable year shall be the amount which bears the same ratio to that amount for that base period as the number of days in that taxable year before January first, nineteen hundred and ninety-one, bears to the total number of days in that taxable year.

**SECTION 131.** Chapter 70A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. Each city, town, or district, which accepts, by majority vote of both the school committee and the appropriating authority of such city or town, and each regional school district which accepts by majority vote of the school committee and by majority vote of two-thirds of the appropriating authorities of the member towns and cities, an equal educational opportunity grant made available under the provisions of section four shall expend for direct service expenditures for pupils in public school in the current year, an amount which is at least as great as (1) the product of the number of weighted full time equivalent pupils for the current year multiplied

by the amount expended per weighted full time equivalent pupil in the preceding fiscal year, including amounts received under the provisions of section four in that year, and (2) a proportionate share of the sum, whether positive or negative, of (i) the net change in the total of school aid, regional school aid and additional assistance received by such city, town or regional school district, plus (ii) any increase in the property tax levy in such city, town in the current fiscal year, minus (iii) the sum of increases in the costs of debt service, court judgments, and pensions in the current fiscal year over the preceding fiscal year, said sum to be added to (1) above when said sum is positive and subtracted from (1) above when said sum is negative. For the purposes of this paragraph, "proportionate share" shall mean the proportion which (a) direct service expenditures for pupils in public schools in the preceding fiscal year less the total amount received pursuant to section four in said preceding fiscal year bears to (b) the sum total of school aid and additional assistance received by such city, town, or regional school district in said preceding fiscal year and the total property tax levy of such city or town in said preceding fiscal year.

In order for a city, town or district which does not qualify for an equal educational opportunity grant under the provisions of said section four in the fiscal year nineteen hundred and eighty-six to so qualify in any fiscal year thereafter such city or town must expend in the fiscal year nineteen hundred and eighty-six and in each fiscal year thereafter an amount which is at least as great as (1) the product of the number of weighted full time equivalent pupils for the current year multiplied by the amount expended per weighted full time equivalent pupil in the preceding fiscal year, (2) a proportionate share of the sum, whether positive or negative, of (i) the net change in the total of school aid, regional school aid and additional assistance received by such city, town or regional school district, plus (ii) any increase in the property tax levy in such city, town in the current fiscal year, minus (iii) the sum of increases in the costs of debt service, court judgments, and pensions in the current fiscal year over the preceding fiscal year, said sum to be added to (i) above when said sum is positive and subtracted from (1) above when said sum is negative. For the purposes of this paragraph, "proportionate share" shall mean the proportion which total expenditures for all pupils in all programs, as defined in section two of chapter seventy of the General Laws, in the preceding fiscal year bears to the sum of the total of school aid and additional assistance received by such city or town in the preceding fiscal year and the total property tax levy of such city or town in the preceding fiscal year.

In order for a regional school district or independent vocational school which does not qualify for an equal educational opportunity grant under the provisions of said section four in the fiscal year nineteen hundred and eighty-six to so qualify in any fiscal year thereafter, such regional school district or independent vocational school shall expend in the fiscal year nineteen hundred and eighty-six and in each fiscal year thereafter an amount per weighted full time equivalent pupil not less than the amount per such pupil expended in the preceding fiscal year and the net change in the total of school and regional school aid received by such regional school district or independent vocational school in that fiscal year, said amount to be added when the net change in the total of school aid, regional school aid and additional assistance is positive, and subtracted when negative.

In cases where unusual changes in enrollment or educational costs occur and the requirements of the preceding paragraph would impose an undue fiscal hardship on a city or town or the cities or towns which are members of a regional school district, such city, town or district may appeal to the commissioner of education for a remedy. Such remedy may include but not be limited to a one-year waiver of the requirements of the preceding paragraph.

**SECTION 132.** Section 16C of said chapter 71, as so appearing, is hereby amended by inserting after the word "district," in line

4, the following:- the regional school district shall be obliged to provide transportation for all school children in grades kindergarten through twelve and.

**SECTION 133.** Section 68 of said chapter 71, as so appearing, is hereby amended by striking the second and third sentences, in lines four through eighteen, and inserting in place thereof the following:-

If the distance between a child's residence and the school he is entitled to attend exceeds two miles and the nearest school bus stop is more than one mile from such residence, and the school committee declines to furnish transportation, the department, upon appeal of the parent or guardian of the child, may require the town to furnish transportation for children in grades kindergarten through six for a part or for all of the distance between said child's residence and the school. If said distance exceeds three miles, and the distance between the child's residence and a school in an adjoining town giving substantially equivalent instruction is less than three miles, and the school committee declines to pay for tuition in such nearer school, and for transportation in case the distance thereto exceeds two miles, the department, upon like appeal, may require the town of residence to pay for tuition in such nearer school for children in grades kindergarten through six, and if necessary provide for transportation for a part or for the whole of said distance to, such nearer school for children in said grades. Nothing contained in the preceding two sentences shall be construed to limit the obligation of regional school districts to provide transportation for all school children in grades kindergarten through twelve, pursuant to the provisions in section sixteen C of this chapter.

**SECTION 134.** Subsection (d) of section 16 of chapter 71, as so appearing, is hereby amended by striking, in lines 41 and 54, the word "thirty" and inserting in place thereof, in each instance, the word:- sixty.

**SECTION 135.** Chapter 71 of the General Laws is hereby amended by striking out section fifty-four B, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 54B. No person shall administer or cause to be administered to a pupil in any public school in the commonwealth any psychotropic drug included on a list established by the department of public health unless the school has obtained authorization and direction from the pupil's attending physician who has determined that the administration of such drugs in school is a legitimate medical need of the pupil. Administration of duly authorized medication shall be carried out only by a registered nurse or a licensed physician assigned to the pupil's school for the purpose of administering such medication. In the event that the assigned nurse or physician is absent for the day, or any part thereof, or the pupil is on a school outing and the nurse is unavailable, such medication may be administered by a school employee who has volunteered to administer such medication and who has received training prescribed by the department of public health. No employer shall discharge or in any manner discriminate or retaliate against any employee who declines to volunteer to administer psychotropic drugs under the direction of a nurse or physician. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees. No person shall administer psychotropic drugs to such a pupil for the purposes of clinical research.

The department of public health shall adopt rules and regulations under the provisions of chapter thirty A of the General Laws to govern the administration or psychotropic drugs to pupils in public schools consistent with this section. Said rules and regulations shall include, but not be limited to:

- (a) a list of psychotropic drugs which shall be reviewed annually and revised as deemed necessary;
- (b) requirement of a written consent/release by the parent(s) or legal guardian annually which shall include consent/release to

administration by a person other than the nurse or physician assigned to the pupil's school as provided above;

(c) requirement of a written order from the attending physician to the school annually;

(d) requirements regarding training, supervision and administration as specified by protocols established by the department including requirements for training and supervision by medical personnel of any persons other than the nurse or doctor assigned to the pupil's school who may volunteer to administer such medication as provided above;

(e) a record keeping system, maintained in a confidential manner by the public school for each pupil receiving such drugs;

(f) requirement of annual reporting from the public schools to the department of public health on all pupils receiving psychotropic drugs, on forms supplied by the department of public health, which shall include but not be limited to descriptions of the number of instances in which medication was administered by a person other than the nurse or doctor assigned to the school and the reason that the nurse or physician was unavailable; provided that data compiled by the department shall be a matter of public record; provided further that such data shall not include any information which may identify the name of any pupil receiving any psychotropic drug; and

(g) requirement that the department of public health prepare an annual report to be made available to the public which report shall include the number of instances in which medication was administered by a person other than the nurse or physician assigned to the school and the reason that the nurse or doctor was unavailable.

Nothing contained in this section shall be construed to affect the rights, duties, obligations, privileges or immunities granted by or under the provisions of chapter two hundred and fifty-eight of the General Laws.

**SECTION 136.** Section 1 of chapter 71B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the definition of "School age child with special needs" and inserting in place thereof the following definition:- "School age child with special needs", a school age child who, because of temporary or more permanent adjustment difficulties or attributes arising from intellectual, sensory, emotional, or physical factors, cerebral dysfunctions, perceptual factors or other specific learning disabilities or any combination thereof is unable to progress effectively in a regular school program and requires special classes, instruction periods, or other special education services in order successfully to develop his individual educational potential; provided, however, that no child shall be determined to be a school age child with special needs solely because the child's behavior violates the school's disciplinary code;

**SECTION 137.** Said section 1 of said chapter 71B, as so appearing, is hereby amended by adding the following definition:-

"Least restrictive environment", the educational placement that assures that, to the maximum extent appropriate, children with special needs, including children in public or private institutions or other care facilities, are educated with children who do not have special needs, and that special classes, separate schooling, or other removal of children with special needs from the regular educational environment occur only when the nature or severity of the special needs is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

**SECTION 138.** Section 2 of said chapter 71B, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Prior to referral of a school age child for evaluation under the provisions of this chapter, the principal of the child's school shall ensure that all efforts have been made to meet such child's needs within the regular education program. Such efforts may include, but are not limited to: modifying the regular education program, the curriculum, teaching strategies, environments or materials; the

use of support services; the use of consultative services; and building based teams to meet the child's needs in the regular education classroom. Such efforts and their results shall be documented and placed in the child's school record; provided, that such efforts shall not be construed to limit or condition the right to refer a school age child for an evaluation under the provisions of this chapter.

**SECTION 139.** Section 3 of said chapter 71B, as appearing in the 1990 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

No school committee shall refuse a school age child with special needs admission to or continued attendance in public school without the prior written approval of the department, and without complying with the department's regulations and procedures for disciplining students with special needs, where applicable. During the pendency of administrative or judicial proceedings, a court of competent jurisdiction shall have the authority to change a child's educational placement, including removing the child from school, in any circumstances when the school committee shows that the child's behavior poses a substantial likelihood of injury to himself or others; provided, however, that the foregoing shall not be construed to abrogate any authority concerning discipline for such a child which is available to a school committee under said regulations and procedures or any other law. No child who is so refused or removed shall be denied an alternative form of education approved by the department, as provided for in section ten, through a tutoring program at home, through enrollment in an institution operated by a state agency, or through any other program which is approved for the child by the department.

**SECTION 140.** The twelfth paragraph of said section 3, as so appearing, is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following four sentences:- The hearing officer shall order such educational placement and services as he deems appropriate and consistent with this chapter to assure the child's maximum possible development in the least restrictive environment; provided, however, that a presumption shall exist to direct such placement to the regular educational environment. Such order may provide for: the placement or services requested by the school committee, the placement or services requested by the parent, either of those placements or services with modifications, or such alternative programs or services as may be required to assure such development of such child. Said parents, guardians or persons with custody may either consent to or reject such placement, program or services. If rejected, and the program desired by the parents, guardian or person with custody is a regular education program, the department and the local school committee shall provide the child with the educational program chosen by the parent, guardian or persons with custody except where such placement would seriously endanger the health or safety of the child, substantially disrupt the program for other students or, if the child is currently placed in a special education program, deny the child a free appropriate public education.

**SECTION 141.** Chapter 71B of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. (a) A school committee with four thousand or more children enrolled in its school system shall appoint a person to be its administrator of special education. Such administrator shall devote full time to the duties involved in supervising the provision of all special education in the school system.

(b) A school committee with less than four thousand children enrolled in its school system shall appoint a person to be its administrator of special education. Such administrator shall have the duties involved in supervising the provision of all special education in the school system and other duties if the special education duties are not such as to require the devotion of full time.

(c) Notwithstanding the provisions of paragraphs (a) and (b), the school committee of any city, town, or school district may, to

meet its obligations under this section, with the approval of the department, enter into an agreement with any other school committee to jointly appoint an administrator of special education. The department shall promulgate regulations to implement the provisions of this paragraph.

**SECTION 142.** The first paragraph of section 5 of said chapter 71B is hereby amended in line 18, as so appearing, by inserting after the word "committee" the following:- provided, however, that school committees may accept payment for health care goods and services provided by certified school committee employees from third party payors other than the program of medical care and assistance established under chapter one hundred and eighteen E.

**SECTION 143.** Said first paragraph of said section 5 of chapter 71B, as so appearing, is hereby further amended by striking out the third and fourth sentences and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of section twenty-seven C of chapter twenty-nine or any other general or special law to the contrary, if a child with special needs for whom a school committee currently provides or arranges for the provision of special education in a day or residential placement pursuant to the provisions of section three, or his parent or guardian, moves to a different school district on or after July first of any fiscal year, said school committee of the former community of residence shall pay the approved budgeted costs, including necessary transportation costs, of such day or residential placement of such child for the balance of such fiscal year. The school committee of the new community of residence shall assume all responsibilities for reviewing the child's progress, monitoring the effectiveness of the placement, and reevaluating the child's needs from the date of new residence; provided, however, that during the period when the financial obligation of the former community of residence for such day or residential placement continues pursuant to this section, the school committee of such new community of residence shall provide the school committee of the former community of residence with notice of any such review, monitoring, and reevaluation, and an opportunity to participate; and provided, further, that the school committee of such new community of residence shall be financially responsive for any increase, and the obligation of the school committee of such former community of residence shall be reduced by any decrease, in the costs of such day or residential placement during such period which results from any such review, monitoring or reevaluation.

**SECTION 144.** Section eleven of chapter seventy-one B of the General Laws is hereby repealed.

**SECTION 145.** The fifth paragraph of section 12 of said chapter 71B, as appearing in the 1988 Official Edition, is hereby amended by striking the third and fourth sentences.

**SECTION 146.** Section 8 of chapter 74 of the General Laws, as so appearing, is hereby amended by striking out, lines 11 to 14, inclusive, the words "only be required to pay the tuition of any student residing therein who is enrolled in a post-secondary vocational program to the extent provided in sections thirty-seven B through thirty-seven F, inclusive" and inserting in place thereof the words:- not be required to pay any portion of the tuition of any student residing therein who is enrolled in a post-secondary vocational program.

**SECTION 147.** Section 37B of said chapter 74, as appearing in the 1990 Official Edition, is hereby amended by striking the second paragraph and inserting in place thereof the following:-

Upon the vote of the school committee or board of trustees of any industrial, technical, or vocational school, tuition and other related fees may be charged to students residing in its city, town or regional school district admitted to approved post-secondary vocational education programs for the full amount of the average per pupil cost of such program.

**SECTION 148.** Section 37C of said chapter 74, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- A student admitted under this provision shall be charged tuition and fees for the full amount of the average per pupil cost of such program, as approved by the commissioner under the direction of the state board.

**SECTION 149.** Section thirty-seven D of said chapter seventy-four is hereby repealed.

**SECTION 150.** Section thirty-seven E of said chapter seventy-four is hereby repealed.

**SECTION 151.** Section 2 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraphs:-

The registrar shall furnish, upon application, to owners of private passenger motor vehicles who are veterans, as defined in clause forty-three of section seven of chapter four, and upon presentation of evidence deemed satisfactory by the registrar, one of the following two types of distinctive registration plates, as applicable, based on the veteran's request and qualifications: plates bearing on the left side the word "VETERAN", and for those veterans who have been awarded the Order of the Purple Heart, plates bearing the words, "ORDER OF THE PURPLE HEART RECIPIENT". There shall be a twenty dollar fee for said plates in addition to the established registration fee for passenger motor vehicles. Said plates shall be known as veterans' plates. The registrar may determine such standards and qualifications for the issuance of said plates as he deems proper.

**SECTION 152.** The registrar of motor vehicles shall allow the Basketball Hall of Fame, located in Springfield, subject to all laws and regulations of the registry of motor vehicles, to furnish from its premises distinctive temporary commemorative registration plates bearing the designation "Birthplace of Basketball", for pleasure passenger vehicles owned and operated by residents of the commonwealth. The Basketball Hall of Fame shall be responsible for designing, manufacturing or contracting for manufacture, inventory control, promotion and distribution of these plates. Owners of pleasure passenger vehicles may, upon purchasing "Birthplace of Basketball" commemorative plates, exchange their present registry plates for these commemorative plates in accordance with normal procedures and rates to allow for the official use of said plates for one year, provided that said plates shall not be used after December thirty-first, nineteen hundred and ninety-two. The revenues raised by the registration of said plates shall not be deposited in the General Fund, but shall be retained by the registry of motor vehicles to cover the expenses in carrying out the provisions of this section. The purchasing price of said commemorative plate shall be determined by the Basketball Hall of Fame.

**SECTION 153.** The fourth paragraph of section 20 of said chapter 90, as so appearing, is hereby further amended by striking out the first sentence.

**SECTION 154.** Said chapter 90 is hereby amended by striking out section 27, as so appearing, and inserting in place thereof the following section:-

Section 27. The clerk-magistrate of each court shall keep a full record of every criminal case filed therein, and of every civil motor vehicle infraction heard therein, in which a person is charged with a violation of any statute, ordinance, by-law or regulation relating to the operation or control of motor vehicles, other than violations of section twenty A or twenty A upon the disposition of such matters, the clerk-magistrate shall forthwith send an abstract of such record to the registrar, in such form, with such content, and by such method as the registrar and the administrative justice of the district court department shall jointly determine. The registrar shall record such information in such form as he shall determine, and such record of the registrar shall be an official record of such criminal case or civil motor vehicle infraction for purposes of any action by the registrar pursuant to chapter ninety and for purposes of the safe

driver insurance plan established by section one hundred and thirteen B of chapter one hundred and seventy-five.

Courts may on their own initiative, and shall upon the request of the registrar or his agents, furnish to the registrar the details of any particularly flagrant cases involving the operation or control of motor vehicles which may be heard before them. Such reports may include recommendations to the registrar regarding the suspension or revocation of the accused person's operators license or registration certificate.

**SECTION 155.** Section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out the definition of "Audit sheet" and inserting in place thereof the following two definitions:-

"Appellate division", in the case of the district and Boston municipal court departments, the appellate divisions of such departments established by section one hundred and eight of chapter two hundred and thirty-one; in the case of the juvenile court department, those justices appointed by the administrative justice to sit in one or more districts in panels of three justices in order to fulfill within such department the functions assigned by this chapter to the appellate division.

"Audit sheet", a list of consecutive numbers assigned to the citations in a particular citation book or books, in such form as the registrar shall determine.

**SECTION 156.** Section 34 of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding the above provisions, all fees received in the issuance of veterans plates, pursuant to section two, in excess of the fees set for the registration of the motor vehicle, shall be paid by the registrar into the General Fund.

**SECTION 157.** Section 1 of chapter 90C of the General Laws, as amended by chapter 406 of the acts of 1990, is hereby further amended by striking out the definition of "Citation" and inserting in place thereof the following definition:-

"Citation", a notice upon which a police officer shall record an occurrence involving all automobile law violations by the person cited. Each citation shall be numbered consecutively and shall be in such form and such parts as determined jointly by the administrative justice of the district court department and the registrar.

**SECTION 158.** Section 1 of said chapter 90C, as so appearing, is hereby further amended by striking out the definitions of "District court" and "Division," as so appearing, and inserting in place thereof the following five definitions:-

"Civil Motor Vehicle Infraction", an automobile law violation for which the maximum penalty does not provide for imprisonment, excepting: (a) operation of a motor vehicle in violation of the first paragraph of section ten of chapter ninety; (b) a violation of section twenty-five of chapter ninety; and (c) any automobile law violation committed by a juvenile under the age of seventeen who does not hold a valid operators license.

"Criminal" shall include a delinquency matter under chapter one hundred and nineteen.

"District court", a division of the district court department or a session thereof for holding court and the Boston municipal court department or a session thereof for holding court. It shall also include the divisions of the juvenile court department with respect to automobile law violations that are treated as a delinquency matter in such department and with respect to civil motor vehicle infractions that are recorded in conjunction with and that arise from the same occurrence as automobile law violations that are treated as a delinquency matter in such department.

"Division", a division of the district court department or juvenile court department or, in the case of the Boston municipal court department, the department.



"Magistrate", the clerk-magistrate of a district court, or an assistant clerk who has been designated as a magistrate pursuant to section sixty-two B of chapter two hundred and twenty-one. With the approval of the administrative justice of the department, in a particular division the term "magistrate" may include a justice.

**SECTION 159.** Said section 1 of chapter 90C is hereby further amended by inserting after the definition of "Registrar," as so appearing, the following two definitions:-

"Scheduled assessment", the amount of the civil assessment for a particular civil motor vehicle infraction, as established jointly by the administrative justice of the district court department and the registrar. A scheduled assessment shall not exceed the maximum assessment or fine established by law for each such violation. A schedule of such assessments shall be visibly posted in each office of the registry of motor vehicles and in the clerk-magistrate's office of each district court.

"Violator", a person, corporation, society, association or partnership accused of an automobile law violation.

**SECTION 160.** Section 2 of said chapter 90C, as appearing in the 1988 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following two paragraphs:-

If the police officer has not directed that a written warning be issued and has not arrested the violator, the police chief or a person duly authorized by him shall retain the police department copy of each citation, and not later than the end of the fourth business day after the date of the violation:

(a) in the case of citations alleging only one or more civil motor vehicle infractions, shall cause all remaining copies of such citations to be mailed or delivered to the registrar; or

(b) in the case of citations alleging one or more criminal automobile law violations, shall cause all remaining copies of such citations to be delivered to the clerk-magistrate of the district court for the judicial district where the violation occurred. Failure to comply with the provisions of this paragraph shall not constitute a defense to any complaint or indictment charging a violation of section twenty-four, twenty-four G or twenty-four L of chapter ninety if such violation resulted in one or more deaths. Each clerk-magistrate shall maintain a record in the form prescribed by the administrative justice of the district court department of such citations and shall notify the registrar of the disposition of such citations in accordance with the provisions of section twenty-seven of said chapter ninety.

**SECTION 161.** Said chapter 90C is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. (A) (1) If a police officer observes or has brought to the officer's attention the occurrence of a civil motor vehicle infraction, the officer may issue a written warning or may cite the violator for a civil motor vehicle infraction in accordance with this subsection. If the officer issues a citation solely for one or more civil motor vehicle infractions without any associated criminal violations, the officer shall indicate on the citation the scheduled assessment for each civil motor vehicle infraction alleged.

(2) The citation shall notify the violator that within twenty days of the date of the citation the violator must, for each civil motor vehicle infraction alleged, either pay the scheduled assessment or contest responsibility for the infraction by requesting a noncriminal hearing before a magistrate of the district court.

(3) The violator shall pay the assessment indicated by the officer for each such infraction within twenty days of the date of the citation: (a) by mailing the total amount of the indicated assessment, along with the citation appropriately marked, to the registrar at the address indicated on the citation, or (b) by delivering, personally or through an agent duly authorized in writing, the total amount

of the indicated assessment, along with the citation appropriately marked, to any office of the registrar during normal business hours. Payment may be made in such forms, including payment by credit card or other recognized form of electronic payment, as the registrar shall determine.

Payment of the indicated assessment shall operate as a final disposition of the matter. The violator shall not be required to report to any probation officer, and no record of the matter shall be entered in any criminal or probation records of any court. The payment of the indicated assessment shall not be admissible as an admission of guilt, responsibility or negligence in any criminal or civil proceeding, except that such payment shall be an admission of responsibility and shall operate as a conviction for purposes of any action by the registrar pursuant to chapter ninety and for purposes of the safe driver insurance plan established by section one hundred and thirteen B of chapter one hundred and seventy-five.

(4) A violator may contest responsibility for the infraction by making a signed request for a noncriminal hearing on the back of the citation, and mailing such citation to the registrar at the address indicated on the citation within twenty days of the date of the citation.

A violator who does not, within twenty days of the date of the citation, request a noncriminal hearing shall not thereafter be given such a hearing, unless the registrar shall determine that the failure to make such a request timely was for good cause that was not within the control of the violator. The registrar's determination of such issue shall be final.

The registrar shall notify the clerk-magistrate of the district court for the judicial district in which the infraction occurred of such request for a noncriminal hearing, in such manner as the administrative justice of the district court department and the registrar shall jointly determine. Unless a hearing date and time has already been assigned pursuant to procedures jointly established by the administrative justice of the district court department and the registrar, the clerk-magistrate shall notify the police agency concerned and the violator of the date and time of the hearing before a magistrate of the court.

If the hearing is conducted by a magistrate other than a justice, either the violator or the police agency concerned may appeal the decision of the magistrate to a justice, who shall hear the case de novo. There shall be no right of jury trial for civil motor vehicle infractions.

In any such hearing before a magistrate or justice, the citation shall be admissible and shall be prima facie evidence of the facts stated therein. Compulsory process for witnesses may be had by either party in the same manner as in criminal cases. On a showing of need in advance of such hearing, the magistrate or justice may direct that the violator be permitted to inspect specific written documents or materials in the possession of the police officer or agency concerned that are essential to the violator's defense.

At the conclusion of the hearing, the magistrate or justice shall announce a finding of responsible or not responsible. The magistrate or justice shall enter a finding of responsible if it was shown by a preponderance of the credible evidence that the violator committed the infraction alleged; otherwise the magistrate or justice shall enter a finding of not responsible. No other disposition shall be permitted, and such matters shall not be continued without a finding, dismissed, or filed.

If the violator is found responsible after a noncriminal hearing, the magistrate or justice shall require the violator to pay to the registrar an assessment which shall not exceed the scheduled assessment for that infraction. Such assessment shall be in accordance with any guidelines promulgated by the administrative justice of that department of the trial court, which shall be binding on magistrates and justices, to the end that such assessments are made as uniformly as possible, and which may include provisions

requiring a prescribed or a minimum assessment for specified civil motor vehicle infractions.

The violator shall pay to the registrar the assessment imposed by the magistrate or justice within twenty days of the date the violator is personally notified or is mailed notice of the decision of the magistrate or justice, unless for good cause the magistrate or justice allows the violator a longer time to pay the imposed assessment.

The violator's obligation to pay such imposed assessment shall automatically be stayed during the pendency of any timely appeal to the appellate division or any subsequent appeal to an appellate court. The violator shall be required to pay such imposed assessment to the registrar within twenty days of the date the appellate division or the appellate court renders a decision that is adverse to the violator and that has not been further appealed.

(5) Questions of law arising in the disposition of a civil motor vehicle infraction in a noncriminal hearing before a justice may be appealed to the appellate division. Such appeals shall be governed by a simplified method of appeal established by rules promulgated by the administrative justice of the district court department, subject to the approval of the supreme judicial court. Claims of appeal shall be accompanied by an entry fee in an amount established by the chief administrative justice of the trial court. Proceedings under this chapter shall not be reviewable by a civil action in the nature of certiorari.

(6) (a) If a violator:

(i) fails either to pay the full amount of the scheduled assessment to the registrar or to request a noncriminal hearing within twenty days of the date of the citation plus such grace period as the registrar shall allow, or

(ii) fails to appear for a noncriminal hearing before a magistrate or a justice at the time required after having been given notice of such hearing either personally or by first class mail directed to such violator's mail address as reported to the registrar and after notice of such failure has been given to the registrar by the clerk-magistrate, the registrar shall notify such violator by first class mail directed to such violator's mail address that unless and until the violator pays to the registrar the full amount of the scheduled or imposed assessments for such civil motor vehicle infractions, plus any late fees or other administrative fees provided for by law or regulation:

(i) in the case of an operator violation, such violator's operators license, learners permit or right to operate will be suspended by operation of law and without further notice or hearing at the expiration of thirty days from the date of the mailing of such notice, and any license to operate a motor vehicle issued to such violator by the registrar will not be renewed upon or after the expiration date of such license; or

(ii) in the case of an owner violation, any registration of a motor vehicle issued to such violator will be suspended by operation of law and without further notice or hearing at the expiration of thirty days from the date of the mailing of such notice, and any registration of a motor vehicle issued to such violator by the registrar will not be renewed upon or after the expiration date of such registration.

Unless such notice is sooner cancelled by the registrar, in the case of an operator violation, such violator's operators license, learners permit or right to operate, or in the case of an owner violation any registration of a motor vehicle issued to such violator by the registrar, shall be deemed suspended by operation of law on the date indicated on the notice mailed by the registrar, and shall remain suspended until reinstated by the registrar upon payment of the scheduled or imposed assessments for such civil motor vehicle infractions, plus any late fees or other administrative fees which the registrar is required or authorized by law or regulation to impose, unless such

fees are waived in whole or in part by the registrar.

(b) If a violator attempts to pay a scheduled assessment with a check that is returned unpaid, or fails to pay the full amount of an assessment imposed by a magistrate or justice pursuant to this section within the time allowed plus such grace period as the registrar shall allow, the registrar shall revoke any operators license, learners permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar and held by the violator and order the return thereof forthwith. Such violator may not apply for or receive any operators license, learners permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar until such amount has been paid in full, plus any late fees or other administrative fees which the registrar is required or authorized by law or regulation to impose, unless such fees are waived in whole or in part by the registrar.

(c) Payment of a scheduled assessment or an assessment imposed by a magistrate or justice pursuant to this section, plus any late fees or other administrative fees provided for by law or regulation, shall operate as a final disposition of the matter. The violator shall not be required to report to any probation officer, and no record of the matter shall be entered in any criminal or probation records of any court.

(B) (1) If a police officer observes or has brought to the officer's attention the occurrence of an automobile law violation that constitutes a criminal offense, the police officer: (a) may direct that a written warning be issued; (b) may arrest the violator without a warrant in accordance with the provisions and limitations of section twenty-one of chapter ninety for such offenses as are specified in that section; or (c) may determine that an application for criminal complaint shall be filed.

(2) If the police officer determines that an application for criminal complaint shall be filed, the officer shall so indicate on the citation. The citation shall notify the violator that a violator accused of a misdemeanor, with no accompanying felony, will be granted a hearing before such complaint issues, as provided in section thirty-five A of chapter two hundred and eighteen, if the violator so requests in writing within four days of the violation to the clerk-magistrate of the district court for the judicial district where the offense occurred. Such notification on the citation shall satisfy the notice requirements of section thirty-five A of chapter two hundred and eighteen.

The citation shall serve as the application for criminal complaint, supplemented if necessary with such additional information as shall be required by the administrative justice of the district court department. If a criminal complaint is issued, the procedure established for criminal cases shall then be followed. Each police chief may, from time to time, designate one person to sign all such complaints.

(3) If a violator in the case of a citation which alleges one or more criminal automobile law violations:

(a) fails without good cause to appear in court as required after having been summonsed or after having been given notice to appear either personally or by first class mail directed to such person's mail address as reported to the registrar, or such person's last known address as furnished by such person to the citing officer or to the court; or

(b) fails to pay within the time allowed the full amount of a fine, penalty, assessment, or other lawful amount required by a justice pursuant to law; or

(c) attempts to pay such fine, penalty, assessment, or other lawful amount with a check that is returned, unpaid, the clerk-magistrate shall notify the registrar. Such notice to the registrar may be given more than once in the same case if necessary.

Upon receipt of such notice, the registrar shall revoke any operators license, learners permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar and held by the violator and order the return thereof forthwith. Such

violator may not apply for or receive any operators license, learners permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar unless and until the violator presents the registrar with a certificate of the clerk-magistrate of the court that the matter has been fully disposed of in accordance with law or, in the case of a matter still pending before the court, that the violator is attending to the matter to the satisfaction of the court. The court shall not unreasonably withhold such certificate. The registrar may cancel such revocation, and so notify the court, if satisfied that it resulted through error of the registrar or the court.

Nothing herein shall limit the availability to the court of other enforcement mechanisms in addition to notice to the registrar, including the issuance of additional written notices, summonses or warrants, including warrants of distress as provided for in section forty-two of chapter two hundred and seventy-nine, or proceedings for civil or criminal contempt. Civil contempt actions shall be prosecuted by the district attorney or police prosecutor and heard by a justice pursuant to rules of court. Any summons or warrant issued pursuant to this subsection may be served by any officer authorized to service criminal process.

(C) If a violator is cited for a civil motor vehicle infraction in conjunction with and arising from the same occurrence as an automobile law violation that constitutes a criminal offense, both shall be recorded on the same citation whenever feasible and all parts of the citation shall be deposited with the clerk-magistrate as provided in section two.

The civil motor vehicle infraction shall retain its character as such and shall be decided and disposed of under the same general procedures and with the same provisions as to disposition and assessments as provided in subsection (A), with the following exceptions:

(1) The violator may not dispose of the civil motor vehicle infraction by paying the scheduled assessment to the registrar until there has been an adjudication of the associated automobile law violation.

(2) The violator may request a noncriminal hearing on such civil motor vehicle infraction by making a written request therefor at any time prior to the commencement of trial on the associated criminal automobile law violation. Such noncriminal hearing shall be conducted by a justice, and either may be conducted simultaneously with the criminal trial, or may be severed from the trial of the associated criminal automobile law violation if justice so requires. If the violator exercises the right to trial by jury in the first instance with respect to the associated criminal automobile law violation, the noncriminal hearing shall be conducted by the justice presiding over such trial.

(3) If the violator has been found guilty of, and is simultaneously being sentenced on, the criminal automobile law violation, the justice may order filed without imposition of an assessment any associated civil motor vehicle infraction as to which the violator admits responsibility or has been found responsible. In all other cases, if the violator admits responsibility or has been found responsible for the civil motor vehicle infraction, the justice shall require the violator to pay a civil assessment in accordance with subsection (A). Such civil assessment shall be paid directly to the registrar, or shall be paid to the clerk-magistrate and then paid over to the registrar, as the registrar and the chief justice of the district court shall jointly determine.

If the violator in such a case defaults solely on the portion of such citation that constitutes one or more civil motor vehicle infractions, such default shall be dealt with as indicated in subsection (A). If the violator in such a case defaults on the portion of such citation that constitutes one or more criminal automobile law violations, such default shall be dealt with as indicated in subsection (B).

**SECTION 162.** Section 4 of said chapter 90C, as so appearing, is hereby amended by striking out the first paragraph and inserting

in place thereof the following paragraph:-

Nothing in this chapter shall prevent a person other than a police officer from applying for a criminal complaint for an offense that constitutes a criminal automobile law violation under subsection (B) of section three of this chapter, and such person need not show that the violator has been issued a citation in connection with such violation.

**SECTION 163.** Said chapter 90C is hereby amended by striking out sections 6 and 7, as so appearing, and inserting in place thereof the following three sections:-

Section 6. The registrar shall print citation books and distribute the same to each police chief, and shall obtain receipts therefor. Each police chief shall accept and be responsible for all citation books issued to that department. The registrar shall also furnish two copies of an audit sheet for each citation book, with the same number as the citation book.

When a citation has been completed, the police chief or an officer of a rank not less than sergeant, or in the case of the state police of a rank not less than corporal and who is in charge of a state police barracks, shall record the issuance and disposition of such citation upon the audit sheet in such manner as the registrar shall prescribe, including but not limited to the name of the police officer who utilized the citation, and whether any citation was spoiled, mutilated or otherwise voided by an agent of the police department or organization. When all citations in a citation book are issued or used, the police chief shall sign and return one copy of the completed audit sheet to the registrar, keeping the other copy for the files of that department. The registrar shall determine the form and content, and the method of transmitting, such audit sheets.

The registrar may at any time demand and inspect any citation, citation book or audit sheet used by any police department or police chief.

Section 7. The registrar is hereby authorized to enter into reciprocal and mutual agreements with other states with regard to the interstate enforcement of motor vehicle violations and all other matters relating to motorists and motor vehicles, upon approval by the secretary of public safety.

Section 7A. The administrative justice of the district court department and the registrar may jointly determine that any communication between the courts and the registry required to implement chapter ninety or this chapter may be accomplished solely by electronic means. The registrar may determine that any other communication by or to the registry required to implement chapter ninety or this chapter may be accomplished solely by electronic means.

**SECTION 164.** Notwithstanding any general or special law to the contrary, the commonwealth shall be responsible for state compliance with the provisions of the Federal Safe Drinking Water Act, 42, USC 300f et seq.

**SECTION 165.** Chapter 92 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking section 113 and inserting in place thereof the following section:-

Section [113]. The commission is hereby authorized and directed to establish a fee to be paid by the Authority for water delivered from the commission's watershed lands to the Authority. Said fee shall be established annually by the commissioner of the commission and shall not be more than \$.00015 per gallon. The commissioner of the commission shall certify to the treasurer of said Authority on the second Wednesday of each month the total amount, in gallons, of water used during the previous month and, based on the per-gallon fee established annually by said commissioner, the total water use assessment for the previous month. Within thirty days of receipt of the water fees certified by said commissioner, the treasurer of the authority shall remit the total billed amount to the

commission. The commissioner of the commission shall forward to the treasurer of the commonwealth the revenues generated by this section which shall be credited to the Watershed Management Fund, established in section two T of chapter twenty-nine.

**SECTION 166.** Chapter 111H of the General Laws is hereby amended by adding, after section 4 thereof, the following two sections:-

Section 4A. (a) There is hereby established on the books of the commonwealth a separate fund, to be known as the Low Level Radioactive Waste Management Fund. For the purpose of providing funds to implement the management plan adopted pursuant to section twelve and to carry out the powers and duties conferred by this chapter, the board shall annually assess each person licensed or registered to receive, possess, use, transfer or acquire radioactive materials in the commonwealth, amounts sufficient to defray the costs annually incurred by the board for such purposes. Amounts assessed shall be deposited in said fund and may be expended by the board, subject to appropriation, to carry out the powers and duties conferred by this chapter. The total amount to be assessed shall be apportioned annually in accordance with a schedule, sufficient to produce an amount not to exceed five hundred thousand dollars, adopted by regulation by the board, after notice to interested persons and a public hearing. In establishing such schedule, the board shall reduce the total amount to be assessed by the amount of any other donations, loans, grants, reimbursements, payments or unexpended assessments received, or other funds appropriated to implement the management plan and to carry out the powers and duties conferred by this chapter. Such schedule shall be based on the volume and classification of radioactivity of waste produced by each licensee and registrant which is shipped for disposal off site or stored for later disposal; provided, however, that the board shall make a minimum assessment on all licensees and registrants. Such schedule may further provide for surcharges based on the classification scheme contained in the management plan. Assessments shall be due and payable not less than ninety days after written notice to the person upon whom such assessment is imposed, and shall accrue interest at twelve percent per annum on and after the due date. Failure without just cause to pay any lawful assessment pursuant to this section shall constitute a violation of this section.

(b) The board may, subject to appropriation and by an equitable method established by regulation, refund to persons who have paid an assessment pursuant to this section, the amount by which the assessments, interests and penalties collected in the prior fiscal year pursuant to this section and section four B exceeds the amounts expended by the board, including fringe benefits, for the purposes specified in this section.

(c) The board shall, on or before July first of each year, submit to the governor and the house and senate committees on ways and means, an annual report of the assessments, interest and penalties collected pursuant to this section and section four B for the previous fiscal year. Said annual report shall include a statement of disbursements for that fiscal year from said fund, and any other information the board deems appropriate.

(d) Nothing in this section shall be construed to relieve the board of its duty, pursuant to section four, to prepare and submit to the secretary of administration and finance an estimate of the amount required for the maintenance of the board, or of its duty, pursuant to section nine E of chapter twenty-nine, to notify said secretary and the house and senate committees on ways and means if the appropriation for the implementation of the management plan and to carry out the powers and duties conferred by this chapter will be insufficient to meet all of the expenditures required in the current fiscal year and of the estimated amount of such additional requirements.

(e) No assessment shall be due and payable pursuant to this section after June thirtieth, nineteen hundred and ninety-three, unless the board has submitted the schedule of assessments it has adopted to the house and senate committees on ways and means at least

ninety days prior to sending any notice of such assessment pursuant to this section.

Section 4B. (a) If the board finds, after notice of any violation of section four A and an opportunity for a hearing have been provided, that any person is not in compliance with any requirement of section four A, or with any provision of any regulation adopted thereunder, it may assess civil penalties in an amount determined pursuant to this section. Such civil penalty may be imposed whether or not the violation was willful. In determining the amount of the civil penalty, the board shall consider the willfulness of the violation; the actual and potential cost to the commonwealth of collecting the assessment and penalty to enforce such requirement; whether the person being assessed the civil penalty did everything reasonable to pay the assessment, and to pay promptly after a notice of violation was issued; whether the person being assessed the civil penalty has previously failed to comply with any requirement of section four A, or with any provision of any regulation adopted thereunder; the financial condition of the person being assessed the civil penalty. The board shall also consider the goals of making compliance less costly than noncompliance, deterring future noncompliance, and the public interest.

(b) In addition to assessing civil penalties under this section, the board may request the attorney general to bring an action in the superior court to compel payment of assessments and penalties and immediate and full compliance with any order issued by the board. The expense of the proceedings shall be recoverable from the violator in such manner as provided by law.

**SECTION 167.** Section 4 of chapter 117 of the General Laws is hereby amended by adding the following paragraph:-

A person who is not either (a) a citizen or (b) lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law shall not be eligible for assistance under the provisions of this chapter. The provisions of this section shall not apply to otherwise eligible minor children, pregnant women, caretakers of minor children, persons who are handicapped as defined in chapter one hundred and fifty-one B of the General Laws, or persons sixty-five years of age or older. The provisions of this section shall not apply to persons for whom costs incurred pursuant to the provisions of this chapter are fully reimbursed by the federal government. For the purposes of this section, an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law shall include any alien who is lawfully present in the United States as a result of the application of the following provisions of the Immigration and Nationality Act:

- (1) Section 201(c), in effect after March first, nineteen hundred and eighty - Aliens admitted as Refugees;
- (2) Section 203(a)(1), in effect prior to April first, nineteen hundred and eighty - Individuals who were granted status as Conditional Entrant Refugees;
- (3) Section 208 - Aliens granted Political Asylum by the Attorney General;
- (4) Section 212(d)(5) - Aliens granted Temporary Parole Status by the Attorney General; and shall also include
- (5) Any alien granted lawful temporary resident status pursuant to section 201 or 302 of the Immigration Reform and Control Act of 1986

(Pub. Law 99-603) who must be either:-

- (a) A Cuban or Haitian entrant as defined in paragraph (1) or (2)
- (A) of Section 501(e) of Pub. Law 96-422, as in effect on April first, nineteen hundred and eighty-three, or
- (b) An applicant for general relief who is not a Cuban or Haitian entrant applicant under clause (1) who was adjusted to lawful temporary resident status more than five years prior to application.



(6) Any alien granted temporary protected status pursuant to sections 302 or 303 of the Immigration Act of 1990 (Pub. Law 101-649).

**SECTION 168.** Said first paragraph of said section 2 of said chapter 118, as so appearing, is hereby further amended by striking out, in line 10, the words "of application thereof" and inserting in place thereof the words:- on which the applicant is determined to be eligible or thirty days from the receipt of a signed and completed application form, whichever is earlier.

**SECTION 169.** Section 3 of said chapter 118, as so appearing, is hereby amended by striking out, in lines 23 to 25, inclusive, the words "and that all families found eligible for assistance shall receive benefits retroactive to the date of application".

**SECTION 170.** Chapter 118E of the General Laws is hereby amended by striking out section 1, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 1. There is hereby established, pursuant to and in conformity with the provisions of Title XIX, a program of medical care and assistance for certain residents of the commonwealth.

The benefits of said program shall be available to all persons eligible for financial assistance under the provisions of chapter one hundred and eighteen and Title IV of the Social Security Act and to all persons who are eligible for supplemental security income payments on account of age or disability under the provisions of Title XVI of said Social Security Act or for assistance under the provisions of chapter one hundred and eighteen A. Said benefits may also be made available to other persons who would be eligible for financial assistance under any of the foregoing provisions but for income or resources; provided that said persons meet the financial eligibility requirements of Title XIX.

**SECTION 171.** Section 1A of said chapter 118E, as so appearing, is hereby amended by adding the following paragraph:-

The department shall, to the extent permitted by Title XIX, provide for medical assistance in the form of ambulatory care to pregnant women who are presumptively eligible for medical assistance for the period of time prescribed by federal law. The department shall promulgate regulations to implement this section, which shall require health care providers to notify such pregnant women of the need to file an application for medical assistance and which shall set standards to be used by providers in determining presumptive eligibility.

**SECTION 172.** Section one B of said chapter one hundred and eighteen E is hereby repealed.

**SECTION 173.** Section 2 of said chapter 118E, as appearing in the 1988 Official Edition, is hereby amended by striking out paragraph (h) and inserting in place thereof the following:-

(h) "Secretary", the secretary of the United States Department of Health and Human Services.

**SECTION 174.** Said section 2 of said chapter 118E, as so appearing, is hereby further amended by adding the following paragraph:-

(i) "Title XIX", Title XIX of the Social Security Act, 42 USC 1396, et. seq.

**SECTION 175.** The first paragraph of section 4 of said chapter 118E, as so appearing, is hereby amended by striking out, in line 10, the words "allowance of federal grants-in-aid" and inserting in place thereof the words:- availability of federal financial participation.

**SECTION 176.** Section five of said chapter one hundred and eighteen E is hereby repealed.

**SECTION 177.** Said chapter 118E is hereby further amended by striking out section 6, as most recently amended by section 294 of chapter 150 of the acts of 1990, and inserting in place thereof the following section:-

Section 6. The department shall provide financial assistance for such medical care or services as Title XIX and regulations adopted

thereunder by the secretary require. The department may provide financial assistance for such additional medical care or services as Title XIX and said regulations permit.

The amount, duration and scope of the aforesaid care and services shall be determined by the rules and regulations of the department, provided such rules and regulations are consistent with the provisions of this chapter and Title XIX. Such rules and regulations may include appropriate limitations on care and services based on such criteria as medical necessity or utilization control procedures.

The department shall develop regulations and procedures requiring a recipient of medical assistance under this chapter to participate in a program of managed care, upon determination by the department, pursuant to the provisions of 42 USC 1396n(a), subject to appeal by the recipient, that said recipient has demonstrated a pattern of excessive or inappropriate utilization of a covered benefit.

Any person who is eligible for assistance under the provisions of this chapter who is not maintaining his own home and who is receiving care in a licensed nursing home, a licensed chronic hospital, a licensed rest home, an approved public medical institution, or a public psychiatric institution shall retain the first sixty dollars of monthly income for clothing, personal needs allowance, and leisure time activities. If there is no such income, or if such income is less than sixty dollars, the recipient shall be paid, in advance, the difference between such income and sixty dollars.

The department shall provide by regulation that personal laundry costs shall not be charged to the amount retained by or paid to the recipient pursuant to this section. Personal laundry costs shall be reimbursed through rates paid to such institutions.

**SECTION 178.** Section 7 of said chapter 118E, as appearing in the 1988 Official Edition, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following two paragraphs:-

The department shall establish methods of approving services to be performed as a prerequisite to extending medical assistance. Said methods of prior approval may include, but need not be limited to: (1) in the case of restorative dentistry, or dentures, examination of proposed recipients or of diagnostic information regarding proposed recipients by dental consultants of the department; (2) in the case of orthodontic services, procedures which assure that medical assistance will be provided only for severe handicapping malocclusions; and (3) in the case of transportation to obtain medical care, a statement from the attending physician certifying that such transportation is necessary due to a physical disability.

Assistance under this chapter for nursing services for persons twenty years of age or under may be available only after a medical review team under the supervision or with the, approval of the department of public health, in cooperation with the departments of mental health, mental retardation and public welfare, approves such services for such persons. The department of public health, in cooperation with said other departments, shall promulgate rules and regulations for such services, and any person or facility offering such services shall receive prior certification from the department of public health.

**SECTION 179.** Section 8 of said chapter 118E, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

An institution furnishing medical assistance under this chapter shall have the right to make such application on behalf of an individual only if, and to the extent, provided by regulations of the department.

**SECTION 180.** Said chapter 118E is hereby further amended by striking out section 91, as so appearing, and inserting in place

thereof the following section:-

Section 9. Upon receipt of such application, the department shall make full inquiry concerning the eligibility of the applicant, his need for medical assistance and his resources and income, if any, and, shall make its decision, (1) within ninety days after receipt of such application for applicants who apply for medical assistance on the basis of a disability and (2) within forty-five days after receipt of such application for all other persons. At the time of such initial decision, and in the event of any subsequent decision, the applicant or recipient shall be notified in writing of such decision and shall be informed of the reason therefor and of his right to appeal and of the method by which he may appeal under this chapter.

The department may enter into an agreement with the secretary, or with any federal or private agency, whereby the secretary or agency shall determine on behalf of the department the eligibility for assistance under this chapter of all or certain applicants for such assistance.

**SECTION 181.** Said chapter 118E is hereby amended by striking out section 10L, as recently amended by section 28 of chapter 6 of the acts of 1991, and inserting in place thereof the following section:-

Section 10. The following income and resources shall be exempt and shall neither be taken into consideration nor, except as permitted under Title XIX, required to be applied toward the payment or part payment of the cost of medical assistance available under this chapter:-

(1) Monthly income in an amount not exceeding the level of the minimum dollar amount required under Title XIX;

(2) ownership of one's residence, including furniture, which is essential and appropriate to the needs of the household except as permitted by section 1902 (a) (10) (C) of Title XIX. In the case of an applicant or recipient for whom a medical determination has been made, after notice and opportunity for an appeal and hearing, that he or she cannot reasonably be expected to return to live in the residence, the residence will be considered a countable asset unless:-

(A) the department determines that counting the residence as an asset would cause undue hardship; or

(B) any one of the following persons continue or would continue to reside therein: (i) the applicant or recipient's spouse; or (ii) a child of the applicant or recipient who is under twenty-one years of age or who is blind or permanently disabled; or (iii) a sibling of the applicant or recipient who has an equity interest in the home and who was residing there for a period of at least one year immediately before the date of the applicant's admission to the medical institution; or (iv) a son or daughter of the applicant or recipient who was residing in the applicant or recipient's home for a period of at least two years immediately before the date of the applicant's admission to the medical institution, and who establishes to the satisfaction of the department that he or she provided care to the applicant which permitted the applicant to reside at the home rather than in an institution; or

(C) the applicant or recipient has obtained long term care insurance whose coverage meets the requirements of 211 C.M.R. 65.00.

In the case of an applicant or recipient for whom such a medical determination has been made under this subsection, the department shall continue to consider the residence as a noncountable asset for a period of not less than three months following such medical determination in order that the applicant or recipient may make funds available for his or her medical needs based on his or her equity interest in such residence.

(3) personal property in an amount not exceeding the minimum resource requirement required under Title XIX;

(4) cemetery plots purchased for the use of the applicant or recipient of assistance;

(5) funds not to exceed the minimum amount required under Title XIX deposited in a trust account and so reserved for the payment of funeral and burial expenses of the applicant or recipient of assistance including, but not limited to, the purchase of a plot, the opening of the grave, the fee for religious services, and the monument inscription; the cash surrender value of burial insurance, so called, or prepaid irrevocable burial contracts, so called.

In any case where the monthly income of a recipient or beneficiary is in excess of the exemptions allowed, the recipient or beneficiary, if otherwise eligible for medical assistance under this chapter, shall be liable to pay to the provider of medical care or service an amount which shall be equal to the excess income for a period of six consecutive months, which includes the period when such service was provided.

In determining responsibility of any individual for any applicant or recipient of assistance under this chapter, such responsibility shall be limited to a person for his spouse and parents for children under the age of eighteen. The income and assets of any applicant for medical assistance under eighteen years of age who lives with his parent shall be deemed to include the income and assets of the parent of such applicant. The income and assets of any applicant for medical assistance under eighteen years of age who does not live with his parents shall include only the income and assets that are actually contributed to the applicant by the parent.

Notwithstanding the first paragraph of this section, the department may require recipients of medical assistance to pay enrollment fees, premiums, deductibles, coinsurance, copayments or similar cost sharing charges as participants in managed care plans implemented by the department; provided that any waivers of Title XIX provisions regarding such recipient cost sharing are obtained from the secretary in conjunction with any other federal approvals and waivers necessary to implement said managed care plans; provided further, that in the absence of such managed care plans, the department shall require, to the extent permitted by Title XIX, that recipients, if eligible for such benefits, be liable for a copayment of not more than fifty cents toward the purchase of each pharmaceutical product, including prescription drugs and over-the-counter drugs, and to require the copayment of three dollars for the use of emergency room services in acute care hospitals for the treatment of nonemergency conditions.

**SECTION 182.** Section ten A of said chapter one hundred and eighteen E is hereby repealed.

**SECTION 183.** Section 14 of said chapter 118E, as appearing in the 1988 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- Payment shall be made to the person or institution supplying medical services.

**SECTION 184.** Section fifteen of said chapter one hundred and eighteen E is hereby repealed.

**SECTION 185.** Section 20 of said chapter 118E, as appearing in the 1988 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

The department may also promulgate regulations which establish procedures for providers to appeal erroneous denials by the department of a provider's claim for payment under this chapter. Such procedures may (1) provide for disposition of such appeal by a board comprised of department personnel with expertise in claims processing; (2) provide for summary disposition of such appeal based on a review of written submissions; and (3) require that such appeals be filed with the department within thirty days, or some other time period specified by the department, after the date that the department notifies the provider of the final denial of the claim for payment. The provider's right to payment under this chapter shall be extinguished if the provider fails to file an appeal within the time prescribed by the department.

**SECTION 186.** Said section 20 of said chapter 118E, as so appearing, is hereby amended by striking out the fourth paragraph.

**SECTION 187.** Said chapter 118E is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:-

Section 22. Any applicant for medical assistance, or the legal representative of such applicant or recipient, aggrieved by the failure of the department to grant medical assistance or by the failure of the department to approve or reject an application within the time limits established by section nine or by the withdrawal of such assistance shall have a right to a hearing, after due notice, upon appeal to the department in the manner and form prescribed by the department; provided, however, such appeal is received by the department within thirty days after official notice of the action taken by the department has been received by the applicant or recipient. Such hearing shall be conducted by the commissioner of public welfare or a referee designated by the commissioner. The commissioner or his referee is hereby empowered to subpoena witnesses, administer oaths, take testimony and secure the production of such books, papers, records and documents as may be relevant to such hearings. The decision of the commissioner, or of his referee designated to conduct the hearing, shall be the decision of the department. Such appeals, hearings, and decisions shall be subject to the provisions of section sixteen of chapter eighteen.

The department may make such additional investigation as it may deem necessary and shall make such decision as to the granting of medical assistance and the amount of such assistance to be granted as in its opinion is justified and in conformity with the provisions of this chapter. Applicants or recipients affected by such decisions of the department shall, upon request, be given reasonable notice and opportunity for a hearing by the department. The provisions relating to the conduct of hearings and decisions thereon made, as provided in this section, shall be equally applicable in all cases wherein the department acts upon its own motion.

The commissioner, or the referee designated by the commissioner, shall render and issue his decision within ninety days after the date of the filing of the appeal by the aggrieved applicant, or legal representative of an applicant. The commissioner, but not his designee, may for good cause shown, direct only the director of the division of hearings to conduct a rehearing of the appeal. An order to conduct a rehearing shall not be construed as indicating or implying any position by the commissioner on the merits of the appeal. The director shall send seven days' written notice to all parties, including the date, time and place of such rehearing, which shall be held at a location convenient to the person appealing, and after such rehearing the director may, not later than thirty days after the order to conduct a rehearing, issue a superseding decision.

**SECTION 188.** Section 15 of chapter 118F of the General Laws, as amended by section 35 of chapter 6 of the acts of 1991, is hereby further amended by striking out subdivision (1) and inserting in place thereof the following subdivision:-

(1) The department shall administer an uncompensated care pool consisting of the revenues produced by the uniform statewide allowance for uncompensated care included in gross patient service revenues of acute hospitals pursuant to section eighty-three of chapter six A.

**SECTION 189.** Section 19 of said chapter 118F of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking, in line 4, the word "ninety-two", and inserting in place thereof the word:- ninety-five.

**SECTION 190.** Said section 19 of said chapter 118F, as so appearing, is hereby further amended in subdivision (9) by striking, in lines 66 and 70, in each instance, the word "ninety-two", and inserting in place thereof, in each instance, the word:- ninety-five.

**SECTION 191.** Section 34 of chapter 121B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking the thirteenth paragraph, in lines 211 through 229, and inserting in place thereof the following paragraph:-

Notwithstanding any of the provisions of sections thirty-five through thirty-seven, inclusive, any housing authority having a contract for state financial assistance, may, with respect to any project developed hereunder, and in accordance with the provisions of sections fourteen and thirty, contract with the federal government for financial assistance in accordance with the provisions of federal legislation. Commencing with the first of January, nineteen hundred and eighty-seven, housing authorities which have received federal financial assistance shall satisfy the requirements of the Single Audit Act of 1984, 31 USC 7501 et seq. by causing audits of their records to be made annually or biennially by the state auditor or an independent auditor to be selected by such housing authorities to conduct such audits. Said audits shall be made in accordance with generally accepted government auditing standards as well as standards prescribed by the office of the state auditor. Housing authorities acting under the requirements of this section shall submit said audited financial statements to the office of the state auditor for his notice and approval; provided, that all independent audits conducted in accordance with the aforementioned requirements and standards shall be deemed to meet the approval of the state auditor.

**SECTION 192.** Section 1 of chapter 132A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking said section and inserting in place thereof the following section:-

Section 1. The commissioner of the department of environmental management, hereinafter referred to in this chapter as the commissioner, may receive and hold in trust on behalf of the commonwealth, exempt from taxation, bequests, restitutions or gifts to be used for the purpose of advancing the recreational and conservation interests of the commonwealth and shall administer the same in such manner as to carry out the terms of such bequests, restitutions or gifts, and he may accept on behalf of the commonwealth gifts of land outside the metropolitan park district to be held and managed for recreational and conservation purposes.

Said trust properties shall be known as the Conservation Trust and shall be used and expended under the direction of the commissioner and subject to his orders. Subject to the term of such grant, restitution, gift, devise or bequest, the commissioner may expend such funds, whether principal or income, without further appropriation.

**SECTION 193.** The fourth paragraph of section 12 of chapter 138 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking the first sentence and inserting in place thereof the following sentence:-

The local licensing authorities may determine in the first instance, when originally issuing and upon each annual renewal of licenses under this section, the amount of the license fee, for a tavern license or for any other license under this section for the sale of all alcoholic beverages, or for any other license under this section for the sale of wines and malt beverages, and provided that nothing herein shall prevent such authorities from establishing license fees differing in amounts within the limitations aforesaid for restaurant licenses authorizing such sale on secular days only.

**SECTION 194.** Said section 12 of said chapter 138, as so appearing, is hereby further amended by striking, in paragraph twelve, the words "and shall not be less than five hundred dollars nor more than twenty-five hundred dollars".

**SECTION 195.** The second paragraph of section 15 of said chapter one hundred and thirty-eight, as appearing in the 1990 Official Edition, is hereby amended by striking the second sentence and by inserting in place thereof the following sentence:- The local licensing authorities may determine in the first instance when originally issuing and upon each annual renewal of licenses under this section, the amount of the license fee.

**SECTION 196.** Section 30A of said chapter 138, as appearing in the 1990 Official Edition, is hereby amended by striking the last sentence thereof.

**SECTION 197.** Section 19D of chapter 161A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

After a reasonable period of mediation, not to exceed forty-five days from the date of appointment, said mediator shall issue a report indicating the results of his services in resolving the impasse. If at the conclusion of mediation the impasse still exists, the mediator shall so certify. In the event, the mediator shall certify in his report the last best offer of each party on each unresolved issue which has been submitted to mediation and shall also certify the agreement of the parties on each issue on which agreement has been reached and shall submit such certifications to the arbitrator selected by the parties. In such event, so long as the mediator shall also certify that the parties have bargained in good faith, either party may notify the other that it desires arbitration of the dispute. Within ten days of said notice, the parties shall meet to select a single neutral arbitrator. If, within fifteen days, the parties fail to select such single arbitrator, either party may forthwith petition the board of conciliation and arbitration to request a list of five arbitrators from the American Arbitration Association and said Association shall certify to the board that such arbitrators on the list it provides possess the qualifications as provided in section nineteen E. The parties shall thereupon meet to select such arbitrator by striking one name each until one name remains and that person shall serve as the neutral arbitrator. If, after ten days, one of the parties declines to strike their names, the other party shall strike two names and the board shall forthwith select the arbitrator from the remaining three names.

**SECTION 198.** Section 19G of said chapter 161A, as most recently amended, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The arbitrator shall be limited in making his award to choosing between the last best offers of the parties on each issue as certified in the mediator's report or any award in the range between the last best offers of the parties. The arbitrator shall make no award on any issue found by him to be not authorized by law to be submitted to arbitration, but shall state such finding in his written opinion. Within thirty calendar days of an award, the arbitrator shall issue a written opinion inclusive of an analysis of all statutory factors applicable to the proceedings. Any determination by the arbitrator, if supported by material and substantial evidence on the record, shall be binding upon the parties and upon the appropriate legislative or appropriating body and may be enforced at the insistence of either party or by the arbitrator in the superior court. The scope of arbitration shall be limited to wages, hours, and conditions of employment and shall not include any provisions for any cost of living adjustment which are based on changes in the Consumer Price Index after the expiration of the contract period covered by the award. In addition, any wage or salary adjustments shall be expressed in percent or dollar amounts, and in no case shall there be any provision for salary adjustments to occur after the expiration of the contract period covered by the award.

**SECTION 199.** Said chapter 161A, is hereby amended by striking out section 19J, inserted by section 101 of said chapter 653, and inserting in place thereof the following section:-

Section 19J. Notwithstanding the provisions of any general or special law to the contrary, each employee in a plan for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy or policies from one or more insurance companies, or nonprofit hospital, medical, dental or other service corporations, including health maintenance organizations, or by

means of a self-insurance plan or preferred provider arrangement plan of the authority shall contribute to the total monthly premium or rate applicable to said coverages not less than the current employee share of monthly premium or rate established pursuant to the provisions of section eight of chapter thirty-two A; provided, however, that nothing in this section shall preclude the parties to a collective bargaining agreement under this chapter which provides that such employees shall pay a percent share of such premium cost or rate which is higher than the rate established in section eight of chapter thirty-two A; provided, further, that no employee's health insurance contributions shall be reduced by this section.

**SECTION 200.** Clause (d) of section 6 of chapter 161B of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "authority", in line 17, the words:- ; provided, further, that for policies of group life insurance and accidental death and dismemberment insurance, and group health insurance purchased by such authority, all active employees and their dependents of such authority shall contribute to the total monthly premium or rate applicable to said coverages at not less than the current employee share of monthly premium or rate established pursuant to the provisions of section eight of chapter thirty-two A.

**SECTION 201.** Section 69H of chapter 164 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended in the sixth paragraph, by striking out, in line 103, the word "fifteen" and inserting in place thereof the following:- twenty-two.

**SECTION 202.** The commissioner of insurance is hereby authorized and directed to prepare a report on mandated health care benefits and provider services required to be offered by carriers offering accident and health coverage in the commonwealth pursuant to chapters one hundred seventy-five, one hundred seventy-six A, one hundred seventy-six B and one hundred seventy-six G of the General Laws. Said report shall examine the cost impacts of each such mandated benefit and provider service on insurance premiums and total costs and savings of such mandates for the health care delivery system. Said report shall further examine alternatives to the required offering of such benefits and providers, including the effects of requiring the coverage of more cost-effective benefits and providers and the feasibility and affordability of allowing the sale of policies that do not cover such benefits and providers on a mandatory basis. Said report shall further consider the impact of such mandated benefits and providers on self-insurance trends and consumer access to basic health services. The commissioner shall file said report, accompanied by legislation necessary to implement such changes as recommended, if any, to said requirements in the General Laws, with the clerk of the house of representatives and the clerk of the senate on or before November first, nineteen hundred and ninety-one.

**SECTION 203.** Chapter 176A of the General Laws is hereby amended by inserting after section 1A the following section:-

Section 1B. A nonprofit hospital service corporation governed by this chapter shall offer medicare supplemental group coverage to that group of medical assistance recipients designated from time to time by the department of public welfare. Such coverage shall be provided at a rate based on the projected experience of said group of recipients.

**SECTION 204.** Chapter 176B of the General Laws is hereby amended by inserting after section 7A the following section:-

Section 7B. A medical service corporation governed by this chapter shall offer medicare supplemental group coverage to that group of medical assistance recipients designated from time to time by the department of public welfare. Such coverage shall be provided at a rate based on the projected experience of said group of recipients.

**SECTION 205.** Section 2A of chapter 211D of the General Laws, as amended by section 330 of chapter 150 of the acts of 1990, is hereby further amended by inserting before the first paragraph thereof the following paragraph:-



Notwithstanding any other provision of law, a criminal defendant charged with a misdemeanor or a violation of a municipal ordinance or bylaw need not be appointed counsel if the judge, at arraignment, informs such defendant on the record that, if the defendant is convicted of such offense, his sentence will not include any period of incarceration. For good cause, that judge or another judge of the same court may later revoke such determination on the record and appoint counsel, and on the request such counsel shall be entitled to a continuance to conduct any necessary discovery and to prepare adequately for trial. Any such determination or revocation by a judge shall be endorsed upon the docket of the case.

**SECTION 206.** Section 37 of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11, 12, and in line 13, the words "one hundred and fifty" and inserting in place thereof, in each instance, the words:- two hundred.

**SECTION 207.** Section 37 of said chapter 221, as so appearing, is hereby further amended by striking out in line 16 the word "four" and inserting in place thereof the word "five".

**SECTION 208.** Section 6 of said chapter 258B, as appearing in the 1990 Official Edition, is hereby amended in line 2, by inserting after the word "board" the words:- , the secretary of administration and finance, and the house and senate committees on ways and means,.

**SECTION 209.** The first paragraph of section 8 of said chapter 258B, SECTION 209. The first paragraph of section 8 of said chapter 258B, as most recently amended by section 341A of chapter 150 of the acts of 1990, is hereby further amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The court, including the clerk-magistrate, or the registrar of motor vehicles shall impose an assessment of thirty dollars against any violator who fails to pay the scheduled civil assessment for a civil motor vehicle infraction or to request a noncriminal hearing within the twenty day period provided for in subsection (A) of section three of chapter ninety C, except where the person is required by law to exercise the right to pay before a justice.

**SECTION 210.** The second paragraph of said section 8 of said chapter 258B, as appearing in the 1988 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- All such assessments made shall be collected by the court or by the registrar, as the case may be, and shall be transmitted monthly to the state treasurer.

**SECTION 211.** Chapter 279 of the General Laws is hereby amended by striking out section 42, as so appearing, and inserting in place thereof the following section:-

Section 42. If judgment is rendered against a corporation upon an indictment or complaint under the laws of the commonwealth, the court may issue a warrant of distress to compel payment of the penalty or assessment, as the case may be, as prescribed by law, together with interest thereon if so ordered by the court.

If the records of the registrar of motor vehicles indicate that a corporation has failed to pay an assessment for a civil motor vehicle infraction as provided in section three of chapter ninety C, the registrar may issue a warrant of distress to compel payment of the assessment, plus any late fees or other administrative fees which the registrar is required or authorized by law or regulation to impose, unless such fees are waived in whole or in part by the registrar.

**SECTION 212.** Section 9 of said chapter 258B, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The proceeds of the fund shall be made available, subject to appropriation, to the district attorney victim and witness programs, to the attorney general and the parole board for programs serving crime victims and witnesses, and to the treasurer for the compensation of victims of violent crimes as provided by chapter two hundred and fifty-eight A.

**SECTION 213.** The second paragraph of section 64 of chapter 273 of the acts of 1988 is hereby further amended by inserting after the word "ninety-one", as inserted by section 186 of chapter 150 of the acts of 1990, the words:- and nineteen hundred and ninety-two.

**SECTION 214.** Section 6 of said chapter 280, as so appearing, is hereby amended by inserting after the word "him", in line 6, the words:- ; provided, further, that the court may, after hearing, impose reasonable costs to recover any and all expenses of the prosecution if a default is entered when a defendant fails to appear in court when required to answer a criminal charge.

**SECTION 215.** Section 82 of chapter 6 of the Acts of 1991 is hereby amended by striking out the second and third paragraph and inserting in place thereof the following:-

Notwithstanding any general or special law to the contrary, the several counties within the aforementioned schools shall as a first obligation of said counties expend monies at the same level as fiscal year nineteen hundred and ninety-one for direct and indirect costs of said schools and shall not be obligated expend more than the fiscal year nineteen hundred and ninety-one levels. Provided further, that the Board of Trustees of several Agricultural Schools may charge tuition in excess of the state approved rate for out of district students in proportion to the appropriation approved in excess of the mandatory appropriation mentioned in this section. The aforementioned Board of Trustees are further hereby authorized to charge tuition for in-direct students to the sending municipality for an amount which shall be no greater than the net difference between the total direct and indirect costs per student and the state approved rate.

Any appropriation not spent or obligated in a fiscal year shall be deemed to be appropriated in the succeeding fiscal year. For the purpose of the section, indirect costs shall include but not be limited to: health insurance for employees, liability insurance, pension costs, interest and reduction of debt, unemployment and workman's compensation costs.

**SECTION 216.** Paragraph (a) of section 15 of chapter 275 of the acts of 1989 is hereby amended by striking out in the first sentence the word "adopted" and inserting in place thereof the words:- agreed to adopt.

**SECTION 217.** Section 18 of said chapter 275 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Payments on such grants shall be made on behalf of the local governmental unit to the water pollution abatement trust established by chapter twenty-nine C of the General Laws in accordance with section eight of said chapter twenty-nine C and a payment schedule established by the department with the approval of the secretary of administration and finance and shall be deemed appropriated by the commonwealth to the trust within the meaning of said section eight for application to the purposes specified in section six of said chapter twenty-nine C.

**SECTION 218.** Notwithstanding paragraph (a) of section 19 of said chapter 275; any percentage limitation on the amount of loans under chapter twenty-nine C of the General Laws that may be received in any fiscal year by any local government unit shall compare the amount of loans to such local government unit approved in such fiscal year by the department of environmental protection in accordance with section twenty-seven A of chapter twenty-one of the General Laws against the total financial assistance authorized for all local government units on the fundable portions of the intended use plans and priority lists for such fiscal year prepared by the department in accordance with said section twenty-seven A.

**SECTION 219.** Section 4 of chapter 268 of the acts of 1990 is hereby amended by striking out, in line 1, the words "The Treasurer shall publish by July 15" and inserting in place thereof the words:- The state comptroller shall publish by September first.

**SECTION 220.** Section 5 of said chapter 268 of the acts of 1990 is hereby amended by striking, in the first line, the number "1991"

and inserting in place thereof the following:- nineteen hundred and ninety-two.

**SECTION 221.** The caption of Soldiers' Homes in Chelsea and Holyoke in section 46 of chapter 150 of the acts of 1990 is hereby amended by striking out the wording and inserting in place thereof the following:-

Hospital Care - Patients

monthly maximum charge of \$620

\$20 per day

The first \$1,000 of a married patient's monthly income shall be exempt and spousal income shall not be used in payment of these charges.

The first \$200 of an unmarried patient's monthly income shall be exempt.

Dormitory Care - Residents

monthly maximum charge of \$310

\$10 per day

The first \$200 of a resident's monthly income shall be exempt.

**SECTION 222.** Section 79 of chapter 23 of the acts of 1988 is hereby amended by striking out in the second sentence, in line 6, the word "ninety-two", and inserting in place thereof the word:- ninety-five.

**SECTION 223.** Section eleven of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four is hereby repealed.

**SECTION 224.** Notwithstanding the provisions of any general or special law to the contrary, expenses incurred by the residential conservation service program, within the division of energy resources, to a maximum of one hundred ninety-two thousand, two hundred and ten dollars, *plus the cost of fringe benefits* as calculated by the secretary of administration and finance pursuant to section six B of chapter twenty-nine of the General Laws, shall be assessed upon utility companies of the commonwealth in accordance with the provisions of chapter twenty-five A.

**SECTION 225.** Section two hundred and sixteen of this act shall be applicable to taxable years commencing on or after January first, nineteen hundred and ninety-one, and section two hundred and eighteen shall be applicable to taxable years commencing on or after January first, nineteen hundred and ninety-two.

**SECTION 226.** The provisions of sections two hundred and fifty-one, two hundred and fifty-four, two hundred and fifty-four A, two hundred and fifty-six to two hundred and sixty, inclusive, three hundred and seventy-six, three hundred and seventy-seven, and three hundred and seventy-seven A shall become effective January first, nineteen hundred and ninety-two.

Any citation issued prior to the effective date of the aforementioned sections of this act which charges only civil motor vehicle infractions and as to which the violator has failed within twenty days of the date of the violation either to pay the scheduled assessment or to notify the clerk-magistrate of the court that he wishes to contest the violation in a noncriminal hearing shall be transmitted to the registrar with a certificate thereof, and thereafter processed by the registrar in accordance with the provisions of the aforementioned sections of this act.

**SECTION 227.** Notwithstanding the provisions of any general or special law to the contrary, the department of public welfare is hereby authorized and directed to develop regulations and procedures and seek any necessary waivers from federal authorities, such that prospective recipients of general relief or aid for families with dependent children, who have not been a resident of the commonwealth for the immediate preceding six months, not receive any of the *aforementioned* benefits that would exceed those

offered under the recipient's previous program in any other jurisdiction or, if the recipient has not previously received benefits in another jurisdiction and has not been a resident of the commonwealth for the immediate preceding six months, the maximum benefits available to the recipient is equal to the benefits available in the state with the lowest benefit rate until they have been a resident of the commonwealth for a minimum of six months.

**SECTION 228.** Section 56 of Chapter 44 of the General Laws, as so appearing, is hereby amended in lines 7 to 10 by striking out the following words: - , excepting payment of school teachers' salaries which have been deferred under the provisions of section forty of chapter seventy-one, and expenditures thereof shall be deemed to be as of June thirtieth preceding.

**SECTION 229.** Section 56A of Chapter 44 of the General Laws, as so appearing, is hereby amended in lines 8 to 11 by striking out the following words: - , excepting payment of school teachers' salaries which have been deferred under the provisions of section forty of chapter seventy-one, and expenditures thereof shall be deemed to be as of June thirtieth preceding.

**SECTION 230.** The first paragraph of section 40 of chapter 71 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following sentences:-

The compensation paid to such teachers during the contract year shall be deemed to be fully earned by August thirty-first and shall be proportionately earned during the contract year. Payment of such compensation for July and August shall be accelerated to July second; provided, however, that payments for July and August may be deferred to the end of said months at the election of such teachers; provided, further, that teachers may elect, to receive as an accelerated payment, one-tenth of such compensation each of the ten months from September to June of the contract year; and provided, however, that teachers so receiving accelerated payments shall receive one-twentieth of such compensation on July second. Compensation shall be treated as expenditures for the fiscal year in which the compensation is paid.

**SECTION 231.** Notwithstanding the provisions of section forty of chapter seventy-one of the General Laws or any other general or special law to the contrary, for the contract year beginning on September first of nineteen hundred and ninety-one and ending on August thirty-first of nineteen hundred and ninety-two, payments to teachers for compensation earned between the months of September and July of said contract year must be made on or before the last day of June, nineteen hundred and ninety-two; provided further, that payments for compensation earned for the month of August of said contract year must be made on or before July second, nineteen hundred and ninety-two; provided, however, that the teachers may elect to receive such payments after such dates; and provided, further, that teachers that receive one-tenth of their salaries each month from September to June during said contract year shall have one-twentieth of their salaries paid on July second, nineteen hundred and ninety-two.

Notwithstanding the provisions of any general or special law to the contrary, for the contract year beginning on September first of nineteen hundred and ninety-one and ending on August thirty-first of nineteen hundred and ninety-two, and for any subsequent contract year, in such school districts or regional school districts where the manner of compensation described in this section or in section forty of chapter seventy-one would violate collective bargaining agreements in effect as of June fifteenth, nineteen hundred and ninety-one, actual payments shall be made in accordance with the terms of the collective bargaining agreement unless such payments are changed through the collective bargaining process; provided, that any such payments which are made in accordance with such contracts and which deviate from such payments which would otherwise be made pursuant to this section or pursuant to said section forty of said chapter seventy-one, whichever section applies, shall not be considered a budget liability to the school

district or regional school district making such payments until July second of nineteen hundred and ninety-two or of any other contract year.

Notwithstanding the provisions of any general or special law to the contrary, for fiscal year nineteen hundred and ninety-two, the school committee of each regional school shall, by August first, nineteen hundred and ninety-one, reduce the budget of each regional school to reflect the reduction in expenditures that result from the provisions of said section forty of said chapter seventy-one as amended by this act or from this section, shall not increase any other expenditures of such regional school, and shall proportionately reduce the assessments on the member cities and towns of the regional school district.

Notwithstanding the provisions of any general or special law to the contrary, for fiscal year nineteen hundred and ninety-two, any amount of reduction in expenditures for the budget of a city or town that results from the provisions of said section forty of said chapter seventy-one as amended by this act or from this section, including reductions in regional school assessments, if any, shall not be used to increase any other expenditures of such budgets and the budget for every city and town shall be reduced by the amount of reduction in teachers' salary payments that result from the provisions of said section forty of said chapter seventy-one as amended by this act or from this section, including reductions in regional school assessments, if any. In order to reduce such budgets, the school superintendent in each city and town is hereby authorized and directed to calculate the amount of the reduction in teachers' salaries and to report the amount of such reduction to the town accountant, or to the city auditor, or to any other municipal official with authority over the municipal budget, whichever is appropriate. Such municipal official shall forthwith reduce the budget by such amount and by an amount equal to the reduction in regional school assessments, if any.

Notwithstanding the foregoing provisions of this section or the provisions of said section forty of said chapter seventy-one or any other general or special law to the contrary, for fiscal year nineteen hundred and ninety-two, the legislative body in a city or town may vote to reject the provisions of this section and of the fifth sentence of said section forty of said chapter seventy-one as amended by this act if such legislative body chooses not to change the allocation between fiscal years of expenditures of teachers' salaries as provided for in said sections.

**SECTION 232.** Notwithstanding any general or special law, rule or regulation to the contrary, no city or town shall be required, in the absence of specific violations of chapter one hundred and fifty-one B or one hundred and fifty-one C, to report more than once annually to the Massachusetts commission against discrimination.

**SECTION 233.** The commissioner of public welfare is hereby directed to compile a list of the top one thousand utilizers and providers of the medical assistance program established pursuant to chapter one hundred and eighteen E of the General Laws as determined by the dollar amount of the benefits used by recipients and the dollar amount of reimbursements made to providers for the fiscal year ending June thirtieth, nineteen hundred and ninety-one. The commissioner is further directed to conduct a study of this data, including said recipients' relevant medical histories, to the extent reasonably possible, which shall be filed with the house and senate committees on ways and means no later than November first, nineteen hundred and ninety-one. Such study shall include, but not be limited to, identification of patterns of inappropriate use, possible fraud, and the use of services in a way that is clearly not cost efficient. Said study shall also include a breakdown of the total dollar amount of benefits used by each recipient and the amount of money reimbursed to each provider in each year, listed by the category of medical care or services provided. The commissioner shall make recommendations for methods of reducing overutilization and inappropriate use as discovered by such

study.

**SECTION 234.** Chapter 58 of the General Laws is hereby amended by inserting after section 17B the following section:-

Section 17C. A Forest Products Trust Fund shall be established on the books of the commonwealth. This fund shall be used to disburse payments to cities and towns within whose boundaries exist state owned forest land. The commissioner of the department of environmental management with the approval of the secretary of environmental affairs shall develop forest management plans for all forest land owned by the commonwealth, its agencies, commissions or authorities, with the exception of land owned by the metropolitan district commission and the Massachusetts Water Resources Authority.

(a) Fifty percent of all revenue received by the removal of forest products on land acquired by the commonwealth on or after June 1, 1987 shall be deposited in the Forest Products Trust Fund. Such funds shall be dispersed to those municipalities within whose boundaries the removal of forest products occurs in an amount equal to fifty percent of the revenue received by the commonwealth.

(b) Eight percent of all revenue received by the removal of forest products on land acquired by the commonwealth before June 1, 1987 shall be deposited in the Forest Products Trust Fund. Such funds shall be dispersed to those municipalities within whose boundaries the removal of forest products occurs in an amount equal to eight percent of the revenue received by the commonwealth.

**SECTION 235.** Section 52A of chapter 93 of the General Laws, as appearing in the 1990 Official Edition, is amended by adding prior to the first sentence the words "Upon direction of the commissioner of the Department of Revenue, or" and by striking out the words "one thousand" wherever they appear and inserting in place thereof the words "five hundred".

**SECTION 236.** Chapter 17 of the General Laws is hereby amended by adding the following section:-

Section 16. There shall be in the department an office of violence prevention whose purpose shall be to coordinate and expand violence prevention activities, to reduce the incidences of interpersonal violence and intentional injury.

The duties of said office shall consist of the following:

(1) To integrate a violence prevention focus within the department of public health and those agencies which receive funding from the department;

(2) To develop collaborative relationships with other state agencies which are interested or active in the reduction of interpersonal violence including child abuse, youth violence, domestic violence, sexual assault and elderly abuse;

(3) To integrate violence prevention education into substance use and abuse prevention programs;

(4) To support the development of comprehensive community-based violence prevention initiatives within cities and towns across the state; and

(5) To develop sources of funding to maintain the office and expand its activities.

**SECTION 237.** By September first, nineteen hundred and ninety-one, the department of public health and the department of public welfare shall develop a simplified, one page application for pregnant women that shall suffice to determine financial and categorical eligibility for both healthy start, established under section twenty-four D of chapter one hundred and eleven of the General Laws, and federal coverage of emergency services, including labor and delivery, under Section 9406 of the federal Omnibus Budget Reconciliation Act of 1986, amending Title XIX of the Social Security Act 42, U.S.C. 1396, et seq. The department of public health, the department of public welfare and the department of medical security shall take all necessary steps, including interagency agreements, to obtain full federal financial participation under Title XIX for emergency labor and delivery services, and other

emergency services, furnished to healthy start beneficiaries ineligible for non-emergency services under chapter one hundred and eighteen E of the General Laws, and, as provided under Section 4701(b) of the federal Omnibus Budget Reconciliation Act of 1990, to use monies from the uncompensated care pool as the state share of inpatient emergency services under Title XIX. The application process and forms shall be designed to maximize patient participation under this section. Nothing in this section shall be construed to reduce the responsibilities and powers of the department of public health with respect to healthy start beneficiaries. This section shall not be construed or operate so as to reduce the total amount of federal financial participation received in fiscal year nineteen hundred and ninety-two using monies from the uncompensated care pool as the state share of services under Title XIX. To the extent federal financial participation received pursuant to this section during fiscal year nineteen hundred and ninety-two is less than one million dollars, the appropriation for line item 4130-0006 shall be reduced, dollar for dollar.

**SECTION 238.** The commissioner of insurance is hereby directed to undertake a study of the feasibility of establishing a standardized health insurance billing form to be utilized by all health insurance companies licensed to do business in the commonwealth under chapters one hundred and seventy-five, one hundred and seventy-six A, one hundred and seventy-six B, one hundred and seventy-six G and one hundred and seventy-six I of the general laws. Said study shall include, but not be limited to, an examination of the following: the current billing forms utilized by said insurance companies; the benefit to consumers and savings to the commonwealth, if any, arising from use of a standardized form, and the costs associated with implementation of such standardized forms by insurance companies. Said commissioner shall file a report of the results of its study, and recommendations, if any, together with drafts of legislation necessary to implement said recommendations, with the clerk of the house of representatives, who shall forward the same to the joint committee on insurance no later than February first, nineteen hundred and ninety-two.

**SECTION 239.** Subsection (1) of section 44A of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

"Proprietary environmental technology systems", systems, in the town of Nantucket, including solid waste related equipment, supporting structures, and buildings, designed, manufactured, and produced under exclusive individual right to sell such product, pertaining to solid waste related environmental protection or remediation. Such systems shall include, but not be limited to, sequential, turnkey, construction management, design/build procurement, and the phasing of such procurement, including approval of design and construction stages as separate or combined phases.

**SECTION 240.** Section 44A of said chapter 149, as so appearing, is hereby further amended by inserting at the end thereof the following subsection:-

(5)(a) Notwithstanding the provisions of this section or any other general or special law to the contrary, a municipality may enter into a contract for proprietary environmental technology systems as defined in subsection (1) of this section without said contract being subject to the competitive bid process as set forth in sections thirty-eight A 1/2 to thirty-eight O, inclusive, of chapter seven; this section and sections forty-four B to forty-four H, inclusive, of this chapter, and section thirty-nine M of chapter thirty; provided that the awarding authority meets the conditions set forth and receives the approvals required in paragraph (b) of this subsection.

(b) Prior to the issuance of any request for proposal with respect to the awarding of any contract pursuant to the provisions of paragraph (a) of this subsection, the awarding authority shall meet or obtain each of the following conditions or required approvals: (1) the municipality shall appoint qualified persons to conduct a thorough review of all available environmental technology, including

both proprietary and non-proprietary environmental technology, and if the conclusion of this review is that a contract for proprietary environmental technology systems is in the public interest, such conclusion shall be supported by sound documented reasons in writing available for public inspection; (2) the city council, the board of selectmen, or the town meeting shall take a majority vote finding that it is in the public interest to enter into a contract for proprietary environmental technology systems, as defined in subsection (1) of this section, providing such vote is supported by the conclusion of the review conducted pursuant to condition (1); (3) both the commissioner of labor and industries and the commissioner of the department of environmental protection shall grant written approval; (4) said contract shall be subject to any limitation in the waiver of sections thirty-eight A 1/2 to thirty-eight O, inclusive, of chapter seven, sections forty-four A to forty-four H of chapter one and hundred forty-nine, and section thirty-nine M of chapter thirty imposed by either the commissioner of the department of labor and industries or the commissioner of the department of environmental protection as a condition for a grant of approval by said commissioner or commissioners; and (5) every proprietary environmental technology systems contract shall be as compatible with sections thirty-eight A to thirty-eight O, inclusive, of chapter seven, sections forty-four A to forty-four H of chapter one hundred and forty-nine, and section thirty-nine M of chapter thirty as is feasible for the procurement of the proprietary environmental technology systems chosen.

**SECTION 241.** The commissioner of the department of public works shall conduct an engineering assessment of all highways, roads and bridges under its control. Said assessment shall anticipate needs through the year two thousand and one and shall prioritize projects based on need as determined by objective engineering measurements of condition, safety and service. The assessment shall be prepared within one year of the effective date of this act and the results of said assessment shall be made available to the general court. The assessment shall be updated every three years.

**SECTION 242.** The provisions of section sixty-eight of chapter six of the acts of nineteen hundred and ninety-one shall not apply to the Blackstone Housing Authority.

**SECTION 243.** Section 21C of chapter 59 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by adding the following paragraph:-

(k 1/2) The local appropriating authority of any city or town may seek voter approval at a September 24, 1991 election to assess taxes in excess of the amount allowed pursuant to this section for the purpose of raising up to the amount of the reduction in the city or town's Resolution Aid between the fiscal years 1991 and 1992; provided, however, that the question submitted shall be as follows:-

"Shall the (city/town) of \_\_\_\_\_ be allowed to exempt from the provisions of proposition two and one-half, so called, the amount of \_\_\_\_\_, which is (the amount/portion of the amount) of the reduction in resolution aid to the city/town between the fiscal years 1991 and 1992.

YES

NO";

and provided, further, that said question shall be deemed approved if a majority of the persons voting thereon shall vote "YES"; and provided, further, that said paragraph (k 1/2) shall cease to be utilized after the date of June thirtieth, nineteen hundred and ninety- two.

Section 21C of chapter 59 of the General Laws, as appearing in the nineteen hundred and eighty-eight Official Edition, is hereby amended by striking the words "(j) or (k)" in lines 197 and 198, and inserting in place thereof the following:- (j), (k) or (k 1/2).



**SECTION 244.** Notwithstanding the provisions of any general or special law to the contrary, the division of purchased services is hereby authorized and directed to study the interest costs of short-term borrowing by human service vendors for working capital, the effect of such interest costs on reimbursement rates paid by the commonwealth to said vendors and interest savings achievable by changing longer ready payment periods to more frequent periods, including weekly payments authorized by this act. If said study concludes that human service vendors would achieve interest savings by implementing weekly ready payment practices, said division is hereby further authorized and directed to adjust reimbursement rates to reflect such decreased costs.

**SECTION 245.** Notwithstanding any general or special law to the contrary, any city or town presently a member of a regional planning council may, by giving notice to said council at least fifteen days prior to an upcoming fiscal year, withdraw its membership from said council. A city or town may elect to withdraw from said council by, in the case of a city, a vote of the city or town council, or board of aldermen, and in the case of a town, by vote of the selectmen.

**SECTION 246.** Section 100 of said chapter 6A, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

An eye and ear hospital shall make an election for each of its fiscal years as to whether payment and gross patient service revenue for that year shall be governed by this section or by sections seventy-nine to eighty-eight, inclusive. If such hospital elects for payment for a particular year to be governed by sections seventy-nine to eighty-eight, inclusive, the calculation of approved gross patient service revenues for that year shall account for changes in the intensity of surgical day care procedures commencing with the hospital's nineteen hundred and eighty-five fiscal year by segregating the costs and statistics of major and minor surgical day care volume in accordance with clinical parameters for use of major and minor surgical suites that have been developed by the eye and ear hospital and approved by the commission. Any resulting increase in payment levels due to said calculation of surgical day care volume shall not apply to payments made by the commonwealth under any program of public assistance, including the medicaid program.

**SECTION 247.** The commissioner of the division of special education, the commissioner of the department of corrections, and the commissioner for the commission for the blind, or their respective appointed representatives, are hereby authorized and directed to investigate and study the costs and benefits of transferring the operations of the Vision Resources Library to the Baystate Correctional Facility. The study should include, but not be limited to the potential cost savings resulting from the use of the inmate population for the reproduction of large print and braille books and materials and the circulation and shipping of these materials, the effects of such a transfer on the service capability of the library, and an analysis of the potential for future marketing possibilities of the libraries' materials.

The findings of said study shall be filed in a report including recommended legislation, rule changes or implementation reforms, with the house and senate committees on ways and means and the joint legislative committee on education no later than August first, nineteen hundred and ninety-one.

**SECTION 248.** Section 16 of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "the department of corrections including the parole board and all other state agencies within said departments".

**SECTION 249.** Said chapter 6A, as so appearing, is hereby amended, by inserting after section 18 the following section:-

Section 18 1/2. The secretary shall, subject to the provisions of section three, appoint two undersecretaries. Each person appointed as an undersecretary shall have experience and shall know the field or functions of such position, shall receive such salary as the

secretary shall determine and shall devote his full time to the duties of the office.

One undersecretary shall be the undersecretary for law enforcement and administration and shall oversee the functions and administration of the following boards and agencies: the department of public safety, the emergency telecommunications board, the criminal history systems board, the crime laboratory, automated fingerprinting identification system, the Massachusetts criminal justice training council, the committee on criminal justice, the registry of motor vehicles, the merit rating board, the governor's council on highway safety, the division of inspection, the architectural access board, civil defense, the military department and the nuclear safety department.

One undersecretary shall be the undersecretary of criminal justice and shall oversee the functions and administration of the following boards and agencies: the department of corrections including the parole board and all other agencies within said department.

Each undersecretary shall coordinate the functions and the programs of the agencies under his jurisdiction. Each undersecretary shall conduct studies of the operations of each agency and work with each agency in effecting procedures and programs which promote efficiency and improvements in the administration of the agency. Each undersecretary shall assist the secretary in reviewing and acting upon budgetary and other financial matters concerning said agencies in accordance with sections two C, three, three A, four, nine B and twenty-nine of chapter twenty-nine.

**SECTION 250.** The secretary of public safety and the undersecretary of criminal justice shall conduct a comprehensive study of county correction functions and the organization of such functions to assess the feasibility and advisability of integrating some or all county correction functions with functions in the executive office of public safety. The secretary shall file his report, with his recommendations and drafts of any legislation needed to accomplish his recommendations, with the clerk of the senate and the clerk of the house of representatives on or before October first, nineteen hundred and ninety-one.

**SECTION 251.** The senate and house committees on ways and means shall, acting jointly, study whether or not the department of youth services and the several institutions within the department should be transferred to the executive office of public safety. Said study shall review the laws and court decisions which are applicable to the operation of the department, the current functions and responsibilities of the department and the changes in the mission of the department which have taken place during the department's history. Said study, together with any legislation, shall be filed with the senate and house clerks on or before January first, nineteen hundred and ninety-two.

**SECTION 252.** Section 16 of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "the department of corrections including the parole board and all other state agencies within said department".

**SECTION 253.** Section 18 of said chapter 6A, as so appearing, is hereby amended by striking out, in line 13, the words "and the architectural access board." and inserting in place thereof the following:- the architectural access board; the department of correction including the parole board and all other state agencies within said department.

**SECTION 254.** Section 1 of chapter 27 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 10, the words "human services" and inserting in place thereof the words:- public safety.

**SECTION 255.** Section 2 of said chapter 27, as so appearing, is hereby amended by striking out, in line 2, the words "human services"

and inserting in place thereof, in each instance, the words:- public safety.

**SECTION 256.** Section 3 of said chapter 27, as so appearing, is hereby amended by striking out, in lines 5, 10 and 11 the words "human services" and inserting in place thereof, in each instance, the words:- public safety.

**SECTION 257.** Section 4 of said chapter 27, as so appearing, is hereby amended by striking out, in line 11, the words "human services" and inserting in place thereof, in each instance, the words:- public safety.

**SECTION 258.** Section 7 of said chapter 27, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "human services" and inserting in place thereof the words:- public safety.

**SECTION 259.** All employees of any department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act to the executive office of public safety or any such agency thereof, who immediately prior to the effective date of this act, either hold permanent appointment in positions classified under chapter thirty-one of the General Laws or have tenure in their positions by reason of section nine A of chapter thirty of the General Laws, are hereby transferred to the executive office of public safety, or any such agency thereof, every such transfer to be without impairment of civil service status, seniority, retirement or other rights of the employee and without interruption of service within the meaning of chapter thirty-one or said section nine A and without reduction in compensation or salary grade notwithstanding any change in title or duties resulting from such transfer, subject to the provisions of chapter thirty-one and the rules and regulations adopted thereunder.

All employees of any such department, office, commission, council, board, division, bureau, section, administrative unit or other agency who immediately prior to said effective date, neither hold permanent appointment in such positions nor have such tenure, are hereby transferred to the executive office of public safety or any such agency thereof, every such transfer to be without impairment of seniority, retirement or other rights of such employees, and without interruption of service within the meaning of section nine A of chapter thirty and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to said effective date.

**SECTION 260.** All petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit or other agency transferred by this act to the executive office of public safety or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed before or by the executive office or the appropriate agency thereof, as the case may be.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted, and all legal and decisional precedents established, by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit or other agency transferred by this act to the executive office of public safety or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law, by the division or the appropriate agency

within the executive office or the executive office, as the case may be.

All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, permits, certificates and approvals, and of the agencies to which the completion of enforcement thereof is so transferred, shall be determined by the secretary of the executive office to which the department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act is being transferred.

**SECTION 261.** All books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities and other property, both personal and real, which immediately prior to the effective date of this act, are in custody of any department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act to the executive office of public safety or any such agency thereof, are hereby transferred to the appropriate agency, that all such property held in trust shall continue to be held in trust by the appropriate agency, or if such agency shall continue to be held in trust by the appropriate agency, or if such agency shall decline such trust, by the trustee appointed by the secretary of administration and finance.

All questions regarding the identification of such property and of the agencies to which custody thereof is transferred shall be determined by the secretary of administration and finance.

**SECTION 262.** All duly existing contracts, memoranda of understanding, leases and obligations of any department, office, commission, committee, council, board, division, bureau, officer, section, administrative unit or other agency transferred by this act of the executive office of human services or any such agency thereof, which are in force immediately prior to the effective date of this act, shall thereafter be performed by the appropriate division, the appropriate agency and/or the appropriate executive office. No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

**SECTION 263.** All monies heretofore appropriated for any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer or other agency transferred by this act to the executive office of public safety or any such agency thereof remaining unexpended on the effective date of this act, are hereby transferred to said executive office and shall be available for expenditure by said executive office or the appropriate agency thereof for the purposes for which such funds were originally appropriated.

All questions regarding the identification of such monies and of the agencies to which they are so transferred shall be determined by the secretary for administration and finance.

**SECTION 264.** Wherever the name of any department, office, committee, commission, council, board, division, bureau, section, administrative unit or agency transferred by this act or the name of any agency which is abolished by this act the functions of which are transferred to the executive office of public safety or any such agency thereof, any such agency thereof, appears in any general or special law, or in any order, rule, regulation or other document, such name shall mean and shall be construed as referring to the division, the executive office or the appropriate agency thereof, as the case may be.

**SECTION 265.** Wherever in any special or general law or in any rule or regulation there is provided a right of appeal to any department, office, commission, committee, council, board, division, bureau, section, administrative unit, or officer or other agency transferred by this act to the executive office of public safety or any such agency thereof, a right of appeal to the division, the appropriate agency within the executive office, or to the executive office as the case may be, shall exist and such appeal shall be made pursuant to the provisions of any applicable law, rule or regulation or amendments thereto or, in the absence of such applicable

law, rule or regulation, pursuant to chapter thirty A of the General Laws.

**SECTION 266.** All functions, rights, obligations, powers, duties and statutory provisions which, prior to the effective date of this act, were assigned to, or exercised by, any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer or other agency transferred by this act to the executive office of public safety or any such agency thereof shall continue to be exercised and performed by, and to be assigned to the division, the appropriate agency or officer within the executive office or any such agency thereof except as such powers, duties or other statutory provisions are modified by this act.

**SECTION 267.** Section 8 of chapter 90, as appearing in the 1988 Official Edition, is hereby amended by striking out, in line 71, the word "forty-eight" and inserting in place thereof the word "sixty".

**SECTION 268.** Chapter 276 of the General Laws is hereby amended by striking out section 35, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 35. The court or justice may adjourn an examination or trial from time to time, and to the same or a different place in the county. In the meantime, if the defendant is charged with a crime that is not bailable, he shall be committed; otherwise, he may recognize in a sum and with surety or sureties to the satisfaction of the court or justice, or without surety, for his appearance for such further examination, and for want of such recognizance he shall be committed. While the defendant remains committed, no adjournment shall exceed thirty days at any one time against the objection of the defendant.

**SECTION 269.** There is hereby established a special commission to consist of three members of the senate to be appointed by the president of the senate, one of whom shall be the senate chairman of the joint committee on housing and urban development, and four members of the house of representatives to be appointed by the speaker of the house of representatives, one of whom shall be the house chairman of the joint committee on housing and urban development and one of whom shall be a member of the minority party, the secretary of communities and development or his designee, the director of the Massachusetts Housing Finance Agency or his designee and twelve persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Coalition for the Homeless, one of whom shall be a representative of the Massachusetts Affordable Housing Alliance, one of whom shall be a representative of the Massachusetts Non-Profit Housing Association, one of whom shall be a representative of the Massachusetts National Association of Housing and Redevelopment Officials, one of whom shall be a representative of Citizens Housing and Planning Association, one of whom shall be a representative of the Massachusetts Developers' Council, one of whom shall be a representative of the Massachusetts Municipal Association, one of whom shall be a representative of the Massachusetts Association of Community Development Corporations, one of whom shall be a representative from the Council of Large Public Housing Authorities, one of whom shall be a representative from a regional housing authority, one of whom shall be a representative from a housing authority with one hundred or fewer units, and one of whom shall be a representative from the National Association For The Advancement Of Colored People is hereby established for the purpose of making an investigation and study of the rental assistance programs being administered within the commonwealth. The chairmen of the joint committee on Housing and Urban Development shall be the co-chairmen of said special commission. Said special commission may conduct public hearings throughout the commonwealth and shall solicit testimony relative to the operation and administration of the rental assistance programs, including but not limited to the efficacy of the programs relative to those persons with distinctive shelter needs. Said commission shall report to the general court the results of the investigation and study and its recommendations if any, together with drafts of legislation

necessary to carry such recommendations into effect, by filing the same with the clerk of the house of representatives and the clerk of the senate on or before December thirty-first, nineteen hundred and ninety-one.

**SECTION 270.** Chapter 43 of the Acts of 1934, as most recently amended by chapter 405 of the acts of 1985, is hereby amended by striking out sections 1 to 20, inclusive, and inserting in place thereof the following:-

Section 1. The Mutual Savings Central Fund, Inc., established by chapter forty-four of the acts of nineteen hundred and thirty-two, hereinafter called the corporation, shall, in the manner herein provided, establish a fund, to be known as the Deposit Insurance Fund, for the purpose of insuring deposits in excess of those insured by a federal deposit insurance agency, hereinafter called excess deposits, in certain accounts in any savings bank established under the laws of the commonwealth, hereinafter referred to as member banks, and in any federal savings bank or federal savings and loan association which complies with the provisions of this chapter and is certified by the commissioner of banks, hereinafter called the commissioner, under rules and regulations adopted by the directors of the corporation and approved by the commissioner, to be in a safe and sound condition to transact and to continue to transact the business for which they were organized, hereinafter referred to as federal member banks. Such insurance coverage shall be limited to excess deposits in member and federal member banks in accounts, as defined in chapter one hundred and forty E of the General Laws, and including retirement accounts, all of which accounts are (a) standing individually or jointly in the name of a natural person or persons who are residents of the commonwealth; or (b) standing individually or jointly in the name of a natural person or persons who are residents of a state other than the commonwealth who were depositors of a bank whose principal place of business was located in such other state and which, prior to June fifteenth, nineteen hundred and eighty-eight, had merged with a member bank; or (c) standing individually or jointly in the name of a natural person or persons, regardless of residence, on the effective date of this section; provided, however, that the corporation shall continue to insure any term deposits insured by it as of said effective date of this section until the maturity date of such term deposits. The commissioner shall determine those excess deposits eligible for insurance coverage under this section in a manner prescribed by him. For such insurance coverage purposes, the directors of the corporation may, with the approval of the commissioner, and at this direction shall, make assessments from time to time upon member banks and federal members banks in accordance with sections three and four. All amounts received by the corporation pursuant to assessments made pursuant to section one and section seventeen of said chapter forty-three of the acts nineteen hundred and thirty-four, in effect immediately prior to the effective date of this section, and pursuant to the provisions of this act shall be held in the deposit Insurance Fund, shall be invested as hereinafter provided, and shall not be liable for obligations of the corporation other than those created by or under this act. The cost of administering the Deposit Insurance Fund, as determined by the directors of the corporation and approved by the commissioner, shall be paid therefrom.

The corporation may enter into contracts with member banks and federal member banks for insurance coverage purposes as provided therein, which contracts shall be consistent with this chapter and in a form of forms specified by said directors and approved by the commissioner.

The term "federal deposit insurance agency" as used in this chapter shall mean the Federal Deposit Insurance Corporation or Resolution Trust Corporation, or any successor to either corporation.

Section 2. As used in this chapter, the term "allocated reserves", with respect to any member bank and to any federal member bank, shall mean the sum of all assessments from time to time paid over by any such bank to the Deposit Insurance Fund, including the

amount of all annual assessments due and payable on October first, nineteen hundred and thirty-nine, and on October first of each year thereafter, together with any amounts paid to the Deposit Insurance Fund as special assessments and, except to the extent otherwise provided in section four, all reserve coverage contributions paid over by any such bank to the Deposit Insurance Fund, together with any such bank's proportionate share of the surplus of said Fund, based on any such bank's relative amount of assessments and contributions, calculated in such manner as the directors of the corporation, with the approval of the commissioner, may determine.

The assessments and the reserve coverage contributions maintained in the Deposit Insurance Fund by a member bank may be carried by such bank as an asset to the extent authorized by the commissioner.

Member banks and federal member banks, to the extent they maintain allocated reserves in the Deposit Insurance Fund, shall make such reports and provide such information as is required by the directors and approved by the commissioner. If any such bank fails to make any such report or provide any such information, the directors shall notify the commissioner thereof. The commissioner shall forthwith notify any such bank and, in the case of a federal member bank, the federal supervisory agency, in writing. The failure of a member bank to make such report or provide such information within fifteen days after such notice from the commissioner shall constitute a violation of section twelve of chapter one hundred and sixty-seven of the General Laws and, in the case of a federal member bank, shall constitute a basis for the termination of any such bank's insurance coverage.

Section 3. (a) On October first of each year following the effective date of this section, each member bank, and federal member bank, whose excess deposits are insured pursuant to this act, shall pay to the corporation an annual assessment equal to one sixteenth of one percent of deposits as shown by its last preceding annual report to the commissioner; provided, however, that the directors may, with the approval of the commissioner, by action taken not more than sixty days prior to the first of October in any year reduce the rate of such annual assessment in respect to such year or waive the same. When the net fair value of the assets of said fund, as determined by the commissioner is less than five percent of the aggregate share liabilities of all member banks, the corporation shall, at the direction of the commissioner, require such banks to pay such additional amounts as are necessary so that the net fair value of such assets as so determined again equals at least five percent.

Section 4. (a) Each member bank and federal member bank shall maintain in the Deposit Insurance Fund funds in the amount, hereinafter referred to as its required reserve, determined by multiplying the greater of (i) such bank's excess deposits eligible for insurance coverage in accordance with section one as calculated by the directors of the corporation on a regular periodic basis and approved by the commissioner, or (ii) such bank's average of such excess deposits by its then applicable insurance coverage percentage. Said directors shall, with the approval of the commissioner, establish the insurance coverage percentage for all such banks in accordance with the following categories of risk: (1) normal risk, and (2) greater than normal risk, and shall assign each such bank to the appropriate category. In determining the appropriate category of risk for each such bank, said directors shall consider the following factors: capital adequacy, asset quality, management quality, earnings, liquidity and exposure to losses from interest rate movement. The insurance coverage percentage for all banks assigned to category (1) shall be three percent, and the directors, with the approval of the commissioner, may establish higher insurance coverage percentages from time to time for all banks assigned to category (2); provided, however, that such higher insurance coverage percentage shall not exceed nine percent; and provided, further, that the aggregate required reserve shall not be less than six percent of the total of excess deposits insured by the corporation. The

corporation shall forthwith notify each bank of the risk category to which it has been assigned.

(b) Within ninety days of the effective date of this section, the corporation shall determine and so notify each member bank and federal member bank of said bank's required reserve and of the allocated reserve as of the most recent practicable date. If the required reserve of any such bank is greater than its allocated reserve, such bank shall pay over to the Deposit Insurance Fund the deficiency in equal annual installments over a ten-year period. Any such amount so paid shall be added to the amount of such bank's allocated reserve. If the required reserve of any such bank is less than its allocated reserve, the corporation shall pay over to such bank the excess in equal annual installments over a three-year period. Each such payment by the corporation to such bank shall be in reduction of such bank's allocated reserve. Following the initial determination of each such bank's required reserve and allocated reserve, the corporation shall make such a determination on a regular periodic basis, as approved by the commissioner, for each such bank and every such bank shall either pay over any deficiency to the Fund or receive any excess from said Fund, as applicable.

(c) In the case of any member bank or federal member bank assigned to category (2), there shall be excluded from the amount of any such bank's allocated reserve, for the purposes of determining the amount of dividends, if any, payable in respect of such allocated reserve, the amount by which its allocated reserve exceeds three percent of its average of excess deposits eligible for insurance coverage in accordance with section one.

Section 5. Member banks and federal member banks shall pay over to the corporation all payments required to be made by them from time to time within ten days after receiving notice in writing from the treasurer of the corporation of the amount due. If any such bank shall fail to make any such payment within ten days after notice as aforesaid, said treasurer shall notify the commissioner thereof. The commissioner shall forthwith notify any such bank and, in the case of a federal member bank, the federal supervisory agency, in writing. The failure of any member bank to make such payment within thirty days after such notice from the commissioner shall constitute a violation of section twelve of chapter one hundred and sixty-seven of the General Laws and the failure of any federal member bank to make any such payment within thirty days of said notice from the commissioner shall constitute a basis for the termination of such federal member bank's membership in the Deposit Insurance Fund in accordance with section twelve. Notwithstanding the foregoing, the directors of the corporation may, with the approval of the commissioner, extend or shorten the time for any payments required by any such banks which may affect all such banks generally, or which may be made on a case by case basis with respect to individual banks.

Section 6. So much of the deposits in member banks and federal member banks as are paid over to the corporation under the provisions of this act shall be exempt from taxation under section eleven of chapter sixty-three of the General Laws.

Section 7. The excess deposits, as defined in section one, of member banks may be insured in full by the deposit insurance fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) Any such banks shall first give notice in writing to the corporation of its desire to obtain such excess insurance and shall make application for the same on such form and in such manner as the corporation, with the approval of the commissioner, may prescribe. Any such bank shall also submit such financial statements and other information concerning its assets, liabilities and affairs as the commissioner and the corporation may require.

(b) No such bank may apply for such excess insurance unless it shall have capital and surplus, if a stock institution, or surplus, if a mutual institution, less any intangible asset value, equal to or greater than six percent of total assets.



(c) The directors may, with the approval of the commissioner, establish from time to time additional minimum qualification standards and application procedures for such banks. Each such bank shall be required to pay to the Deposit Insurance Fund, as a precondition to acquiring excess insurance, an additional assessment equal to that percentage of its average excess deposits eligible for insurance coverage in accordance with section one or, if greater, of the amount of such excess deposits as of the date of its application that is equal to the insurance coverage percentage for the category of risk to which the directors have determined such bank would be assigned.

(d) Sections twenty-two to thirty-six, inclusive, of chapter one hundred and sixty-seven of the General Laws shall apply to a member bank so long as its excess deposits are insured by the Deposit Insurance Fund.

(e) Upon payment by the Deposit Insurance Fund of all or any part of the portion of any deposit insured by it in a member bank, it shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to such person on a claim for the portion of his deposit so paid by the Fund, but such person shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Deposit Insurance Fund as provided in this paragraph and to a federal deposit insurance agency as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

(f) Notwithstanding any other provisions hereof, if a federal deposit insurance agency is at any time a depositor, either directly or through any other governmental agency, in any member bank, the amounts deposited, directly or indirectly, by the federal deposit insurance agency shall not be deemed insured to any extent by the Deposit Insurance Fund.

The provisions of paragraphs (a), (b) and (c) of this section shall not apply to any such bank whose excess deposits were insured by the Deposit Insurance Fund on the effective date of this section.

Section 8. The excess deposits, as defined in section one, of any federal savings bank or federal savings and loan association which has its main office located in and is authorized to do business in the commonwealth and which derives a substantial portion of its deposits from within the commonwealth may, with the approval of the commissioner, be insured in full by the Deposit Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations.

(a) Any such bank shall first give notice in writing to the corporation of its desire to obtain such excess insurance and shall make application for the same on such form and in such manner as the corporation, with the approval of the commissioner, may prescribe. Any such bank shall also submit such financial statements and other information concerning its assets, liabilities and affairs as the commissioner and the corporation may require.

(b) No such bank shall apply for such excess insurance unless such bank shall have capital and surplus, if a stock institution, or surplus, if a mutual institution, less any intangible asset value, equal to or greater than six percent of its total assets.

(c) Any such bank shall first enter into a binding agreement with the corporation. Under such agreement, which shall be subject to the approval of the commissioner, such bank shall be required to provide to the corporation copies of examination reports and other reports and information regarding such bank comparable in form and substance to information requested and received by the corporation with respect to member banks and to comply with such other terms and conditions, including a provision permitting the corporation to terminate, subject to the approval of the commissioner, such bank's excess insurance if arrangements satisfactory to the corporation have not been made by such bank in connection with any merger, consolidation or purchase of assets and

assumption of liabilities affecting such bank, as the directors deem to be appropriate.

(d) The directors of the corporation, with the approval of the commissioner, shall determine the eligibility of any such bank for acceptance. The directors shall not accept for excess insurance any such bank which fails to meet the requirements of paragraph (a), (b), and (c). The directors may, with the approval of the commissioner, establish from time to time additional minimum qualification standards and application procedures for such banks. Each such bank shall be required to pay to the Deposit Insurance Fund, as a precondition to acquiring excess insurance, an additional assessment equal to that percentage of its average excess deposits eligible for insurance coverage in accordance with section one or, if greater, of the amount of such excess deposits as of the date of its application that is equal to the insurance coverage percentage for the category of risk to which the directors have determined such bank would be assigned.

(e) Any such bank, upon acceptance by the corporation for excess insurance, shall be categorized as a "federal member bank."

(f) Federal member banks shall not have any of the rights and privileges of member banks except as expressly provided otherwise herein.

(g) Upon payment by the Deposit Insurance Fund of all or any part of the portion of any deposit insured by the fund in such bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a claim for the portion of his deposit so paid by the Deposit Insurance Fund, but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Deposit Insurance Fund as provided in this paragraph and to a Federal Deposit Insurance Agency as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

(h) Notwithstanding any other provisions hereof, if a federal deposit insurance agency is at any time a depositor, either directly or through any other governmental agency, in any federal member bank, the amounts deposited, directly or indirectly, by such federal deposit insurance agency shall not be deemed insured to any extent by the Deposit Insurance Fund.

Section 9. If the corporation determines that any federal member bank has breached the agreement made pursuant to paragraph (c) of section eight or has failed to maintain the capital and surplus requirement of paragraph (b) of said section eight, it shall give written notice thereof to such federal member bank specifying said breach or failure. If such breach is not cured within sixty days of such written notice or if such capital and surplus requirements are not reestablished within the time period specified in said notice, the directors of the corporation shall forthwith notify the commissioner and may at any time thereafter, with the approval of the commissioner, terminate the excess insurance of such federal member bank pursuant to this chapter.

Section 10. Any member bank may withdraw from membership in the corporation in accordance with the following procedures:

(a) The member bank shall, not later than October first, nineteen hundred and ninety-one, give written notice to the corporation and to the commissioner of its intention to so withdraw, which notice shall become effective on January first, nineteen hundred and ninety-two, hereinafter referred to as the termination date. No member bank which has withdrawn from membership shall be readmitted to membership except in accordance with the provisions of section seven.

(b) The corporation shall distribute to the withdrawing bank the amount of its allocated reserve in the Deposit Insurance Fund, less any liabilities to the corporation, computed as of their termination date, in the following manner: fifty percent thereof on the

first day of January, nineteen hundred and ninety-three and the balance thereof on the first day of January, nineteen hundred and ninety-four; provided, however, that the corporation shall withhold from such initial distribution an amount equal to the aggregate of all term deposits insured by said Fund, which withheld amount shall be paid from time to time as such deposits mature to the extent that the amounts then retained exceed the said deposits then insured by the corporation. The corporation shall pay to any withdrawing bank dividends upon the allocated reserve from time to time maintained by such withdrawing bank in said Fund to the same extent that dividends, if any, are declared and paid to member banks. The corporation shall, on January first, nineteen hundred and ninety-three, also return to any withdrawing bank an amount equal to the actual deposits made by it to the Liquidity Fund pursuant to the provisions of section four of chapter forty-four of the acts of nineteen hundred and thirty-two, less its indebtedness, if any, to the corporation.

(c) Any bank which, prior to the effective date of this section, had ceased to be a member bank by reason of its conversion to federal charter or its merger or consolidation with a non-member bank in which such non-member bank was the continuing entity, and that maintains any allocated reserve in the Deposit Insurance Fund, shall be deemed to have withdrawn from the corporation, for which purpose, the termination date shall be deemed to be the termination date as provided in paragraph (a) of this section. The amount of such allocated reserve and an amount equal to the unexpended portion of such bank's actual deposits into the Liquidity Fund, less its indebtedness, if any, to the corporation, shall be returned to such bank in accordance with paragraph (b) of this section.

(d) The corporation shall continue to insure the deposits of a withdrawing member bank for a period of one year from the member bank's termination date; provided, however, that any term deposits insured by the corporation as of a member bank's termination date shall be insured until the maturity date of such term deposits. Any member bank, upon notification to the corporation and to the commissioner of its intent to withdraw from membership in the corporation, shall also notify depositors of insured accounts, in writing, of such intention in a manner prescribed by the commissioner.

All amounts returned by the corporation to a withdrawing bank pursuant to paragraph (b) of this section shall be held by such bank and applied to its loan loss reserve account until the completion of said bank's next regulatory review, audit or examination relative to its safety and soundness, whether such review, audit or examination is conducted by the commissioner or by an appropriate federal bank regulatory agency.

Section 11. Any federal member bank may terminate its excess insurance in accordance with procedures established by the corporation and approved by the commissioner. Such procedures shall be included in the agreement required by paragraph (c) of section eight.

Section 12. Said directors from time to time may, to the extent which the commissioner deems desirable, review the financial condition of any member bank or federal member bank as it relates to excess deposit insurance and shall report thereon to the commissioner with the recommendations of said directors. The commissioner may, upon request of said directors and notwithstanding the provisions of section two of chapter one hundred and sixty-seven of the General Laws, furnish to the directors, for the purposes of the Deposit Insurance Fund, such factual information in his possession as the commissioner may deem to be of assistance to the Fund in determining the financial condition of any member bank. The commissioner shall, in any event, furnish to the treasurer of the corporation one copy of the report of any examination of the books, securities, cash, assets and liabilities of any member bank made by him pursuant to section two of said chapter one hundred and sixty-seven, in the form furnished to such

bank as provided in said section two, and every federal member bank shall furnish to said treasurer, in the form furnished to such bank, one copy of the report of any such examination made by a federal deposit insurance agency and by the federal regulatory agency having regulatory supervisory authority over such federal member bank, hereinafter referred to as the federal supervisory agency. Every member bank shall furnish to the treasurer of the corporation, in the form furnished to such bank, one copy of any report of examination and audit made pursuant to section twenty-five of chapter one hundred and sixty-eight of the General Laws within fifteen days after any such report is filed with or otherwise furnished to the commissioner.

If the directors determine that a special examination and audit, including a current appraisal of the assets, of any member bank would be in the interests of its depositors or in the interests of the sound and effective operation of the Deposit Insurance Fund, the board of directors, by vote of at least two-thirds of its members, may request the commissioner to cause such special examination, audit and appraisal to be made; and if the commissioner determines the same to be advisable, he shall cause the same to be made by a certified public accountant in such form and manner as the commissioner may prescribe, together with a current appraisal of such member bank's assets by a qualified person or persons, and the directors may furnish to the commissioner such evidence of current values of any or all of such member bank's assets as they may deem material to such appraisal. The expense of such an examination, audit and appraisal shall be paid by the Deposit Insurance Fund. After receiving the report of the said certified public accountant and of said appraisal, the commissioner shall furnish to the directors, and to the member bank, copies of such reports.

The directors shall have authority to make recommendations to any member bank designed to correct practices or policies of such bank in conducting its business, including loan or dividend policies, which the directors deem to be unsafe or unsound, or to have a tendency to impair the financial condition of the bank or the Deposit Insurance Fund, and if such bank fails to follow such recommendations within a reasonable time, the directors shall give notice thereof to the commissioner. If it appears to the directors that such practices or policies have impaired or are likely to impair the solvency of such bank, or are unreasonably increasing the insurance risk of the Deposit Insurance Fund with respect to such bank, they shall include a statement to such effect, together with a report of the facts and circumstances related thereto, in the aforesaid notice to the commissioner. Nothing contained in this section shall be deemed to abridge any power or authority conferred upon the commissioner by this chapter or any other provision of law.

If the directors determine that a special examination and audit, including a current appraisal of the assets, of any federal member bank would be in the interests of its depositors or in the interest of the sound and effective operation of the Deposit Insurance Fund, the board of directors may, by vote of at least two-thirds of its members, cause a special examination, audit and appraisal to be made by a certified public accountant, in such form and manner as the directors, with the approval of the commissioner, may prescribe. The corporation may engage any qualified appraiser for the purpose of making an appraisal of the current assets of any such federal member bank. The expense of such examination, audit and appraisal shall be paid by the Deposit Insurance Fund. After receiving the reports of such account or appraiser, the corporation shall promptly furnish to the federal member bank copies of such reports. The directors shall have the authority to make recommendations to any federal member bank for the purpose of correcting practices or policies of the bank in conducting its business, including loan or dividend policies, which the directors deem to be unsafe or unsound, or to have a tendency to impair the financial condition of such federal member bank or of the Deposit Insurance Fund. If such federal member bank fails to follow such recommendation within a reasonable time, the directors may give written notice of such failure to the commissioner who may give written notice thereof to the federal member bank and to the federal regulatory

agency having regular supervisory authority over such banks and the federal deposit insurance agency for such member bank. If it appears to the directors that such practices or policies have impaired or are likely to impair the solvency of such bank, or are unreasonably increasing the insurance risk of the Deposit Insurance Fund with respect to such federal member bank, the directors may include a statement to such effect, together with a report of the facts and circumstances related thereto, in the aforesaid notice to the commissioner who may include such a statement and report in his aforesaid notice to the federal member bank, the federal supervisory agency and the federal deposit insurance agency for such federal member bank.

Section 13. If the directors determine at any time that the financial condition or operations of any federal member bank makes it inadvisable to continue the excess insurance of such bank, the corporation shall give written notice thereof to such bank, the commissioner, the federal supervisory agency and the appropriate federal deposit insurance agency, stating the reasons for such determination. If such bank so requests within fifteen days of the receipt of such notice, the commissioner shall conduct such review and examination of the financial condition and operations of such bank as he deems appropriate, which may include a special examination and audit in accordance with said section two of chapter one hundred and sixty-seven of the General Laws. If on the basis of such review and examination and such other information concerning such bank as he may have in the exercise of his supervisory functions, the commissioner concurs in such determination, he shall so notify such bank and the corporation in writing. The directors may, with the approval of the commissioner, terminate the excess insurance of such bank at any time after the issuance of such notice by the commissioner. If any such bank fails to request such review and examination within the said fifteen day period, the determination of the directors shall become final and the directors may, with the approval of the commissioner, terminate the excess insurance of such bank at any time after the conclusion of the said fifteen day period. Any such termination shall be effected in accordance with procedures established by the directors, with the approval of the commissioner, and such procedures shall be included in the agreement required by paragraph (c) of section eight.

Section 14. Whenever it shall appear to the commissioner that it is inadvisable or inexpedient for any member bank to continue to transact the business for which it is organized without receiving financial assistance as provided in this section, he may so notify the corporation, and thereupon, if in the judgement of the directors of the corporation such action may reduce the risk or avert a threatened loss to the corporation, he may facilitate a merger or consolidation of such bank with another financial institution, or may facilitate the sale of the assets of such bank to and the assumption of its liabilities by one or more such financial institutions. The corporation may, with the approval of the commissioner and in order to effect the purposes of this act, do any one or more of the following: (a) purchase from said bank its assets at the book value thereof, or at some other value mutually agreed upon by said bank and said directors, notwithstanding that either of such values may exceed the market value of the assets so purchased, and upon such terms and conditions as said directors, with the approval of the commissioner, may determine; (b) make loans to such bank, secured in whole or in part, in such amounts, and upon such terms and conditions as said directors, with the approval of the commissioner, may determine; (c) pay to such bank in accordance with an agreement entered into between such bank and the corporation, with the approval of the commissioner, an amount not in excess of the difference between the book value of certain or all its assets and the fair value thereof as determined by said agreement, in consideration for which said bank shall agree to write down such assets to such fair value and pay over to the corporation so much of any net proceeds realized from the sale or other disposition of each and all such assets as is in excess of such fair value, such payment to be made in such amounts, at such times

and upon such terms and conditions as said directors, with the approval of the commissioner, may determine; provided, that any amount paid by the corporation hereunder to such bank and the agreement of such bank to repay the excess, as hereinbefore provided, shall constitute liabilities of such bank only to the extent of any such excess from time to time actually realized; (d) pay into the surplus accounts of such bank in accordance with an agreement entered into between such bank and the corporation, with the approval of the commissioner, an amount not in excess of the difference between the book value of certain or all its assets and the fair value thereof as determined by said agreement, such bank being hereby authorized and empowered, notwithstanding any other provisions of law, to repay such amount to the corporation at such time or times and in such manner as such agreement may prescribe; provided, that any such payment made by the corporation to such bank, and any agreement of any such bank to repay the same, shall constitute liabilities of such bank only to the extent provided by said agreement; (e) make a deposit in such bank of such amount that the directors deem advisable which deposit shall not be subject to limits imposed by section three of chapter one hundred and sixty-seven D of the General Laws or by the bylaws of the bank, and which may or may not be a subordinated deposit and may or may not be in accordance with an agreement that dividends thereon will be at a lower rate than is paid to other depositors; (f) assume any liabilities of such member bank; (g) make loans or contributions to or deposits in, or purchase any assets of, any financial institution which will acquire control of or merge or consolidate with such member bank or will purchase the assets and assume the liabilities of such member bank; (h) guarantee such member bank, or any financial institution which will acquire control of or merge or consolidate with such member bank or will purchase the assets and assume the liabilities of such member bank, against loss by reason of such acquisition of control merger or consolidation or purchase of assets and assumption of liabilities.

After January first, nineteen hundred and fifty-seven, in addition to or apart from the financial assistance authorized under the preceding paragraph, the corporation by vote of at least two thirds of its directors and in order to effect the purposes of this act may, by agreement with the member bank and with the approval of the commissioner, grant financial assistance to such member bank by any or all of the methods prescribed and subject to the terms, conditions and benefits contained in clauses (a) to (h), inclusive, of this section, for any of the purposes stated in this section or for the purpose of providing reserve funds for the protection of the depositors of such member bank; provided, that the total financial assistance granted to a member bank under the authority of this paragraph shall not at any one time exceed a sum equal to the greater of five percent of the deposits of such bank or five hundred thousand dollars.

Such bank, by the vote of least two thirds of its trustees, may take any and all action necessary or advisable to enable it to carry out any or all provisions of this section.

Notwithstanding the provisions of section thirty-three of chapter one hundred and sixty-eight of the General Laws relative to voluntary dissolution and liquidation of a savings bank, in order to give effect to the purpose of this section and subject to the approval of the commissioner and of the corporation, such member bank may be dissolved and liquidate its affairs if authorized by a vote of at least two thirds of its trustees; provided, that another member bank shall have assumed and agreed to pay the whole of the deposits of such member bank under section thirty-five of said chapter one hundred and sixty-eight. A liquidating committee of three persons, subject to the approval of the corporation, shall thereupon be elected by and from said trustees, and, under such regulations as may be prescribed by the commissioner, shall liquidate any remaining assets, and after satisfying and adjusting all such debts of

and claims against such member bank not assumed by such other member bank, shall distribute the remaining proceeds among those entitled thereto proportionate to their respective interest therein. The supreme judicial court, or any justice thereof, shall have jurisdiction in equity to enforce the provisions of this paragraph and to act upon all applications and in all proceedings thereunder.

At any time after ten years from the date financial assistance shall have been granted to a member bank under any of the provisions of this section, any unpaid balance thereof may be compromised or settled for such cash payment or other consideration as the corporation and the member bank, with the approve of the commissioner, may agree upon, and upon such compromise or settlement the member bank shall be deemed to be released and discharged from any further obligation to repay the unpaid balance of such financial assistance except to the extent provided by such agreement; provided, however, that any such agreement shall require that any subsequent dividends accruing to such member bank shall be offset against any loss sustained by the corporation as the result of any such compromise and settlement and retained by the corporation until the amount of such loss has been recovered. The supreme judicial court shall have jurisdiction in equity to approve any such agreement for compromise or settlement and to enforce the provisions of this paragraph and to act upon all applications and in all proceedings thereunder.

Section 15. Whenever it shall appear to the commissioner that any member bank is in an unsound or unsafe condition to transact the business for which it is organized, he may so certify to the corporation, and upon receipt of such certificate the corporation shall, by notice in writing to the commissioner and to the bank, take possession and control forthwith of the property and business of such bank and shall operate such bank, subject to such rules and regulations as the commissioner may prescribe, until the bank shall resume business or until its affairs shall be liquidated. The corporation may, while thus carrying on such business, pay to such bank out of the Deposit Insurance Fund, such sums as the corporation's directors deem necessary for the protection of the bank's depositors, and may order the same to be repaid when no longer required for that purpose, or may purchase assets from said bank to effect the purposes of this act on such terms and conditions and at such valuations as said directors, with the approval of the commissioner may determine.

Section 16. At any time after the corporation has taken over the control, possession and operation of any member bank as provided in section fifteen, it may, with the approval of the commissioner, turn back the control, possession and operation thereof to such member bank which may resume business free from any control by the corporation acquired under section fourteen, subject to such conditions as the commissioner may approve. The corporation shall not thus turn back the control, possession and operation of any bank until there has been repaid into the Deposit Insurance Fund all sums paid out by the corporation from such fund to such bank or its depositors or until it has received security for such repayment satisfactory to the directors.

Section 17. The corporation, with the approval of the commissioner, may, and at the request of the commissioner shall, at any time after it has taken over the control, possession and operation of any member bank under section fifteen, discontinue the business of such bank and proceed to liquidate its affairs. The corporation shall in such event pay to the depositors of such bank the full amount of their deposits at the date of the discontinuance of the business of the bank with interest from the last dividend date to the date of discontinuance at a rate at least equal to the rate paid on regular savings accounts during such period and in the case of term deposits, at the contractual rate applicable to any such term deposit, such payments to be made within three years from such discontinuance and at such times and in such installments as the directors, with the approval of the commissioner, shall determine. For such purpose the corporation shall use, in addition to the assets to the bank, such sums as may be required from the Deposit Insurance Fund. In

case of liquidation, the corporation shall be subject to such orders, rules and regulations as may be prescribed from time to time by the commissioner. The corporation shall collect all debts due and claims belonging to such bank and, with the approval of the commissioner, may sell or compound all bad or doubtful debts and with like approval may sell all or any part of the real or personal property of the bank on such terms as the commissioner may approve. To execute and perform the powers and duties conferred upon the corporation, it may in the name of any such bank prosecute and defend all suits and other legal proceedings and may in the name of the bank execute, acknowledge and deliver all deeds, assignments, leases and other instruments necessary and proper to effectuate any sale of real or personal property or any compromise approved by the commissioner and any deed or other instrument executed pursuant to the authority hereby given shall be valid and effectual for all purposes to the same extent as though executed by the officers of the bank by authority of its board of trustees or directors. The compensation of employees, council, and other assistance, and all expenses incurred in connection with the liquidation of any such bank shall be fixed, subject to the approval of the commissioner, by the directors. The officers of the corporation or any other persons employed by the directors to liquidate the affairs of any member bank under this section shall give bond to the directors for the faithful performance of their duties in relation to such liquidation in such amount and with such surety or sureties as the commissioner may approve. The persons appointed for the purpose of liquidating the affairs of any such bank shall be subject to all the penalties to which agents appointed by the commissioner for the purpose of liquidating the affairs of a bank are now or may hereafter be subject. All accounts for which no claimant can be found for six years following the discontinuance of the business of any such bank shall, if no other provisions to care for said claim have been made, be turned over to the commissioner of revenue pursuant to the provisions of chapter two hundred A of the General Laws. Said accounts may be reclaimed in the manner provided in section ten of said chapter but no interest shall be paid thereon for the time held by the commissioner.

Section 18. For the purpose of carrying out the provisions of this act, the corporation may exercise all the powers, rights and franchises of any bank the control, possession and operation of which has been taken over by it under this act and may exercise all the powers and rights of the incorporators of such bank relative to a merger or consolidation conferred upon them by section thirty-four A, thirty-four B, thirty-four D and thirty-five of chapter one hundred and sixty-eight.

Section 19. (a) The corporation may pay dividends to member banks and to federal member banks at such rates and at such times as the directors may determine, subject to the prior approval of the commissioner of any such payment, rates and times and subject to his prior approval as to the terms, conditions and use of such payment to any such banks, upon the allocated reserves from time to time maintained by such banks in the Deposit Insurance Fund. With the approval of the commissioner, the directors may, in determining whether and at what rate to pay dividends, distinguish between that component of any such banks' allocated reserves that represents amounts paid to the corporation as annual or special assessments and the component that represents amount paid thereto as reserve coverage contributions. (b) The Deposit Insurance Fund may be invested by the corporation only as provided in subsections (a), (b), (c) and (e) of section seven of chapter forty-four of the acts of nineteen hundred and thirty-two except that the Fund may be used as provided by section three A, and except, further, that the Fund may be used for the purchase of all or any part of the property of any member bank in possession of the commissioner under sections twenty-two to thirty-six inclusive, of chapter one hundred and sixty-seven of the General Laws or, in the case of a federal member bank, for the purchase of all or any part of the property of any such bank under the receivership of a federal deposit insurance agency, on such terms and conditions and at



such valuations as the directors may determine. The corporation may, by vote of its directors, borrow money for the purposes of the Deposit Insurance Fund and pledge any assets in which said Fund is invested as security for such loans. In the case of a merger of consolidation of a member bank or a federal member bank with one or more other such banks, or in the case of a sale of assets of any such banks to and the assumption of the liabilities by one or more other such banks each such continuing member bank, and each such continuing federal member bank shall succeed to the rights of the discontinuing banks in the allocated reserves theretofore paid by the discontinuing bank.

Section 20. The corporation, at special county or district meetings held in accordance with the bylaws and with section two of said chapter forty-four, and called by the directors for this special purpose, may determine, by a two thirds vote of all member banks, that, as a fact, the Deposit Insurance Fund is no longer needed for the excess insurance provided for in section one. If the commissioner concurs with such determination of facts, he shall declare any balance of such fund, after payment of losses, expenses and obligations of the corporation, eligible for distribution to member banks and federal member banks upon a dissolution and liquidation of the fund. The corporation may, by a like two thirds vote of all member banks and with the approval of the commissioner, vote to dissolve and liquidate the Deposit Insurance Fund. When voting for this purpose, each member bank shall have one vote for each ten million dollars or fraction thereof of deposits then insured by the Deposit Insurance Fund, as shown by such bank's latest report to the commissioner or to the corporation. Upon any such vote to dissolve and liquidate the Deposit Insurance Fund, the corporation shall distribute, over a period of not more than twelve months, the said balance pro rata to member banks and federal member banks based upon their total amounts of assessments and participations in said Fund.

Section 21. A director of the corporation shall in no event be individually liable for anything done or for any liability incurred or assumed by virtue of this act, except for his own willful neglect or default, nor shall any member bank or federal member bank be subject to any liability by virtue of this act except for the payments of its assessments to the fund.

Section 22. The directors of the corporation may make such rules and regulations, subject to the approval of the commissioner, as they may deem necessary in order to carry out the provisions of this act, and for the purposes of this act the commissioner may confer and advise with the directors and may furnish them such information, records, statements and reports of examination or copies thereof, relating to any member bank, as the directors may request.

**SECTION 271.** All amounts received pursuant to assessments made under authority of sections one and seventeen of chapter forty-three of the acts of nineteen hundred and thirty-four in effect prior to the effective date of this act shall be deemed to be assets of the Deposit Insurance Fund, established under the provisions of this act.

**SECTION 272.** It is hereby declared that the Mutual Savings Central Fund, Inc., established by chapter forty-four by the acts of nineteen hundred and thirty-two is not an agency of the commonwealth. Nothing contained in this act shall be construed to pledge the credit of the commonwealth for any of the operations, including the Deposit Insurance Fund established under the provisions of this act, of said Mutual Savings Central Fund, Inc.

**SECTION 273.** It is hereby declared that the Cooperative Central Bank, established by chapter forty-five of the acts of nineteen hundred and thirty-two, is not an agency of the commonwealth. Nothing contained in this act shall be construed as a pledge of the credit of the commonwealth as security for the operations, including the Share Insurance Fund established by chapter forty-five of the acts of nineteen hundred and thirty-two, of said Cooperative Central Bank.

**SECTION 274.** Section 4 of chapter 258B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out lines 29 through 47 inclusive; and inserting in place thereof the following paragraph:-

The board shall review program plans, annual reports, and the implementation and operation of programs as described in this chapter. The board shall promulgate rules for the preparation and review of such program plans and annual reports.

**SECTION 275.** Chapter 123 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after section 18 the following section:-

Section 18A. A person who is a resident in a facility of the department of mental health or in the Bridgewater state hospital and who has funds held in trust for him by the department of mental health or the department of correction, shall contribute toward the cost of any counsel appointed pursuant to chapter two hundred and eleven D to provide representation in proceedings under this chapter, in an amount not exceeding five hundred dollars unless a larger contribution has been ordered by a court pursuant to sections two and five of chapter two hundred and eleven D. Whenever the department of correction or the department of mental health holds funds in trust for such a person, the department shall turn over such funds, but not exceeding five hundred dollars, to the treasurer to be credited toward the cost of providing such counsel.

**SECTION 276.** Section 8 of chapter 349 of the acts of 1986 as most recently amended by section 135 of chapter 33 of the acts of 1991 is hereby further amended by inserting after the second paragraph the following words:-

The entire area to be covered by the Phase I park and the Phase II park, exclusive of the lobster facility, is hereby deemed to be public park land for purposes of Article XCVII of the Amendments to the Constitution. Any use of said area by the authority or any other person or entity for uses other than the Phase I or Phase II park shall be deemed a purpose inconsistent with the use of public park lands, and thereby subject to the terms and conditions of said Article XCVII. The foregoing shall include all associated buildings and facilities and improvements thereon contained on or within the Phase I or Phase II park areas. In the event that the lobster facility is at any time discontinued or is not constructed as a lobster facility, the area where the lobster facility was or would have been constructed shall also be deemed to be a public park land subject to the protection of said Article XCVII. The authority is hereby prohibited from undertaking any use to take place on the Phase I and Phase II parks and the lobster facility if same is not constructed or discontinued, as provided for in the previous sentence which is not a public park land use.

**SECTION 277.** Chapter 29 of the General Laws is hereby amended by adding at the end of section 7L the following new section:-

Section 7M. The Speaker of the House and the President of the Senate may transfer funds, as needed, among items of appropriation for the House of Representatives and the Senate, respectively.

**SECTION 278.** The secretary of transportation and construction shall prepare a comprehensive state transportation plan for the fiscal years from nineteen hundred and ninety-three through nineteen hundred and ninety-eight. Said plan shall be prepared after public hearings pursuant to section two of chapter thirty A of the General Laws; provided, however, that said plan shall not be subject to any adjudicatory process and no provisions of said chapter thirty A providing for appeals or judicial review shall apply to said plan or any hearings held thereon. Said plan shall be designed to improve the quality of life in the commonwealth by promoting economic development and employment in the commonwealth by meeting cost effectively the diverse transportation needs of all residents of the Commonwealth, including urban, suburban, and rural populations and especially elderly, disabled and transit-dependent persons, while minimizing the harmful effects of transportation systems on public health and the environment and

promoting public safety. Said plan's development process shall consider all transportation options on an integrated basis, including highway, road, transit, rail, air and water transportation, and shall be consistent and fully integrated with transportation planning activities required under the federal Clean Air Act. Said plan shall also include an engineering assessment to anticipate highway, road and bridge needs throughout the commonwealth which prioritizes projects based on need as determined by objective engineering measurements of condition, safety and service. The secretaries of environmental affairs and economic affairs shall be consulted in the development of said plan. Said plan shall be filed with the house and senate committees on ways and means and the committee on transportation on or before April first, nineteen hundred and ninety-two, and shall be updated every three years thereafter.

**SECTION 279.** Notwithstanding the provisions of any general or special law to the contrary, operating expenditures of the Massachusetts bay transportation authority for its fiscal year ending June thirtieth, nineteen hundred and ninety-two shall not exceed one hundred and five percent of its operating expenditures for its fiscal year ending June thirtieth, nineteen hundred and ninety-one.

**SECTION 280.** There is hereby established a special commission, to consist of three members of the house committee on ways and means, as appointed by the speaker of the house of representatives, and three members of the senate committee on ways and means, as appointed by the senate president, for the purpose of making an investigation and study of the state housing assistance for rental production program, the rental development action loan program, the rental assistance payment program, the chapter 707 rental assistance program, so-called, and any and all other housing and rental assistance or housing production programs which have in recent years been or are presently funded, subsidized, assisted or guaranteed by the commonwealth, its political subdivisions, the Massachusetts housing finance agency, the Massachusetts land bank, the Massachusetts industrial finance agency or any other authority or governmental entity. Said commission shall review, and hold public hearings throughout the commonwealth in order to solicit testimony relative to, the operation and effectiveness of said programs, and make recommendations relative to the continuation or phase-out or termination of said programs. Said commission shall consider issues including, but not limited to, homelessness, foreclosures, bankruptcies, bond and credit ratings, the relative benefits of the programs to tenants, landlords, developers and lenders, and the appropriateness of the eligibility requirements for said programs, as the commission may deem relevant to its investigation and study. Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerk of the house of representatives and the clerk of the senate on or before May first, nineteen hundred and ninety-two.

**SECTION 281.** Notwithstanding the provisions of any general or special law to the contrary, sixty percent of all community-based residences serving clients transferred from department of mental health and department of mental retardation facilities during fiscal year nineteen hundred and ninety-two, shall be operated and staffed by state employees. Nothing herein shall be construed to violate the provisions and intent of section one hundred and fifteen of this act.

**SECTION 282.** The special commission established by section sixty of chapter one hundred and fifty of the acts of nineteen hundred and ninety shall consider the feasibility of implementing an aid to families with dependent children school attendance program. Said program to be studied may require AFDC recipients to document the school attendance of children over the age of twelve in order to reduce unexcused school absences. Said commission shall also study the feasibility of targeting more financial resources and programmatic efforts at employment and training initiatives for recipients of AFDC who have received AFDC for more than thirty-six months within a five year period; whose youngest child is at least sixteen years of age; and who are under twenty-four years of age

with little or no work history or have no high school diploma.

**SECTION 283.** The office of the chief administrative justice is hereby authorized and directed forthwith to take such action as may be necessary to collect certain abandoned passbooks, savings accounts and other abandoned property in the various probate courts, pursuant to Chapter 506 of the Acts of 1990.

**SECTION 284.** Notwithstanding the provisions of any general or special law to the contrary, no foreclosure sale pursuant to a power of sale in any mortgage deed of real estate located in the commonwealth having thereon a dwelling house with accommodations for four or less separate households and occupied in whole or in part by an obligor on the mortgage debt which secures, in whole or in part, any loan made for personal, family or household purposes shall be conducted in the commonwealth for a period of one hundred and twenty days after the effective date of this section if any note secured by a fixed rate mortgage on said real estate bears an interest rate in excess of fifteen percent or in the case of a variable rate mortgage, any such note bears an interest rate that exceeds fifteen percent at any time prior to default, and the proceeds of any such loan were used, in whole or in part, for home improvement purposes. For the purposes of this section, the term "home improvement purposes" shall include, but not be limited to, the improvement, repair, alteration or rehabilitation of such real estate, or the purchase and installation of fixtures to be affixed thereto, including the purchase and installation of a solar or wind-powered system or heat pump system.

No register of deeds or assistant recorder of the land court shall accept for recording or filing for registration any foreclosure deed pursuant to a foreclosure sale conducted under a power of sale, during said one hundred and twenty day period, as aforesaid, unless the same is accompanied by an affidavit under the pains and penalties of perjury signed by the record holder of the mortgage deed being foreclosed, or a duly authorized officer thereof, certifying compliance with the requirements of this section together with a certified copy of any and all notes secured by a mortgage on said real estate. For the purposes of this section, the term "foreclosure sale" refers to the conclusion of a sale at public auction pursuant to the provisions of chapter two hundred and forty-four of the General Laws.

**SECTION 285.** Notwithstanding any general or special law to the contrary, a nonprofit hospital licensed under the provisions of chapter 111, section 51 and located in the city of Newton shall be exempt from the provisions of section 25C of said chapter for the purpose of cardiac catheterization services which shall be offered by said hospital; and, further, said hospital shall be entitled to the concomitant adjustment to its basis of payment as that term is defined in section 31 of chapter 6A as if said hospital had complied with the provisions of section 25C of chapter 111.

**SECTION 286.** (1) There shall be established on the books of the Commonwealth a separate fund to be known as the Trust Fund for the Head Injury Treatment Services. Said Trust Fund shall consist of moneys paid to the Commonwealth pursuant to the provisions of section two hundred and eighty-seven of this act, and any interest or investment earnings on such moneys,

(2) The state treasurer, ex officio, shall be the custodian of the Trust Fund, and shall receive, deposit, and invest all moneys transmitted to him under the provisions of paragraph (1), and shall credit interest and earnings on the Trust Fund to said Trust Fund.

(3) The state treasurer, shall make such moneys available to the Statewide Head Injury Program of the Massachusetts Rehabilitation Commission as may be appropriated for the purpose of developing and maintaining nonresidential rehabilitation services for head injured persons, provided that an appropriation from said Trust Fund shall not be used to replace funds historically appropriated

from the General Fund to purchase head injury services.

**SECTION 287.** Section 24 of Chapter 90 as appearing in the 1988 Official Edition is hereby amended by inserting after the word "program." on line 75 thereof the following paragraph:-

There shall be a surcharge of one hundred dollars on the fine assessed against a defendant convicted by a court of the commonwealth of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances, pursuant to the provisions of this section; provided, however, that moneys collected pursuant to said surcharge shall be deposited by the court with the treasurer into the Fund for Head Injury Treatment Services created in section two hundred and eighty-six of this act.

**SECTION 288.** No later than October first, nineteen hundred and ninety-one, the rate setting commission shall establish administratively necessary day rates for chronic disease and rehabilitation hospitals, including hospitals operated by the department of public health which are reimbursed by the Medicaid program as chronic disease and rehabilitation hospitals, in the manner prescribed by and subject to the requirements of section thirty-two of chapter six A of the General Laws. Notwithstanding any law to the contrary, the earliest time patient-centered rates may become effective for chronic disease and rehabilitation hospitals shall be hospital fiscal year nineteen hundred and ninety-three. Prior to the proposal of regulations to implement such patient-entered rates, the department of public welfare, rate setting commission and any interested group of chronic disease and rehabilitation hospitals shall report to the joint health care committee, and the senate and house committees on ways and means on studies performed during fiscal year nineteen hundred and ninety-two to develop patient-centered rates. Said report shall include any report made to the United States Congress pursuant to section 4005(B) of the Omnibus Reconciliation Act of 1990 concerning the inclusion of chronic disease and rehabilitation hospitals within the medicare program's prospective payment system.

**SECTION 289.** Notwithstanding the provisions of any general or special law or regulation to the contrary, all housing authorities and nonprofit organizations operating elderly public housing are hereby authorized and directed to offer first preference for elderly public housing units which are vacant as of the effective date of this act, and thereafter, to those elderly persons who held chapter seven hundred and seven rental assistance, so called, and vouchers under any existing state voucher program on June thirtieth, nineteen hundred and ninety-one. The executive office of communities and development shall be responsible for the faithful compliance by local housing authorities with the provisions of this section, and is hereby authorized to take such actions as its deems necessary to insure such compliance in a timely and equitable fashion.

**SECTION 290.** Notwithstanding any general or special law to the contrary, any city or town may appoint, for the fiscal years nineteen hundred and ninety-two, nineteen hundred and ninety-three and nineteen hundred and ninety-four, one reserve police officer for every three regular police officers.

**SECTION 291.** During fiscal year nineteen hundred and ninety-two, notwithstanding the provisions of any general or special law to the contrary, payments for fiscal year nineteen hundred and ninety-one and prior fiscal year's cost of certain personnel classification appeals, approved and granted by the personnel administrator in accordance with the provisions of section forty-nine of chapter thirty of the General Laws, the cost of certain salary adjustments established under the provisions of section five of chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty-four, and costs as determined by certain arbitration awards issued pursuant to section eight of chapter one hundred and fifty E of the General Laws, may, at the discretion of the secretary of

administration and finance, be charged to items of appropriation for fiscal years nineteen hundred and ninety-one and nineteen hundred and ninety-two.

**SECTION 292.** The attorney general shall submit a quarterly report within fifteen days of the end of each quarter to the house and senate committees on ways and means and the secretary of administration and finance detailing claims which the department of the attorney general has submitted within the preceding quarter to the office of the state treasurer for payment from item 0611-5000 of section two of this act. Said reports shall show the number and cost of claims submitted for each category of claim. Said categories shall include but shall not be limited to physicians' costs, lost wages, funeral expenses and attorneys' fees. Said reports shall also show the number and cost by said categories broken down by the fiscal year in which said claims were ordered to be paid by the court.

**SECTION 293.** Notwithstanding any general or special law to the contrary, a nonprofit hospital licensed under the provisions of chapter 111, section 51 and located in the city of Norwood shall be exempt from the provisions of section 25C of said chapter for the purpose of cardiac catheterization services which shall be offered by said hospital; and, further, said hospital shall be entitled to the concomitant adjustment to its basis of payment as that term is defined in section 31 of chapter 6A as if said hospital had complied with the provisions of section 25C of chapter 111; provided, however, that no adjustment to its basis of payment shall be allowed for any capital costs associated with such cardiac catheterization services.

**SECTION 294.** It is hereby declared and affirmed that the reserved interests of the public in the land along the coastline of the commonwealth require a public on-foot right-of-passage along the shore of the coastline between the mean high water line and the extreme low water line subject to the restrictions and limitations as contained in this section and said right is hereby secured on a certain beach in the town of Plymouth or on a certain beach in the town of Falmouth.

Said public on-foot right-of-passage shall not be exercised (1) later than one-half hour after sunset nor earlier than sunrise (2) where the commissioner of the department of environmental management for the purpose of protecting marine fisheries and wildlife or for controlling erosion, designates and posts natural areas of critical ecological significance as areas in which on either a regular or seasonal basis as circumstances in each situation require that the public not exercise the on-foot free right-of-passage (3) where there exists a structure, enclosure or other improvements made or allowed pursuant to any law or any license, permit or other authority issued or granted under the General Laws or where there exist agricultural fences for purposes of enclosing livestock, provided that such area is clearly and conspicuously posted. The exercise of the on-foot right-of-passage in violation of the limitations and restrictions of this paragraph shall be punishable by a fine of not less than twenty nor more than fifty dollars.

In any action concerning the exclusion of on-foot right-of-passage, the burden of proof shall be upon the person who seeks to exclude or limit the exercise of said public rights. Whenever it is found that a person seeks to exclude the on-foot right-of-passage by unlawfully posting said area, then such person shall be punished by a fine of not less than twenty nor more than fifty dollars.

Any interference with, or any acts making unsafe, the on-foot free right-of-passage including, but not limited to, (1) the use of force or (2) maintenance of any fence or other obstruction not specifically authorized under the General Laws or a license, permit or other authority issued or granted under the General Laws, is hereby declared to be unlawful. This section may be enforced under section eleven D of chapter twelve of the General Laws, in an action brought in district court by a person directly affected by a violation of this section, for such monetary and equitable relief as the court deems to be necessary and proper.

Any person who is exercising the public on-foot free right-of-passage deposits or causes to be deposited in the water or on the shore garbage, paper, refuse, bottles, cans, rubbish or trash of any kind or nature shall be punished by a fine of not less than twenty nor more than fifty dollars.

Except as to injuries proximately caused by a violation of this section, the exercise by the public of the on-foot free right-of-passage shall be considered a permitted use to which the limited liability provisions of chapter twenty-one, section seventeen C of the General Laws shall apply.

It shall be the responsibility of the department of environmental management to implement the provisions of this chapter. The public-on-foot free right-of-passage secured by the provisions of this section shall not become effective with respect to any particular parcel of private property until such time as the commissioner of the department of environmental management has filed an order of taking describing property in the manner provided for by section three of chapter seventy-nine of the General Laws. Said commissioner shall also comply with all other provisions of chapter seventy-nine as they apply to a public taking of an interest in private land. With respect to public land, the public-on-foot free right-of-passage shall take effect on the effective date of this act and said commissioner need only comply with the notice provisions of chapter seventy-nine.

**SECTION 295.** Section four of chapter six hundred and fourteen of the acts of nineteen hundred and eighty-five, as most recently amended by section one hundred and twenty-nine of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine, is hereby further amended by striking out the last sentence and inserting in the place thereof the following sentence:- Appropriation expires June thirtieth, nineteen hundred and ninety-six.

**SECTION 296.** The first paragraph of section 98 of chapter 276 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last two sentences.

**SECTION 297.** The second sentence of the second paragraph of section 98 of chapter 276 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the words "first deputy commissioner" and inserting in place thereof the following words:- associate commissioner, who shall perform the duties of the commissioner in the absence of the commissioner.

**SECTION 298.** Chapter 40J of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after section 1 thereof the following section:-

Section 1A. Additional Findings and Revised Public Purpose

It is hereby found that: (1) Massachusetts has recently entered a period of severe economic distress, with increasing unemployment and with many areas of the commonwealth's economic base exhibiting an undesirable rate of growth; (2) these developments, while underscoring the economic importance of continued investments in technology education, place new and increasing pressures on such investments to advance the commonwealth's more immediate economic development interests while decreasing their reliance on scarce public funds; (3) accordingly, the Massachusetts technology park corporation must aggressively use the full breadth of the resources of its microelectronics center to directly support firms in the electronics and related industries to maintain, expand and locate their business activities in the commonwealth and thereby create and retain increased and more rewarding employment opportunities for our citizens; (4) further, the corporation must respond to pressing fiscal constraints by striving to make the center self-sufficient of regular, annual public maintenance funding through a comprehensive program of cost reduction, increased support

from participating businesses and universities, the pursuit of federal and industry grants, and the full exploitation of the revenue generation potential of its essential governmental functions; (5) to those ends, and to otherwise account for changed economic circumstances since the corporation's creation, it is required to amend the corporation's public purpose, designated powers and essential governmental functions as set forth in its enabling act.

Therefore, it is found in the public interest of the commonwealth to promote the prosperity and general welfare of its citizens, a public purpose for which public money may be expended, to amend the enabling act and certain related statutes of the corporation to authorize the corporation to foster the expansion of industrial and commercial activity and employment opportunities in the commonwealth by employing its resources, to the extent consistent with its educational activities, to advance additional, more direct economic development initiatives which support firms to maintain, expand and locate their business activities within the commonwealth and thereby create and retain increased and more rewarding employment opportunities for our citizens.

**SECTION 299.** Section 2 of said chapter 40J of the General Laws, as so appearing, is hereby amended by inserting after the definition of "current expenses" the following definitions:-

"Director", shall refer to both an individual who is a member of the board and to an individual who is an advisory member appointed pursuant to section 4(i) of this chapter.

"Operational", as applied to a center or any portion thereof created pursuant to the provisions of this chapter, embraces that point in the development of a center at which said center has evidenced both a demonstrated capacity to perform its essential functions and a proven capability to defray its expenses of administration and operation in a manner wholly self-sufficient of regular, annual public maintenance funding.

**SECTION 300.** Said chapter 40J of the General Laws, as so appearing, is hereby further amended by inserting after section 4 the following four sections:-

Section 4A. In furtherance of its public, purpose and essential governmental functions, and notwithstanding any general or special law or agreement to the contrary, the corporation shall have the following powers which shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the corporation by law pursuant to section four of this chapter:

(a) to lease and to grant licenses, not to exceed five years in duration, with regard to all or part of the corporation's real and personal property to one or more private parties pursuant to such selection procedures and under such terms and conditions as the board deems appropriate and otherwise in a manner consistent with good business practices; provided, that such property shall be and remain for the duration of any such agreement "land and tangible personal property of the Massachusetts technology park corporation" within the meaning of section five of chapter four hundred and five of the acts of nineteen hundred and eighty-four and thereby exempt from any tax, excise, betterment or assessment imposed upon the corporation based upon or measured by its real or personal property and it's use, including the sale, transfer or other disposition thereof; provided, further, that such land and buildings and other things erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner and to the same extent as if such lessee or his assigns were owner of the land in fee; provided, that the payment of any such taxes shall not be enforced by any lien upon or sale or taking of said land except that the leasehold estate may be sold or taken by the collector of taxes of the municipality of Westborough for the nonpayment of any tax assessed as aforesaid in the manner provided



by law for the sale or taking of real estate for nonpayment of local taxes; provided, further, that in the case of a leasehold estate involving in any part the corporation's integrated circuit fabrication facility, a condition precedent to the sale of said leasehold estate by the town of Westborough shall be the approval of the board of the corporation, which shall not be unreasonably withheld. Said collector shall have for the collection of taxes assessed under this section all other remedies provided by the General Laws for the collection of taxes by collectors of cities and towns. The corporation shall include in any lease of such land or property a provision whereby the lessee agrees, in the event that the foregoing tax provision is determined by any court of competent jurisdiction to be inapplicable, to pay annually to the town of Westborough a sum of money in lieu of taxes which would otherwise be assessed for such year. Any use permitted by such a lease or license agreement shall be held and deemed to be a "use for educational purposes on land owned by the commonwealth" pursuant to section three of chapter forty A of the General Laws;

(b) to establish, with such safeguards as deemed appropriate by the board, one or more nonprofit or taxable subsidiary corporations to the extent that the creation of the same are consistent with good business practices under the Federal Income Tax Code of 1986, as amended; and

(c) to make, or to delegate to a lessee or a licensee the authority to make, improvements, construction, alterations or renovations to the real property of the corporation; provided, that where such activity is estimated to cost less than five-hundred thousand dollars it shall not be a capital facility project and the provisions of sections thirty-eight A and one-half to thirty-eight O, inclusive, of chapter seven, sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine, section thirty-nine M of chapter thirty of the General Laws, and related statutes, shall not apply thereto.

Section 4B. (a) In furtherance of the public purpose and mission of the corporation, and notwithstanding any general or special law or agreement to the contrary, each of the following uses of the physical and technical resources of the center shall be deemed to be the exercise of an essential governmental function within the meaning of 26 U.S.C. 115(l):

(1) the provision of computer aided design services to interested industrial firms and universities, including but without limitation the distribution and support of design tools, the provision of computational support services, and the design of integrated circuits;

(2) the provision of integrated circuit fabrication services to interested industrial firms and universities and the federal government, including but without limitation the provision of foundry services and discrete unit process services to one or a limited number of parties; and

(3) the formation of one or more technology partnerships with interested industrial firms and universities, the federal government and venture capital firms for the purpose of fully exploiting the substantial resources of the center in a manner calculated to advance its educational and economic development purposes. Said technology partnerships may include but without limitation contractual relationships with one or more of said parties which involve the lease or licensing of all or part of the facilities, intellectual property and related resources of said center, the furnishing of design and/or fabrication services, cooperative technology development and technology-sharing arrangements, incubator facilities, and the provision of state-of-the-art instructional, research and integrated circuit prototyping services.

(b) The activities set forth in subsection (a) shall be deemed and construed to be supplemental and additional to, and not in derogation of, such other essential governmental functions as are authorized under this chapter or as may be delegated to the corporation from time to time. It is intended that each of the activities of the corporation as set forth therein will serve to support

an expanding economy for the commonwealth and the creation and retention of new and more rewarding employment opportunities for the citizens hereof in one or more of the following ways: assisting firms to understand and exploit the full economic potential of application specific integrated circuit technology; inducing firms to maintain, expand or locate their business activities within the commonwealth due to the presence of such activities; encouraging the transfer of state-of-the-art design and process technologies between and among industries, universities and the center; assisting the center in the maintenance and operation of its complex integrated circuit fabrication facility and the full exploitation of its substantial fabrication capacity; creating a technology infrastructure for economic development; and exploiting economies of scale in the provision of educational services.

(c) All income of the corporation from whatever source derived shall be held and applied thereby solely to accomplish the essential governmental functions of the corporation, including but without limitation to the essential governmental functions set forth in this section. No income of the corporation shall accrue to any private individual or organization. Upon dissolution of the corporation, all of its assets shall be returned to the commonwealth in the manner set forth in section five of this chapter.

Section 4C. (a) The provisions of section twelve (h) of this chapter shall be deemed to apply to any and all proprietary information received by the corporation.

(b) Notwithstanding any other general or special law to the contrary, and in consideration of the essential public function of the corporation, debt obligations of the corporation, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the commonwealth and by the municipalities and other political subdivisions in the commonwealth;

(c) Notwithstanding the provisions of sections six and twenty-three of chapter two hundred and sixty-eight A of the General Laws, a director who is affiliated with a participating business or participating institution within the meaning of this chapter may participate in a particular matter affecting the financial interests of said participating business or participating institution with which such individual is affiliated; provided, however, that (1) said particular matter is confined to the establishment, expansion, curtailment, termination, or other matter of general application involving a center or a particular component of a center, or of a program authorizing the lease or licensing of a center's facilities or the provision of services to customers, or of a technology partner program within the meaning of this chapter; (2) said particular matter does not affect the financial interests of said director, or an immediate family member or partner of said director; (3) the financial interest of said director's participating business or participating institution is substantially the same as the interest of other members of the class of participating businesses or participating institutions with which that director is affiliated; (4) said particular matter is not a decision to purchase from, sell to, borrow from, contract with or otherwise deal with said participating business or participating institution, in which case the provisions of the fourth paragraph of section three of this chapter shall apply; and (5) the interest of any said director's participating business or participating institution is disclosed in advance to the directors or, if not known or foreseen in advance by said director, then such interest is disclosed to the directors as soon as practicable after it becomes known or apparent to said director, and such disclosure is recorded in the minutes of the proceedings of the corporation, and a copy of the disclosure forwarded to the state ethics commission. Where a director participates in a particular matter as described in clause (1) and discloses an interest as provided in clause (5) of the preceding sentence, then any contract or acquisition or disposition of real property required to implement or prosecute said particular matter, to be made or awarded subsequent to such disclosure, and which could materially affect said disclosed interest, shall be made or awarded by the corporation

pursuant to regulations which require open and fair competition therefor in a manner consistent with the purpose and intent of chapter thirty B of the General Laws; provided, that the term "contract" as set forth in the first clause of this sentence shall be as defined in section two of said chapter thirty B, subject to the stipulation that any agreement or dealing between the corporation and a participating university the purpose of which is to assist said participating university to assume an active role in furthering the public purposes of this chapter shall be deemed to be excluded from said term as a "grant agreement" as defined in said section two, and subject to the further stipulation that any cash donation agreement between the corporation and a participating business, the terms and conditions of which are disclosed as provided pursuant to clause (l) of section four of this chapter, shall also be deemed to be excluded from said term; provided, further, that the term "acquisition or disposition of real property" as set forth in the first clause of this sentence shall be as generally employed by section sixteen of said chapter thirty B, subject to the stipulation that any license agreement which is either subject to termination at the will of the corporation or of less than two years duration and nonexclusive to the licensee shall be deemed to be excluded from said term.

Section 4D. In furtherance of the revised public purpose of the corporation as set forth in section one A of this chapter, the mission of the microelectronics center shall hereinafter be deemed to include the following essential tasks:

(a) to continue to support and challenge the engineering universities of the commonwealth to provide a world-class, hands-on educational experience for their students in semiconductor technology which remains responsive to the needs of industry and the rapid pace and changing direction of the technology;

(b) to otherwise aggressively employ the full breadth of the center's institutional resources, including the forum provided by the corporation's board, the center's significant physical and technical resources, and the resources and strengths of the center's participating universities, to discharge the essential governmental functions set forth in section 4B and elsewhere in this chapter and thereby support firms in the electronics and related industries to maintain, expand and locate their business activities in the commonwealth and create and retain increased and more rewarding employment opportunities for the citizens hereof; and

(c) to position the center to defray its expenses of administration and operation in a manner wholly self-sufficient of regular, annual maintenance funding thereof through a comprehensive program of cost reduction, increased support from participating businesses and universities, the aggressive pursuit of federal and industry grants, and the full exploitation of the revenue generation potential of its essential governmental functions.

**SECTION 301.** Said chapter 40J of the General Laws, as so appearing, is hereby further amended by deleting the sixth paragraph of section five thereof.

**SECTION 302.** Chapter 466 of the Acts of 1984 is hereby further amended by inserting, after the first paragraph of section two thereof, the following paragraph:-

Notwithstanding any general or special law to the contrary, the corporation shall reimburse the commonwealth for the aggregate amount of any funds credited to the center fund of the corporation pursuant to paragraph two of section two of chapter four hundred and sixty-six of the acts of nineteen hundred and eighty-four. Payments in reimbursement as aforesaid shall be made by the treasurer of the corporation to the secretary for administration and finance pursuant to a schedule therefor to be negotiated by and between said secretary and the board of directors of the corporation; provided, that copies of said reimbursement schedule shall be filed with the house and senate committees on ways and means on or before April fifteenth, nineteen hundred and ninety-two; provided, further,

that said schedule shall provide for the final payment in full satisfaction of said reimbursement obligation to be made on or before June thirtieth, two thousand and two. If said board of directors, subsequent to the execution of said reimbursement schedule and upon a thorough review of its revenues and relevant resources and obligations, shall determine that it is unable to make a timely payment as provided by said reimbursement schedule, then the board may petition said secretary for a revision in the reimbursement schedule; provided, that copies of any such revised reimbursement schedule shall be provided to the house and senate committees on ways and means within fifteen days of the execution thereof; provided, further, that no such revised reimbursement schedule shall provide for a final payment at a date later than the date specified therefore in the preceding sentence. If said board, having determined that it is unable to make a timely payment as aforesaid, determines, further, that no revision in said reimbursement schedule would remedy that circumstance, it shall so notify the general court which may dissolve the corporation and direct the dissolution of its assets or take any other action as it deems appropriate as provided pursuant to the fifth paragraph of section five of chapter forty J of the general laws. In furtherance thereof, and to otherwise protect and preserve the commonwealth's investment in the corporation, the commonwealth shall retain its reversionary interest in any and all real property of the corporation, as said reversionary interest is described in the section four of chapter four hundred and five of the acts of nineteen hundred and eighty-four, and any action by, for or against the corporation which is inconsistent with or in contravention of said interest shall be null and void. The corporation is hereby specifically proscribed from entering into any agreement with regard to the sale of any of its real property or any lease agreement with a duration in excess of five years, excluding any extensions thereof; provided, that no such lease extension agreement shall, as of the date of its execution, provide for a remaining lease term in excess of said five year duration; and provided, further, that in the event of any reversion to the commonwealth as provided herein, the commonwealth shall take title subject to any properly executed lease then in effect.

**SECTION 303.** Notwithstanding any general or special law to the contrary, the Massachusetts technology park corporation shall cease to receive funding or financial support of any kind from the commonwealth on June thirtieth, nineteen hundred and ninety-two.

**SECTION 304.** Each public school district which admits children under the provisions of section twelve B of chapter seventy-six of the General Laws, as amended by section twenty-three of chapter six of the acts of nineteen hundred and ninety-one, shall certify to the state treasurer the number of such children attending its public schools, the city or town of residence of each such child, the annual amount of tuition for each such child and the total tuition owed to the district based on full or partial attendance, itemized by the amount attributable to each city or town of residence; provided that such certification shall be made on October first, nineteen hundred and ninety-one and April first, nineteen hundred and ninety-two; and provided further, that, notwithstanding the provisions of section three of this act to the contrary, including its notwithstanding clause, the state treasurer shall deduct said itemized amounts from the distributions to be made to each city or town from item 7061-0008 of section two of this act prior to said distribution; and provided further, that the amounts so deducted shall be credited to item 0610-1500 of section two of this act. Each school district submitting a certification to the state treasurer shall also submit a copy of said certification to the department of education. Said department may review said certification to determine that the amount of the individual tuition charged for each child is in accordance with the provisions of said section twelve B of said chapter seventy-six and shall inform the state treasurer of any errors. The department may also, on a post-audit basis, verify the admission and attendance of the number of children certified by each school district.

Notwithstanding the provisions of this section or any general or special law to the contrary, any school district which admitted children on a private tuition basis prior to June thirtieth, nineteen hundred and ninety-one may continue, on that basis, to admit any child who attended its school system prior to that date, as well as any sibling of step-sibling of such child and any foster child residing in the home of such child; provided, that any school system which admits children under the terms of this provision may also choose, or not choose, to admit children for whom the commonwealth pays the tuition required by section 12B of chapter 76 of the General Laws. This paragraph shall not preclude any school system from admitting children, including those described above, under the provisions of said section 12B of said chapter 76 of the General Laws.

**SECTION 305.** Chapter 10 of the General Laws is hereby amended by inserting after section 35L the following section:-

Section 35J. There is hereby established and set up on the books of the commonwealth a separate fund known as the Massachusetts Tourism Fund, into which shall be deposited thirty-five percent of the revenues received from the tax imposed by section three of chapter sixty-four G, and section twenty-two of chapter five hundred and forty-six of the acts of nineteen hundred and sixty-nine. Monies in said fund shall be applied subject to appropriation by the General Court as follows:

- (a) forty percent to the office of travel and tourism for tourism promotion programs;
- (b) thirty-eight percent to the Massachusetts Convention Center Authority established under the provisions of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two for operating expenses in excess of income from convention activities;
- (c) nineteen percent for financial assistance to tourist promotion agencies under the provisions of section fourteen of chapter twenty-three A;
- (d) three percent for the expenses of the Massachusetts International Trade Council.

**SECTION 306.** If any provision of section thirty-five J of chapter ten of the General Laws, as added by section one hundred twenty-one of this act or the application of any such provision to any person or circumstance shall be held invalid or unconstitutional, the other provisions of said section or the application of said section or provision to any person or circumstance other than that as to which it is held invalid or unconstitutional, shall not be affected thereby.

**SECTION 307.** Section 31 of chapter 190 of the acts of 1982 is hereby amended by striking out the tenth paragraph and inserting in place thereof the following paragraphs:-

The overwhelming proportion of specific and precisely measurable revenues generated by the convention center (as distinguished from excises such as the meals tax) will be in the form of hotel and motel room taxes collected from persons attending conventions and paid by the various hostelries directly to the commonwealth and those of its cities and towns which opt to impose local excises. However, the comparatively small but still substantial costs of operations in the highly competitive convention and meeting industry will be paid out by the authority. This may be expected to result in an apparent operating deficit similar to that experienced by the generality of convention centers throughout the nation. It is hereby found and determined that one appropriate means of defraying a portion of the expected operating deficits of the convention center is the combination within the authority of both the convention center and a separate revenue producing facility situated in the vicinity of said center. There presently exists within the city of Boston a facility, known as the Boston common parking garage, which is most suited for this purpose. The consolidation under one authority of the Boston common parking garage with the convention center shall help to assure the financial feasibility of both endeavors without increasing the tax burden to citizens of the commonwealth. It is further found and determined that to the extent revenues

from the operation of the combined facilities may be insufficient to defray the operating deficits of an internationally prominent convention center by the authority, it is in the interest of both the commonwealth and its cities and towns that sufficient revenues be made available from other sources to the authority to assure the accomplishment of its statutory purposes.

It is further found and determined that the interest of the commonwealth as well as that of its cities and towns in the development of properly maintained and operated convention, civic and conference centers and exhibition halls or like facilities, shall best be served by the involvement of the Authority in the establishment of a statewide plan of funding, development, and promotion of such centers. Statewide coordination of such activities is necessary to assure that local development needs will be most appropriately assisted through the provision of financial assistance, technical consultation, and promotional activities in both the national and international markets.

In order to provide the authority with the resources needed to operate and maintain an internationally prominent convention center as well as to coordinate a statewide plan of funding, development and promotion of local facilities, the commonwealth must be willing to commit to the provision of long-term financial assistance to the authority. Both the commonwealth and those of its cities and towns which opt to impose local excises will realize substantially increased room occupancy excise collections as a result of the endeavors of the authority. To the degree not inconsistent with the provisions of sections thirty-one through fifty, inclusive, of this act, the authority shall be considered a municipal corporation.

**SECTION 308.** Chapter 100 of the acts of 1982 is hereby amended by striking out section 32, as most recently amended by section 4 of chapter 629 of the acts of 1982, and inserting in place thereof the following section:-

Section 32. The following words and phrases, as used in sections thirty-one to fifty, inclusive, shall unless the context otherwise requires, have the following meanings:

"Act", the provisions of sections thirty-one to fifty, inclusive, of this chapter, as amended and supplemented from time to time.

"Authority", the Massachusetts Convention Center Authority created by section thirty-three of this act or, if said authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to which the powers given by this act to the authority shall be given by law.

"Bonds", any bonds, notes, or evidences of indebtedness by the authority.

"Boston Common Parking Garage", the facility, presently under the control of the Massachusetts parking authority, used for the parking of motor vehicles and located under the Boston Common in the city of Boston.

"City", the city of Boston.

"Cost of a project" shall embrace the cost, whenever incurred, of carrying out a project pursuant to the provisions of this chapter and placing it in operation, including without limiting the generality of the foregoing, the cost of acquisition, construction, expansion and rehabilitation, architectural and engineering services, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incident to determining the feasibility or practicality of the project, expenses of administration, legal expenses and such other expenses as may be necessary or incident to the aforesaid, to the financing thereof and to the issuance thereof of bonds under the provisions of this act, interest prior to and during the carrying out of any project and for a reasonable period thereafter, and such reserves for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing bonds of the Authority.

"John B. Hynes Veterans Memorial Auditorium", the facility presently bearing that name, located in, and presently under the control of the city of Boston.

"Massachusetts Parking Authority", the authority bearing that name and established pursuant to chapter six hundred and six of the acts of nineteen hundred and fifty-eight.

"Mayor", the mayor of the city of Boston.

"Net cost of operations", the difference between (a) all current expenses incurred by the Authority, including but not limited to the costs of conducting competitive national and international marketing programs to attract conventions and meetings, expenses for operations, wages, contracts for service by others, maintenance, debt service including any debts, liabilities and obligations assumed under the provisions of law and including any applicable sinking fund requirements, rentals, insurance, indemnification of past or present members, officers, employees or other agents, reasonable and proper reserves or sinking funds for any of the foregoing, and all other expenses which the Authority determines not to capitalize, including expenses for any studies, including feasibility studies, authorized by this act and expenses for preliminary technical assistance and consultation to public and private groups in connection with developing proposals for projects, and (b) all income received by the Authority, including but not limited to revenues and receipts from operations, parking, sale of capital assets in the ordinary course of business, and gifts and grants for current purposes. Expenditures from the proceeds of bonds or bond anticipation notes shall not be included in current expenses. Any appropriations to meet the estimated net cost of operations provided to the Authority by the commonwealth shall not be included in income received by the Authority for purposes of this definition.

"Project", the acquisition, construction, expansion, rehabilitation or improvement, or any combination of the foregoing, or the operation, promotion and maintenance of a convention center, civic center, parking facilities, whether or not for the purpose of furnishing parking for such convention center, conference center or other like facility, together with any revenue-producing facility or facilities supportive thereof, or any facility or facilities ancillary thereto, such as facilities necessary to provide services or accommodations to the public in connection therewith, the provision and installation therein or in respect thereof of furnishings, furniture, machinery, equipment, facilities, approaches, driveways, walkways, parking facilities, planting and landscaping, the acquisition of land or other property, or rights, easements and interests acquired for or in respect to any such land or property, the demolition or removal of any buildings or structures on land so acquired or in or with respect to which interests are so acquired, and site preparation. Whenever appropriate the word shall also mean such land, buildings or structures and such appurtenances.

"Users", those who enter into contractual obligations with the Authority to use its facilities.

**SECTION 309.** Section 35 of said chapter 190 is hereby amended by striking out clause (j) and inserting in place thereof the following clause:-

(j) To engage architects, consulting engineers, attorneys, construction, financial, promotional and other experts, superintendents, managers, construction managers, and such others as may be necessary in its judgment and to fix their compensation.

**SECTION 310.** Clause (n) of said section 35, as amended by section 7 of chapter 629 of the acts of 1982, is hereby further amended by inserting, in line 14, after the word "Laws", the following words:- and regulations referred to therein or adopted pursuant thereto, or by section twenty-one of chapter forty of the General Laws, and regulations referred to therein or adopted pursuant thereto.

**SECTION 311.** Said section 35 is hereby further amended by striking out clause (w) and clause (v), as added by section 7 of said

chapter 629, and inserting in place thereof the following four clauses:-

(u) To rent or lease to, or otherwise make available for use or occupancy by, any public or private entity, any building, structure or other facility or portion thereof under the control or jurisdiction of the authority and to establish rules and regulations related to such renting, leasing, use or occupancy; provided that no such facility shall be placed so exclusively at the disposal of one or more users as to unduly restrict a diversity of use by others in the public interest.

(v) To contract with and to grant concessions to any public or private entity for the operation of any building, structure or other facility or portion thereof under the control or jurisdiction of the authority, or for the furnishing of goods and services thereto or to persons admitted thereto.

(w) To promote and encourage the use of civic, conference or convention centers, exhibition halls or like facilities throughout the commonwealth by entering into contracts at its discretion with interested public bodies, including without limitation those who have received grants under section fourteen of chapter twenty-three A of the General Laws, to provide technical assistance and consultation or to manage or operate such facilities, or to purchase, lease or otherwise acquire such facilities, or by other appropriate means.

(x) To do all things necessary, convenient, or desirable to carry out the purposes of this act.

In exercising its powers under clauses (o), (u), (v), and (w), the Authority may, where appropriate, contract and grant concessions for goods, services or promotions, and may rent, lease or make available facilities to users of any type on an exclusive basis, and may limit or displace competition and authorize such contracts, grants, rentals, leases or other arrangements to be entered into separately or in combination, whenever, in the Authority's judgement, to do so is necessary or desirable to further its public purposes; provided, however, that in making arrangement under said clauses with persons and entities operating for profit, the authority shall impose on them charges representing at least the fair market value of the privileges afforded and at least comparable to those which would be charged by a private owner or manager.

**SECTION 312.** Said chapter 190 is hereby further amended by inserting after section 35 the following section:-

*Section 35A.* The executive director of the Authority shall annually, on or before a date set by the secretary of administration and finance, submit to the budget director statements prepared in accordance with section three of chapter twenty-nine of the General Laws, indicating the estimated net cost of operations of the Authority for the next fiscal year and requesting an appropriation from the commonwealth in an amount necessary to meet such net cost of operations.

**SECTION 313.** Said chapter 190 is hereby further amended by inserting after section 38J, inserted by section 13 of chapter 629 of the acts of 1982, the following four sections:-

*Section 38K.* The Authority is hereby authorized and directed to prepare and submit to the governor, the president of the senate, the speaker of the house of representatives, the chairman of the senate committee on ways and means, the chairman of the house committee on ways and means, and the secretary of administration and finance, a comprehensive report on the adequacy of existing facilities throughout the commonwealth to attract and accommodate large gatherings of governmental, civic, trade, industry, and other national or international groups who wish to conduct conventions, meetings and other similar events within the commonwealth, together with a recommended program for upgrading and expanding such facilities and maximizing their use to the end that increased numbers of visitors will be attracted to various areas and municipalities of the commonwealth to promote economic health throughout



the commonwealth. There may be submitted as part of said report one or more studies conducted by independent consultants as to the feasibility of establishing or improving and operating specific facilities for the foregoing purposes, including:

- (a) a description of the locations deemed suitable by the Authority for such facilities;
- (b) a description of the lands, structures, fixtures, and facilities deemed necessary or appropriate by the Authority for the construction or reconstruction of such facilities;
- (c) an estimate of the capital expenses estimated by the Authority as necessary for the construction or reconstruction of such facilities;
- (d) an estimate of the operational expenses estimated by the authority as necessary for the operation and maintenance of such facilities; and
- (e) a proposal by the Authority for the provision of funds sufficient to meet the capital and operating costs, including projected income, associated with such facilities.

*Section 38L.* Prior to undertaking any project not located in the city of Boston, the Authority shall submit a proposal for such project to the secretary of administration for certification and approval. The proposal shall include a feasibility study of the proposed project including the project costs, sources of funding for project costs, the project schedule, an analysis of the economic benefits such as increased tax revenues and employment to the project region and to the commonwealth resulting from the project, an analysis of the operating costs of any constructed, newly acquired, expanded, or improved facility for the first five years of operation following construction, acquisition, expansion or improvements and sources of revenue available to meet those operating costs and such other information as will assist said secretary in making a determination.

If said secretary, in consultation with the division of capital planning and operations and based upon any information required and obtained by said secretary from the Authority or other governmental entity, determines that the proposal provides a reasonably accurate estimate of the project requirement, costs and schedule, and that the project can be accomplished without substantial deviation therefrom; a reasonably accurate statement of the needs for and benefits of the project; a reasonably accurate estimate of operating costs and the revenue available to meet those operating costs; and a reasonably accurate statement as to the sources of funding available or required to complete the project, said secretary shall certify the same and shall approve the proposal. Any proposal not certified and approved or disapproved by said secretary within said sixty days shall be deemed approved unless said secretary provides the Authority with the reasons, in writing, for his refusal to certify the proposal and affords the Authority a reasonable opportunity to cure any defects.

*Section 38M.* Any city, town, or other political subdivision or public instrumentality in the commonwealth may, with the consent of the Authority, and subject to the provisions of section thirty-eight N of this act, sell, lease, or otherwise transfer any convention center, civic center, conference center, exhibition hall or like facility together with any ancillary facilities as described in the definition of "Project" in section thirty-two and any real property interests or other property connected therewith to the authority with or without consideration, or may contract for the authority to manage, operate and promote the same on such terms as may be agreed upon, any such sale, lease, transfer, or contract to be authorized, in the case of a city or town, by a majority vote as defined in section one of chapter forty-four of the General Laws. Such authorization may be in general terms.

*Section 38N. (a)* The Authority shall not consent to any sale, lease, transfer or contract pursuant to section thirty-eight M, nor shall the Authority in connection with any capital facility project for which the estimated construction cost is equal to or greater than one million dollars enter into any contracts, incur any other obligation, or cause to be performed any design services or construction, other than preparation of master plans, studies, surveys, soil tests, cost estimates, or programs, unless such sale, lease, transfer of contract or such capital facility project has been authorized by the general court or is necessary for the maintenance or repair of a capital facility owned by, the Authority. Every authorization for such sale, lease, transfer or contract or for such capital facility project shall be deemed to require the satisfactory completion of an antecedent feasibility study and program unless such authorization explicitly states that no such study program need or shall be done.

*(b)* A feasibility study and program shall not be deemed satisfactorily completed unless and until it is approved by the general court. The Authority shall file with the clerks of the senate and the house of representatives and the senate and house committees on ways and means any feasibility studies or program for which the Authority seeks approval by the general court. When the Authority has filed a feasibility study and program prior to authorization by the general court of a sale, lease, transfer, contract, or capital facility project pursuant to paragraph (a) such authorization shall to the extent provided constitute the approval of the feasibility study and program.

*(c)* For the purposes of this section, the terms "capital facility program", "study", and "program", shall have the meanings set forth in section thirty-nine A of chapter seven of the General Laws.

*(d)* The Authority shall not consent to any sale, lease, transfer, or contract, subject to the provisions of paragraph (a), nor shall the Authority enter into any contract or incur any obligation or cause to be performed design services or construction for a capital facilities project subject to the provisions of paragraph (a), unless the executive director certifies in writing that such sale, lease, transfer, or contract or such design services, or such construction, as the case may be, shall be undertaken in conformity with the authorization from the general court and without substantial deviation from the study and program, and within the project cost limits specified by the appropriation or authorization. In no event shall design or construction work be such as would result in a change in the number of gross square feet to be constructed in the project of more than ten percent from the number specified in the study or program.

**SECTION 314.** Section 39I of said chapter 190, as inserted by section 15 of said chapter 629, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The contract entered into pursuant to the provisions of this section shall require in connection with each designation thereunder a certification from the executive director of the Authority, expressly approved by the authority at a regular or special meeting of the authority, to the effect that the Authority is in compliance with all applicable provisions of law, including without limitation the applicable provisions of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two and chapters twenty-nine, thirty, and one hundred and forty-nine of the General Laws; that the Authority is in compliance with all applicable laws within the jurisdiction of the office of the inspector general of the commonwealth; that the Authority has reasonably relied on independent professional expertise and advice in all aspects of the project covered by such designation directly or indirectly affecting present or prospective costs to the commonwealth; and that the Authority has consulted with the finance advisory board established by section ninety-seven of chapter six of the General Laws as to the timing and terms of the bonds described in such designation. Such contract

may also provide that such contract assistance shall be paid by the commonwealth directly to the trustee or paying agent for the bond with respect to which the contract assistance is provided.

**SECTION 315.** The Massachusetts Convention Center Authority is hereby authorized to expend funds heretofore granted to it pursuant to section forty-seven of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two to pay the cost of any project or projects as defined in section thirty-two of said chapter one hundred and ninety; provided that the project is not inconsistent with the purposes of chapter six hundred and twenty-nine of the acts of nineteen hundred eighty-two.

**SECTION 316.** Section one hundred and fifty-six of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine as amended by section one hundred and fifty-seven of chapter one hundred and fifty of the acts of nineteen hundred and ninety is hereby repealed.

**SECTION 317.** (a) The department of public welfare is hereby directed to study the feasibility and cost-efficacy of a voluntary work experience program including but not limited to a community service work program for certain recipients of aid to families with dependent children. The study shall be directed at designing a program with incentives for and methods of decreasing generational dependency on public assistance. The department shall consider the benefit of incentives such as the provision of a non-countable stipend as reimbursement to volunteers for work-related expenses; provided that part or all of said stipend may be provided by the organization benefitting from the services. If a city or town receives the services, then no stipend shall be provided. The target population to be served by the program shall include but not be limited to long-term present recipients of public assistance who have been on the caseload more than five years.

The department shall submit a report of its findings and a draft of proposed legislation to implement the plan recommended by said report to the committee on human services and elderly affairs and the house and senate committees on ways and means no later than October first, nineteen hundred and ninety-one.

(b) The mandatory public assistance work program plan required to be submitted by the secretary of human services pursuant to section eight of chapter seventy-five of the acts of nineteen hundred and ninety shall be submitted by said secretary no later than August first, nineteen hundred and ninety-one.

**SECTION 318.** The trustees of the University of Massachusetts are hereby directed to study ways in which the University of Massachusetts Medical School can increase revenues to sustain said medical school. Said study shall include but not be limited to an investigation of the implications of creating independent status for the medical school or having the medical school seek designation as a non-profit institution. The trustees shall submit its recommendations together with any legislation to the house and senate ways and means committees and the joint committee on education on or before December thirty-first, nineteen hundred and ninety-one.

**SECTION 319.** Section 1L of Chapter 15 of the General Laws is hereby deleted.

**SECTION 320.** Chapter 19A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after section 36 the following section:-

Section 37. The school committee of any city or town with the approval of the secretary of elder affairs may extend the school lunch period for the purpose of serving lunches to authorized elderly persons. Independent schools in any city or town so approved may also participate. Private nonprofit organizations or public non-school agencies approved by the secretary of elder affairs may

also serve lunches to authorized elderly persons at locations convenient to the elderly.

The governing body of each city and town shall be responsible for developing a plan for a year-round hot lunch program for the elderly.

The department of elder affairs may contract with public or independent school systems, private nonprofit organizations or public non-school agencies for the preparation and serving of meals to the elderly in accordance with the provisions of this section.

To the extent feasible, the department may select as the primary contractors under this program agencies and organizations which receive funding under Title III of the Older Americans Act, as amended, or state funds to operate nonprofit congregate and home delivered meals programs for the elderly, as set forth in regulations of the department. Such primary contractors shall subcontract with one or more of the school systems, organizations or agencies set forth in the previous paragraph in order to incorporate the existing school lunch programs for the elderly into the nutrition services program under Title III of the Older Americans Act, as amended.

Such meals may be prepared by such public school systems, independent schools, agencies and organizations on site or be prepared in central production centers for service at sites more convenient to the elderly; provided, however, that no person shall pay more than one dollar for each meal.

The operation of such school lunch programs by public or independent school systems, private nonprofit organizations or public non-school agencies shall be subject to the following conditions and restrictions:

(1) Each program shall solicit voluntary contributions for each meal furnished in accordance with the requirements of Title IIIB of the Older Americans Act of 1965, as amended.

Contributions, other income earned by these programs and United States department of agriculture commodities and cash in lieu of commodities for which each such program shall become eligible shall be used with state and federal funds received to increase the number of meals served under the program, facilitate access to such meals and provide other supportive services directly related to nutrition services. Each program shall establish appropriate procedures to safeguard and account for all contributions.

(2) The lunches served shall meet the nutritional standards established in accordance with Title III of the Older Americans Act of 1965, as amended.

(3) The procedures determined by each designated school committee or independent school in serving such lunches shall be approved by the department of elder affairs.

As used in this section, the words "authorized elderly persons" shall mean persons sixty years of age and over and their spouses. Subject to appropriation, the commonwealth may reimburse any city, town, or regional public or independent school system or any public non-school or private nonprofit agency for certain costs approved by the department as are incurred in excess of the voluntary contributions received for each such lunch prepared and served. Subject to appropriation, such approved costs shall be reimbursed upon written request by such city, town, regional public or independent school system, public non-school or private nonprofit agency to the secretary of elder affairs on a form as he may prescribe. If the secretary approves such request, he shall certify to the comptroller that such payments are due and the state treasurer shall pay the same.

**SECTION 321.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the secretary of human services, in conjunction with the commissioner of public employee retirement administration, shall develop and implement

a temporary modified work program, in accordance with which transitional modified duty jobs shall be offered to all employees of agencies within the executive office of human services, who are receiving payments pursuant to chapter one hundred and fifty-two of the General Laws.

**SECTION 322.** Notwithstanding the provisions of any general or special law, or rule or regulation to the contrary, the secretary of human services, pursuant to standards established by the commissioner of public employee retirement administration, shall establish a preferred medical provider network, and contract with providers for this purpose, for the treatment and rehabilitation of employees of agencies within the executive office of human services who suffer work-related injuries and illnesses. Said employees shall be encouraged to make use of the providers in this network. *The officer in each agency responsible for workers' compensation case management shall be required to closely monitor said employees' progress throughout the course of treatment, in accordance with established protocols, by providers of this network, and offer assistance to said employees with respect to facilitating their access to medical care.*

**SECTION 323.** The secretary of administration and finance, in conjunction with the secretaries of human services and public safety, is hereby directed to promulgate regulations by September first, nineteen hundred and ninety-one, in accordance with the requirements of chapter thirty A, governing the award of compensation under the fourth paragraph of section fifty-eight of chapter thirty of the General Laws, as appearing in the nineteen hundred and ninety Official Edition, to employees of agencies within the executive offices of human services and public safety. Said regulations shall include, but not be limited to, standards to determine circumstances in which such compensation is appropriate.

**SECTION 324.** Notwithstanding the provisions of any general or special law, or rule or regulation to the contrary, no compensation under the fourth paragraph of section fifty-eight of chapter thirty shall be paid to employees of agencies within the executive offices of human services and public safety, without certification of said employees' eligibility for such compensation by the secretaries of human services and public safety, respectively.

**SECTION 325.** The secretary of human services shall insure that each agency within the executive office of human services assigns a management-level officer the responsibility for workers' compensation case management. Duties of said officers with regard to oversight of the workers' compensation claims process shall include, but not be limited to, initial investigation of claims, directing agency-level claims processing, coordinating the agency relationship with the division of public employee retirement administration workers' compensation unit, and administering the temporary modified work program and preferred medical provider network for the agency.

**SECTION 326.** The secretaries of human services and public safety shall direct the head of each agency within the executive offices of human services and public safety, respectively, to study and monitor, on an ongoing basis, the impact of sections 321, 322, 323, 324 and 325 of this act on the workers' compensation costs of his agency. Said secretaries shall be responsible for collecting and analyzing data submitted to him from said heads of agencies, and shall submit his findings, conclusions and recommendations for changes requiring legislation, if any, in the form of a report to the senate and house committees on ways and means, on or before March thirty-first, nineteen hundred and ninety-two, and annually on that date thereafter.

**SECTION 327.** In the interest of providing continued rental assistance for households that may otherwise be subject to termination or reduction of their chapter 707, so-called, rental subsidies or vouchers, due to reductions in the funding of said rental assistance

program, the secretary of communities and development is hereby authorized and directed to establish a ranking system for federal and local preferences to be utilized by the executive office of communities and development, by regional non-profit organizations under contract with said executive office, and by persons who own, operate or administer housing developments and programs assisted under section eight of the United States Housing Act of 1937, including developments financed by the Massachusetts Housing Finance Agency, but not including local housing authorities, in determining the priority to be given to applicants for such public and subsidized housing programs. Under such ranking system, first priority for units and subsidies which become available in section 8, so-called, housing developments and programs shall be given to households who, as a result of the reduction of the household's existing chapter 707 rental assistance, through no fault of the tenant household, shall be required to pay more than fifty percent of their household income for rent and tenant-paid utilities, not including telephone, and who are otherwise eligible for said section 8 housing program or development. Such ranking system shall be established no later than August first, nineteen hundred and ninety-one, in accordance with regulations promulgated by the executive office of communities and development under chapter thirty A. Such ranking system shall comply with federal statutory preferences and other federal law, and shall supersede any applicant selection system previously established for such development or program. If approval or a waiver by a federal agency is required to implement such ranking system, the executive office of communities and development shall submit the system for waiver or approval to the applicable federal agency by no later than August first, nineteen hundred and ninety-one. A separate determination that the contract rent is reasonable in relation to rents currently being charged for comparable units in the private unassisted market and not in excess of rents currently being charged by the owner for comparable unassisted units shall be made, in accordance with federal law, for units assigned a section 8 certificate or voucher as a result of this section.

**SECTION 328.** By no later than October first, nineteen hundred and ninety-one, the appropriate local authority and the executive office of communities and development shall review all outstanding rental assistance certificates funded pursuant to line item 3722-9024 of section two of this act to determine the degree to which the total rent charged for a unit with a tenant who is a holder of a so-called chapter seven hundred and seven certificate reflects accurately the current market rents for comparable units within the general rental area, shall initiate discussions with all owners of property in which five or more units are occupied by tenants who hold said seven hundred and seven certificates in order to negotiate a reduction in rents for said units by an appropriate percentage of the rent charged for the unit in the fiscal year ending June thirtieth, nineteen hundred and ninety-one, and shall adopt and approve a revised scale of rents under section forty-three of chapter one hundred and twenty-one B of the General Laws which reflects said decreases in rental charges.

**SECTION 329.** Notwithstanding any general or special law to the contrary, the secretary of administration and finance, in consultation with the secretary of human services, is hereby directed to develop and implement a sliding schedule of fees for the provision of services funded by departments and commissions within the executive office of human services. Fees charged under said sliding schedule shall be based on the financial circumstances of the affected service recipient, including, but not limited to, income, assets and liabilities. Each such department or commission shall provide affected recipients of services at least thirty days' notice of an impending fee copayment change before implementation of such sliding schedule. No such fees shall be charged to individuals and families whose incomes are at or below two hundred percent of the federal poverty line. Commissioners of departments or commissions in the executive office of human services shall be authorized to waive or adjust a service recipient's

sliding fee copayment if the commissioner determines that imposition of a fee at the scheduled level would interfere with the service recipient's ability to receive services, for reasons including, but not limited to, financial hardship due to recent disaster, or extraordinary medical or rental expenses. The secretary of administration and finance shall file a schedule of fees, including an estimate of new costs and revenues resulting therefrom, with the senate and house committees on ways and means no later than October first, nineteen hundred and ninety-one.

The secretary of administration and finance, in consultation with the secretary of human services and the commissioner of social services, shall undertake a study of the feasibility of implementing a sliding schedule of subsidies for adoptive families, under which the amount of subsidy paid by the department of social services to an adoptive family would be based on the financial resources and circumstances of the adoptive family. Said study shall include, but not be limited to, a review of all pertinent federal statutes and regulations, and a consideration of their requirements in conjunction with any such sliding schedule of subsidies. The secretary of administration and finance shall file a report of his study's findings and conclusions, and recommendations, if any, along with draft legislation to carry such recommendation into effect, with the clerk of the house of representatives and the clerk of the senate no later than October first, nineteen hundred and ninety-two.

**SECTION 330.** Notwithstanding the provisions of section five of chapter seventy A of the General Laws, for the fiscal year nineteen hundred and ninety-two, no city or town shall be ineligible for an equal educational opportunity grant by reason of its failure to meet the requirements of said section five if the following conditions are met: (1) the city or town is under the supervision of a financial control board, and (2) the commissioner of revenue determines that a financial emergency is likely to exist in the city or town in fiscal year nineteen hundred and ninety-two.

**SECTION 331.** Section 148 of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding after the third paragraph the following paragraph:-

This section shall not apply to employees of cities, towns, counties, regional school districts, or other political subdivisions of the commonwealth.

**SECTION 332.** Section 245 of chapter 653 of the acts of 1989, as most recently amended by chapter 340 of the acts of 1990, is hereby further amended by striking the text of said section and inserting in place thereof the following:-

*Section 245.* The provisions of sections forty-three, forty-four, forty-five, forty-seven, forty-eight, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-two, sixty-three and ninety-five of this act shall take effect on January first, nineteen hundred and ninety-two.

**SECTION 333.** Section 5B of chapter 40 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in the third paragraph the words "or for such other municipal purpose as is approved by said Emergency Finance Board" and inserting in place thereof the following words:- or for any other lawful purpose.

**SECTION 334.** Notwithstanding any general or special law, rule or regulation to the contrary, any city or town contracting for expert property reappraisal services may provide in such contract that payment for such services may be made over a multiyear period; provided, however, that such period may not exceed three years.

**SECTION 335.** Section 7A of chapter 71 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause (d) of the first sentence of the first paragraph, and inserting in place thereof the following clauses:-

(d) no contract shall be awarded except upon the basis of prevailing wage rates, as hereinafter provided, and of competitive sealed bids pursuant to chapter thirty B; and (e) no reimbursement for transporting a pupil between school and home shall be made to a school system which does not certify to the department of education in a manner prescribed by the department that the average number of students transported over a period of an academic year does not equal or exceed seventy-five percent of the carrying capacity of the bus or other transportation system used by said school system provided however, that this section shall not apply to any school district which is, or has been, subject to the provisions of a court-ordered busing program.

**SECTION 336.** Section seventeen of chapter seventy-one of the General Laws is hereby repealed.

**SECTION 337.** The board of regents is hereby authorized, with the assistance of the executive office for administration and finance, to prepare a report evaluating undergraduate programs of study in the state colleges and public universities of the commonwealth. In conducting their evaluation the board shall identify (1) those undergraduate programs of study in which the ratio of enrolled students to faculty is one-half or less of the statewide average; (2) those undergraduate programs unaccredited by a nationally or regionally recognized accrediting body; and (3) associate degree programs at the state colleges and universities, but not including programs at the community colleges of the commonwealth. The board shall establish a plan for the elimination of programs which fall into the aforementioned categories, provided that the board may exclude such a program from the plan for elimination if the board articulates specific and compelling justifications for the programs continuance. The board shall file its report, including its plan to eliminate programs falling within the categories delineated in this section, and any statutory or regulatory changes needed to implement said plan, with the clerk of the house of representatives and the clerk of the senate by the first Wednesday in January of nineteen hundred and ninety-two.

**SECTION 338.** The Massachusetts State Scholarship Office, in conjunction with the Massachusetts Higher Education Assistance Corporation, the Massachusetts Educational Financing Authority, The Education Resource Institute and the Association of Independent Colleges and Universities of Massachusetts, is hereby authorized and directed to conduct a study of financial aid resources available to Massachusetts residents applying or enrolled in a public or private institution of higher education. The study shall provide information which shall include, but not be limited to, sources of institutional aid, all other state and federal sources of financial aid, a profile of students served by each program, the costs of borrowing, the costs of education, the unmet needs of students, the possible limitations on access imposed by maximum loan levels at the state or federal level, and any pending state and federal legislation which could affect the availability of financial aid. The study shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than October first, nineteen hundred and ninety-one.

**SECTION 339.** All institutions of public higher education in the commonwealth are hereby authorized and directed to implement plans to report all trust fund and retained revenue expenditures by subsidiary on the Massachusetts Management Accounting Reports System (MMARS) by July first, nineteen hundred and ninety-two.

**SECTION 340.** Said section 3 of said chapter 71B is hereby amended by striking out the thirteenth paragraph, as so appearing, and inserting in place thereof the following paragraph:-

If the parents, guardians or persons with custody reject the educational placement recommended by the department and desire a program other than a regular education program, they may proceed to the superior court with jurisdiction over the residence of



the child and said court shall be authorized to order the placement of the child in an appropriate education program.

**SECTION 341.** (a) The secretary of human services is hereby authorized, subject to the requirements of Title XIX of the Social Security Act, to take such actions necessary to revise the schedule of medical benefits available to recipients of medical assistance pursuant to said chapter one hundred and eighteen E, to revise eligibility standards for such assistance, and to make such other revisions in regulations and policies of the department of public welfare necessary to reduce expenditures for said medical assistance program to the level made available by this act. In making such revisions, said program of medical assistance is hereby further authorized to:

- (1) seek waivers of any federal requirements;
- (2) exercise its authority under section four A of said chapter one hundred and eighteen E to review proposed rates and rate methodologies to insure that rates of payment to providers are consistent with the provisions of said section four A and this act;
- (3) limit the number of days of reimbursement permitted for hospital patients;
- (4) pursuant to section seventy-four of chapter one hundred and fifty of the acts of nineteen hundred and ninety, implement a managed care program for all beneficiaries, including the provision of differentiated benefits packages to categories of recipients;
- (5) impose copayments and utilization restrictions as permitted by Title XIX;
- (6) selectively contract with providers for any service;
- (7) implement alternative residential settings for the provision of long-term care.

(b) Any revisions in said benefits and eligibility standards shall be implemented through the adoption of regulations promulgated pursuant to the department's regulatory process, upon a determination in writing by the secretary of human services that such revisions are required to reduce expenditures to the level made available by this act. In making such determination, the secretary may consider

- (1) the role of the services and benefits proposed to be limited or eliminated in the creation of managed care programs for the elderly, disabled, families and children;
- (2) the impact on federal financial participation, including the commonwealth's federal financial participation maximization initiatives;
- (3) the net cost savings or increase to the commonwealth;
- (4) the impact on the quality, availability and accessibility of health care services for recipients, particularly pregnant women, infants and children, and the chronically disabled, including persons with AIDS; and
- (5) anticipated changes in the structure of state and federal health care delivery and finance systems, including the role of the uncompensated care pool or any successor thereto.

(c) The department of public welfare shall assist with and seek non-state funding for a study of the impact of the revisions authorized by this section on the health of recipients of medical assistance and those becoming ineligible for such assistance. Said study may include tracking of matched samples of chronically and acutely ill recipients eligible and ineligible for medical assistance or certain services or benefits, comparing medical care alternatives available and chosen by such persons and the health outcomes of such choices. A report on the findings of said study shall be filed with the house and senate committees on ways and means no later than April first, nineteen hundred and ninety-two.

**SECTION 342.** Paragraph (g) of section 16C of chapter 118E of the General Laws, as inserted by section 34 of chapter 6 of the

acts of 1991, is hereby amended by striking the words "July first, nineteen hundred and ninety-one" and inserting in place thereof the words:- January first, nineteen hundred and ninety-two.

**SECTION 343.** Section 71A 1/2 of chapter 111 of the General Laws is hereby amended by striking said section and inserting in place thereof the following section:-

*Section 71A 1/2.* The administrator of any facility licensed pursuant to section seventy-one shall deposit in an interest-bearing account of any bank organized and existing under the laws of the commonwealth, funds of any person who is an inpatient or resident at such facility, if such administrator agrees to manage such funds at the request of such person or the fiduciary of such person or if the administrator is a fiduciary of such person. The words "fiduciary" and "fund" shall have the same meaning found in section one of chapter one hundred and twenty-three. The interest earned on any interest-bearing account shall be distributed or credited in one of the following ways, at the election of the facility: (a) pro-rated to each patient on an actual interest earned basis for individual accounts or (b) pro-rated to each patient on the basis of his end of quarter or nearest end of month balance for collective accounts. The department shall promulgate rules and regulations to implement this section.

**SECTION 344.** Notwithstanding the provisions of chapter one hundred and seventeen of the General Laws or any other general or special law to the contrary, during fiscal year nineteen hundred and ninety-two a person shall be eligible for general relief benefits under said chapter one hundred and seventeen only if the person is a dependent child, a parent or other caretaker of a dependent child, a person sixty-five years of age or older, a person required to care for an incapacitated person living in the home who is in need of constant care, a full-time student under the age of twenty-one who is not otherwise ineligible under chapter one hundred and seventeen, a person participating in a vocational rehabilitation program of the Massachusetts rehabilitation commission, or a person who suffers from a medically determinable impairment or combination of impairments which is expected to last for at least sixty days and which significantly limits the individual's ability to obtain employment of twenty or more hours per week in light of the individual's age, education, skills, and work experience; provided further, that in administering this program with respect to persons applying for benefits on the basis of one or more medical impairments, the department of public welfare (a) shall require such individual to provide medical verification of the impairment or impairments, including a statement of the expected duration of the impairment or impairments and its effect on the individual's ability to obtain employment of twenty or more hours per week; (b) shall assist applicants in obtaining necessary medical verification and shall pay for a medical evaluation for an applicant who seeks to establish his or her eligibility on the basis of a medical impairment or impairments provided the applicant meets all other eligibility requirements for general relief; and (c) may establish an eligibility review system to verify that persons receiving benefits on the basis of one or more medical impairments meet the criteria of this section, but shall not delay the award of benefits beyond the time limits for a determination of eligibility otherwise required by law where the medical verification provided by the applicant establishes that the individual suffers from a medically determinable impairment or combination of impairments which is expected to last for at least sixty days and which significantly limits the individual's ability to obtain employment of twenty or more hours per week and where the individual meets all other eligibility requirements for general relief; provided further, that a person shall not be eligible for general relief benefits on the basis of student status, if the person qualifies for benefits under chapter one hundred and eighteen of the General Laws because the department has determined that the person's needs should be considered in determining the need of a child or relative claiming aid under said chapter one hundred and eighteen.

**SECTION 345.** The department of public welfare is hereby directed to study the impact of any changes in requirements for general relief eligibility pursuant to this act. This study shall examine the impact of any loss in general relief benefits on the families and individuals affected by any such changes, and shall include but not be limited to the rate of homelessness among such families and individuals, the ability of such families and individuals to secure employment, and the ability of such families and individuals to secure medical treatment.

**SECTION 346.** Notwithstanding the provisions of any general or special law to the contrary, the department of public welfare is hereby authorized and directed to revise its rules and regulations with respect to the emergency assistance program to provide that any recipient who has received financial aid from the emergency assistance or emergency relief program more than once during a twenty-four month period shall be subject to an individual review by the assigned caseworker as to the reasons for the multiple usage of emergency services, and shall be placed by the department upon a protective payment schedule if said caseworker determines that the recipient has utilized emergency services as a result of having mismanaged funds.

**SECTION 347.** The department of public welfare shall submit to the house and senate committees on ways and means within sixty days of the effective date of this act, a detailed report for fiscal year nineteen hundred and ninety-one and monthly reports thereafter, by the fifteenth day of each month covering the previous month, for fiscal year nineteen hundred and ninety-two, which shall include, but not be limited to, total payments under the emergency assistance and emergency relief programs, the total number of families and persons served in said programs, including the number of recipients and the average expenditures per recipient in the following categories of assistance: rent and utility arrearages, advance rent and security deposits, emergency shelter, hotel and motel payments, and department of social services assessments. Said report shall also include a numerical breakdown, by service offices, of the utilization of said programs by recipients, and the total number of families and recipients who have received any category of assistance more than once within the same or previous calendar year. Said department shall undertake managerial and programmatic initiatives to ensure the effective management and control of said emergency assistance program and provide details of such initiatives and controls in said reports.

**SECTION 348.** Notwithstanding the provisions of any general or special law to the contrary, the department of public welfare is hereby authorized to enter into leases for housing units for the purpose of providing temporary shelter for up to ninety days to recipients of emergency assistance.

**SECTION 349.** Notwithstanding the provisions of section four of chapter four hundred and fifty-six of the acts of nineteen hundred and forty-five the city of Pittsfield is hereby authorized to withdraw from the Berkshire county mosquito control district.

**SECTION 350.** Enactment of this act and the appropriations made available by this act to the department of environmental protection shall be deemed a determination, pursuant to subsection (m) of section eighteen of chapter twenty-one A of the General Laws, that said appropriations for ordinary maintenance of said department from state funds other than the Environmental Challenge Fund and the Environmental Permitting and Compliance Fund are comparable to the baseline figure, as defined in said subsection, based on inflation, the department's demonstrated program improvements and efficiencies in areas other than those supported by fees, and added or reduced programmatic responsibilities of the department.

**SECTION 351.** The definition of "Covered claim" in section 15 of chapter 21C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 30, the word "ninety-one" and inserting in place thereof the word:- ninety-two.

**SECTION 352.** The first sentence of section 19 of said chapter 21C, as so appearing, is hereby amended by striking out, in line 8, the word "ninety-one" and inserting in place thereof the word:- ninety-two.

**SECTION 353.** Section 4 of chapter 10 of the acts of 1986 is hereby amended by striking out the word "ninety-one", as inserted by section 4 of chapter 712 of the acts of 1989, and inserting in place thereof the word:- ninety-two.

**SECTION 354.** The second paragraph of section 4A of said chapter 10 of the acts of 1986 is hereby amended by striking out the word "ninety-one", as inserted by section 5 of chapter 712 of the acts of 1989, and inserting in place thereof the word:- ninety-two.

**SECTION 355.** Section 6 of said chapter 10 of the acts of 1986 is hereby amended by striking out the word "ninety-one", as inserted by section 6 of chapter 712 of the acts of 1989, and inserting in place thereof the word:- ninety-two.

**SECTION 356.** Chapter 536 of the Acts of 1896 is hereby repealed.

**SECTION 357.** Section 5 of chapter 395 of the Acts of 1897 is hereby repealed.

**SECTION 358.** Chapter 116 of the Acts of 1915 is hereby repealed.

**SECTION 359.** Chapter 389 of the Acts of 1928 is hereby repealed.

**SECTION 360.** Chapter 153 of the Acts of 1957 is hereby repealed.

**SECTION 361.** Section 1 of chapter 135 of the Acts of 1960 is hereby amended in the first line by inserting after the words "Suffolk county jail" the words:- or house of correction.

**SECTION 362.** All employees of the penal institutions department, of the city of Boston, appointed prior to the effective date of this act shall be subject to the supervision and control of the sheriff of Suffolk county. Said transfer shall be made without impairment of seniority and without reduction in compensation and salary, notwithstanding any change in job titles or duties and without loss of accrued rights to holidays, sick leave, vacation and group insurance benefits; provided, however, that nothing in this section shall be construed to confer upon any employee rights not held prior to the transfer or to prohibit any subsequent reduction in compensation or salary grade.

**SECTION 363.** (a) No employee who is transferred to the sheriff of Suffolk county pursuant to the provisions of this act shall be covered by the provisions of chapter thirty-one of the General Laws. All employees, including those previously tenured under the provisions of said chapter thirty-one who, at the time of transfer are not eligible to receive tenure subject to the provisions of chapter one hundred and thirty-five of the acts of nineteen hundred and sixty, or section nine A of chapter thirty of the General Laws, may be continued in the discretion of the sheriff on a provisional basis in such position to which he is transferred, or in any position to which he is thereafter assigned. Any such provisional employee shall be deemed to have permanent status upon successful completion of a course of instruction conducted by the sheriff of Suffolk county and upon successful completion of any training requirements of the Massachusetts criminal justice training council. The sheriff of Suffolk county shall design the course of instruction in conjunction with the Massachusetts criminal justice training council. Any such non-uniformed employee shall be deemed to have permanent status upon successful completion of any training or experience as required by the sheriff of Suffolk county.

(b) Any employee who fails to complete successfully any required prerequisites or course of instruction may be continued by the sheriff of Suffolk county on a provisional basis, but shall not be eligible to gain permanent status in such position pursuant to the provisions of this section and in no event shall any employee be given more than one opportunity to retake such course of instruction

for the purposes of gaining such permanent status.

(c) Except to the extent provided for in paragraphs (a) and (b) of this section, positions transferred to the sheriff of Suffolk county and any successor positions filled or created subsequent to such transfer, shall not be subject to the provisions of sections nine A or nine B of chapter thirty, chapter thirty-one or chapter thirty-five of the General Laws, and all appointments, transfers, terminations and promotions shall be made in accordance with guidelines and regulations promulgated by the sheriff of Suffolk county. Said rules and regulations shall govern personnel management and employment practices, including affirmative action and equal employment opportunity plans.

**SECTION 364.** Paragraph b 1/2 of subdivision (1) of section 22 of chapter 32 of the General Laws as appearing in the 1990 Official Edition, is hereby amended by striking out the word "fifteen" in line 70, and inserting in place thereof the word:- thirty.

**SECTION 365.** Said paragraph b 1/2 of said subdivision (1) of said section 22 of said chapter 32, as so appearing, is hereby amended by striking out the word "fifteen" in line 100, and inserting in place thereof the word:- thirty.

**SECTION 366.** The second sentence of clause (i) of paragraph (c) of subdivision (7) of said section 22 of said chapter 32, as so appearing, is hereby amended by inserting at the end thereof the following:- ; provided however that any community which has a valid and current actuarial report shall only appropriate the amount specified in their actuarial report and the actuary shall not require a larger amount to be appropriated.

**SECTION 367.** The secretary of administration and finance is hereby authorized and directed, after consultation with the secretary of economic affairs, the secretary of consumer affairs and business regulation, the secretary of environmental affairs, the secretary of public safety and any other agency heads whom the secretary of administration and finance deems appropriate, to establish a plan for one-stop shopping, so-called, relative to permits and licenses and the renewal of such permits and licenses needed for start-up and small businesses. Such plan may, in addition, include a program of one-stop shopping, so-called, for any other category of businesses to which such a program would be reasonably feasible. Said plan shall clearly set forth the categories of businesses to be included and shall identify any regulatory changes required for the plan's implementation.

The secretary shall submit such a plan, along with any legislation needed for implementation, with the clerks of the house of representatives and of the senate, by the first Wednesday in January of nineteen hundred and ninety-two.

**SECTION 368.** Chapter 29 of the General Laws is hereby amended by inserting after section 9G the following section:-

Section 10. There is hereby established a Massachusetts council of economic advisors, hereinafter referred to as "the advisors to the council", which shall include the secretary of administration and finance, the secretary of economic affairs, and the commissioner of revenue, all serving ex officio, as well as six private-sector appointees, three of whom shall be from the business community and three of whom shall be economists, to advise the governor, the state treasurer, the speaker of the house of representatives, the president of the senate, and the chairmen of the house and senate committees on ways and means, hereinafter referred to as "the members of the council", relative to the state of the Massachusetts economy. The six private-sector advisors to the council shall be appointed annually by agreement among the members of the council.

The council shall meet at least two times during the year and may meet at other times by agreement among the members of the council. It shall be the duty of the advisors to the council to advise the members of the council on all aspects of the commonwealth's economic performance and prospects for future performance, and to make recommendations with respect to policies of the state

government which may contribute to enhancing the commonwealth's prospects for positive future economic performance. The members of the council and the advisors to the council shall all serve without compensation, but shall be reimbursed for their expenses incurred in the discharge of their duties. The secretary of administration and finance shall make available to the council such staffing needs as the council reasonably needs in order to conduct its business.

**SECTION 369.** Section 5B of chapter 29 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

On or before May fifteenth, the commissioner shall meet with the house and senate committees on ways and means and shall jointly develop a consensus tax revenue forecast for the budget for the ensuing fiscal year which shall be agreed to by the commissioner and said committees. In developing such a consensus tax revenue forecast, the commissioner and said committees, or subcommittees of said committees, are hereby authorized to hold joint hearings on the economy of the commonwealth and its impact on tax revenue forecasts. Said consensus tax revenue forecast shall be included in a joint resolution and placed before the members of the general court for their consideration. Such joint resolution, if passed by both branches of the general court, shall establish the maximum amount of tax revenue which may be considered for the general appropriation act for the ensuing fiscal year.

**SECTION 370.** Section 7H of said chapter 29, as appearing in the 1988 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

In the event that the governor determines from information supplied by the executive office for administration and finance, from the tax revenue resolution established pursuant to section five B, or from any other competent source that the tax revenues or non-tax revenues supporting the general appropriation bill have materially decreased from the time the general appropriation bill was originally submitted, he shall submit to the general court by message recommended corrective amendments to his original budget submission to ensure that total appropriations recommended in the general appropriation bill do not exceed total revenues supporting said bill. Such message shall be submitted to the general court within fifteen days from the date of such determination.

**SECTION 371.** The first paragraph of section 5 of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "September first" and inserting in place thereof the following words:- September fifteenth.

**SECTION 372.** The first paragraph of section 5C of chapter 29, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "September first", and inserting in place thereof the following words:- September fifteenth.

**SECTION 373.** The governor is hereby authorized and directed to establish a task force to study and examine methods of promoting and encouraging the development of asset management projects as defined in subparagraph (c) of section one of chapter seven B of the General Laws, the elimination of unnecessary or duplicative policies and procedures, and other entrepreneurial incentives for state employees. Said task force shall consist of the personnel administrator of the department of personnel administration, or his designee, one member of the asset management board, or his designee, one person designated by each of the following unions: the national association of government employees, the Massachusetts organization of state engineers and scientists, the association of state, county, federal, and municipal employees, and the service employees international union; and four members of private industry who shall have knowledge and experience in human resource management or development, at least two of whom shall be from a service-based industry. The chairman of the task force shall be chosen by the governor. The task force shall report to the

general court the results of its examination and study and its recommendations, including legislation, if any, by filing the same with the clerk of the house of representatives and the clerk of the senate on or before March thirty-first, nineteen hundred and ninety-two.

**SECTION 374.** The sixth paragraph of chapter 71, Section 16B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by the addition, at the end thereof, of the following language:-

If, after submission of the budget, no agreement is reached as to a budget for the regional school district, the district shall notify the Department of Education of a lack of a budget and the commissioner, or his designee, shall certify an amount sufficient for the operation of the district and order the appropriation thereof in an amount not less than 1/12 of the total budget approved by the region in the most recent fiscal year. Similar sums shall be certified and appropriated for each successive month to insure the continued provision of services by the district until such time as a budget is adopted and approved by the regional committee and member towns in the manner otherwise provided herein. In the event a budget is not adopted by December first in any year, the department shall assume operation of the district and funds for same shall be deducted from local aid distributed to member towns.

**SECTION 375.** The registrar of motor vehicles is hereby authorized and directed to conduct a study, in consultation with the criminal history systems board, of how to obtain comprehensive information from other states with respect to the criminal histories, if any, of applicants for positions as school bus drivers in the commonwealth. Said study shall include an evaluation of the efficacy and appropriateness of fingerprinting applicants and of requesting the involvement of the Federal Bureau of Investigation. Said report shall be filed with the clerks of the house and the senate, along with any recommendations and implementing legislation, by the first Wednesday in December, nineteen hundred and ninety-one.

**SECTION 376.** The commissioner of the division of capital planning and operations is hereby authorized to accept on behalf of the commonwealth a memorial to law enforcement personnel killed in the line of duty in the commonwealth. Said commissioner shall approve the design and materials used to construct said memorial, and said memorial shall be in keeping with the historical nature of the state house grounds. Said memorial shall be placed in an area which is deemed suitable by the commissioner. The cost of the construction of said memorial shall be paid by general contributions from the members of various law enforcement agencies within the commonwealth or from other interested individuals and groups.

**SECTION 377.** Chapter 64C, section 13, subsection (c) of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting in line 26 after "said wholesaler" the following:- shall include all direct costs attributable to the receiving, stamping, handling, storing, sales and delivery of cigarettes, and, shall additionally include.

**SECTION 378.** Section 4 of chapter 663 of the acts of 1987 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Section three shall take effect on June thirtieth, nineteen hundred and ninety-two.

**SECTION 379.** Section 3 of chapter 32A of the General Laws, as appearing in the 1988 Official Edition is hereby amended by inserting after the last sentence the following:-

The commission shall conduct an additional open enrollment period commencing immediately upon passage of the fiscal year 1992 budget act. Said open enrollment period shall have a duration of at least thirty days. During said open enrollment period, any eligible employee or retiree shall have the option of electing health insurance coverage from any indemnity plan or health care organization or insurer that insured employees and/or retirees in fiscal year nineteen hundred ninety-one and continues to insure employees and/or retirees in fiscal year nineteen hundred ninety-two. No action on the part of the Group Insurance Commission

or any other state agency shall bar any eligible employee and/or retiree from enrolling with any health care plan or insurer referred to in this section during any enrollment period outlined in this section or established by the Group Insurance Commission during fiscal year nineteen hundred ninety-two.

**SECTION 380.** Chapter 12 of the General Laws, as appearing in the Official Edition, is hereby amended by adding the following section:-

Section 4A. The department may accept any gifts or grants of money or property, whether real or personal, from any source, whether public or private, including but not limited to the United States of America or its agencies, for the purpose of assisting the department in the discharge of its duties.

**SECTION 381.** Section 1. Section 48 of chapter 31 of the Massachusetts General Laws, as most recently amended by chapter 767 of the acts of 1981, is hereby further amended by striking out in the first paragraph the words "civil defense agency" and inserting in place thereof, the following: "Massachusetts Emergency Management Agency".

Section 2. Section 5 of chapter 40 of the Massachusetts General Laws, as most recently amended by chapter 351 of the acts of 1981, is hereby further amended by striking out in the first paragraph the words "civil defense" in clause (62) and inserting in place thereof, the following:- "Massachusetts Emergency Management Agency".

Section 3. The fortieth clause of Section 5 of chapter 59 of the Massachusetts General Laws, as added by chapter 345 of the acts of 1963, is hereby further amended by striking out in the first paragraph the words "civil defense agency" and inserting in place thereof, the following:- "Massachusetts Emergency Management Agency".

Section 4. Section 10-H of chapter 147 of the Massachusetts General Laws, as added by chapter 176 of the acts of 1968, is hereby further amended by striking out the words "civil defense agency" wherever they appear and inserting in place thereof, the following:- "Massachusetts Emergency Management Agency".

Section 5. Chapter 639 of the Acts of 1950, as amended, are hereby further amended by striking out the words "civil defense agency" wherever they appear and inserting in place thereof, the following:- "Massachusetts Emergency Management Agency".

**SECTION 382.** There is hereby established a special commission for the purpose of an investigation and study of the provision of child care services being administered within the commonwealth.

The special commission shall make recommendations relative to the provisions of a quality, comprehensive, coordinated, community based child care delivery system. Such issues as quality, affordability, availability, accessibility, parental choice, continuity of care, fiscal and programmatic stability and accountability, developmentally appropriate programs, the composition mix and management of vouchers and contracts, rates and other factors relative to the provision of quality care in the commonwealth.

The members of the commission shall be comprised of three members of the senate to be appointed by the senate president, one of whom shall be designated senate chairman of the special commission and four members of the house of representatives to be appointed by the speaker of the house of representatives, one of whom shall be designated the house chairman of the special commission, the secretary of health and human services or his designee, the commissioner of the department of social services or his designee, the commissioner of public welfare or his designee, a representative of the Massachusetts Association of Day Care Agencies, a representative from the Massachusetts Independent Child Care Organization, a representative of Parents United for Child Care, a representative from the Massachusetts Child Care Coalition, a representative from Boston Association for the Education of



Young Children, a representative from the Resource and Referral/Voucher Management Network, a representative from the business community, providing on site child care, a representative from the United Way, a representative from the Boston Foundation, a representative from the YMCA, a representative from the Mass. Law Reform Institute, a representative from a college with a specialty in Early Childhood Education, day care policy and training, a representative from a minority enterprise providing child care services.

The commission shall report the results of their investigation and study to the clerk of the senate and the clerk of the house of representatives no later than December thirty-first, nineteen hundred and ninety-one.

**SECTION 383.** Section 14 of chapter 33 of the General Laws is hereby amended by striking the third paragraph and inserting in place thereof the following:-

No person shall be eligible to appointment as such aide-de-camp unless the individual so appointed shall have served at least two years in the armed services of the United States in time of war or national emergency, or the organized militia of the commonwealth, or the Ancient and Honorable Artillery Company of Massachusetts.

**SECTION 384.** Section 4 of chapter 32B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out lines 8-21, inclusive, beginning with the word "occurs;" and ending with the word "paid." and inserting in place thereof the following:- occurs. Notwithstanding the foregoing, a collective bargaining agreement governing the terms and conditions of employment of persons who are employees under this chapter may provide that employees who are covered by a group or nongroup health insurance plan financed without any participation by the employer or by another employee's insurance under a group or nongroup health insurance plan offered by the employer may, at the employee's option, elect to forego coverage under the employer's group or nongroup health insurance plan. Any such collective bargaining agreement shall provide for benefits, monetary or otherwise, in lieu of such coverage. For employees whose terms and conditions of employment are not subject to collective bargaining, an employer may exclude from coverage under the employer's group or nongroup health insurance plan any such nonunit employee who, at the employee's option, elects to forego such coverage, upon a determination that such employee is covered by a group or nongroup health insurance plan financed without any participation by the employer or by another employee's insurance under a group or nongroup health insurance plan offered by the employer. The employer may offer nonunit employees alternative benefits in lieu of such coverage. Any employee electing to forego coverage under the employer's group or nongroup health insurance plan shall, on an appropriate form prescribed by the appropriate public authority, give written notice, in accordance with applicable rules prescribed by the appropriate public authority, to the treasurer of the governmental unit indicating that he is not to be insured for such coverages, including dependent benefits, provided under such policy or policies. If such notice is received before the employee shall have become insured under such policy, he shall not be so insured. Once he has been automatically insured, an employee may elect to terminate his insurance by withdrawing, and such insurance benefits shall cease to be effective on the date to which the premium has been paid.

**SECTION 385.** Paragraph (m) of subdivision (1) of section 5 of chapter 32 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended in line 200 by inserting after the word employment the word:- first.

This section shall take effect as of December thirty-first, nineteen hundred and seventy-seven.

**SECTION 386.** Section 21 of chapter 564 of the acts of 1987 is hereby amended by inserting in the beginning of the first sentence the following:- Notwithstanding section nine A of chapter ninety-one of the General Laws or any other general or special law to the

contrary..

**SECTION 387.** Notwithstanding the provisions of section 18 of Chapter 91 of the General Laws, and any rules or regulations to the contrary, a Chapter 91 Waterways License numbered 1882 issued October 26, 1989 by the Department of Environmental Protection to the Department of Environmental Management as recorded December 28, 1989, in the Bristol County Registry of Deeds, Southern Division, Book 2431, Page 330, and Plan Book 124, Page 100, is hereby effective as of December 28, 1989.

**SECTION 388.** Section 1 of chapter 90 of the General Laws, as most recently amended by section 87 of chapter 33 of the acts of 1991, is hereby further amended by striking the definition of "Motorized Bicycle" in its entirety and inserting in place thereof the following:-

"Motorized Bicycle", a pedal bicycle which has a helper motor, or a non-pedal bicycle which has a motor, with a cylinder capacity not exceeding fifty cubic centimeters, an automatic transmission, and which is capable of a maximum speed of no more than thirty miles per hour.

**SECTION 389.** Subsection (b) of Section 34 of Chapter 156B of the General Laws, as appearing in section 12 of chapter 242 of the Acts of 1989, is hereby amended by striking out said section and inserting in place thereof the following subsection:-

(b) Special meetings of the stockholders of a corporation with a class of voting stock registered under the Securities Exchange Act of 1934, as amended, may be called by the president or by the directors and, unless a lesser percentage is specified in a provision of the articles of organization or by-laws of such corporation, which provision is adopted on or after July 18, 1989, shall be called by the clerk, or in the case of the death, absence, incapacity or refusal of the clerk, by any other officer, upon written application of one or more stockholders who hold at least forty percent in interest of the capital stock entitled to vote thereat. In case none of the officers is able or willing to call a special meeting, the supreme judicial court or superior court, upon application of one or more stockholders who hold at least forty percent in interest, or such lesser percentage as shall be specified in the corporation's articles of organization or by-laws as aforesaid, of the capital stock entitled to vote thereat, shall have jurisdiction in equity to authorize one or more of such stockholders to call a meeting by giving such notice as is required by law.

**SECTION 390.** Notwithstanding Section 1 of this Act, with respect to any corporation subject to subsection (b) of Section 34 at any time on or after July 18, 1989, (i) any special meetings of the stockholders of such corporation held on or after July 18, 1989 and prior to the date of enactment of this Act shall not be rendered invalidly called by virtue this Act; and (ii) any provision in the articles of organization or by-laws of such corporation, which provision was adopted on or after July 18, 1989 and prior to the enactment of this Act, and which provides that special meetings of the stockholders who hold a percentage in interest of the capital stock entitled to vote thereat which is greater than forty percent, shall continue to be legal and valid, unless and until such corporation's articles of organization or by-laws are amended to provided a percentage less than or equal to forty percent.

**SECTION 391.** Notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the division of environmental law enforcement of the department of fisheries, wildlife and environmental law enforcement and the department of the metropolitan police in the executive office of public safety are hereby authorized to transfer funds between items of appropriation within the general appropriation act for services rendered upon request of any other agency, department, office, commission, division, bureau, section or other administrative unit pursuant to an interagency agreement enter into by the executive authorities of said agencies, department, offices, commissions, bureaus, sections or other administrative units. Copies of such

interagency agreements shall be filed with the house and senate committees on ways and means before any funds are transferred pursuant to this section.

**SECTION 392.** The secretary for administration and finance, in conjunction with the commissioner of the department of revenue and the commissioner of the department of food and agriculture, is hereby authorized and directed to study the feasibility of removing from the department of food and agriculture's appropriated budget the mosquito control districts funded from the mosquito control and greenhead fly fund and establishing a separate trust fund not subject to appropriation. Said report shall include, but not be limited to, an examination of potential administrative reductions and other financial savings derived from the trust fund's establishment. The report which shall include any legislation necessary to implement the report's recommendations, shall be submitted to the house and senate committees on ways and means on or before October first, nineteen hundred and ninety-one.

**SECTION 393.** Except as otherwise provided in this act, the provisions of this act shall take effect July first, nineteen hundred and ninety-one.

*This bill was returned on July 10, 1991 by the Governor to the House of Representatives, the branch in which said bill originated, with his objections in writing to the following items therein:*

**SECTION 2 Items disapproved:**

1599-0036  
1599-3850  
2520-0107  
3722-8880  
4510-0790  
4513-1001  
7061-0009  
7066-0008  
8000-2000  
9400-1100

Sections 4, 22, 24, 25, 27, 30, 34, 35, 36, 37, 47, 50, 53, 63, 70, 75, 82, 87, 93, 101, 103, 109, 113, 115, 116, 127, 128, 135, 146, 147, 148, 149, 150, 167, 193, 194, 195, 196, 234, 236, 237, 242, 245, 249, 268, 270, 271, 278, 281, 288, 295, 303, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 327, 328, 332, 344, 345, 347, 366, 367, 368, 373, 379, 382, 385, 389, 390, 391

**SECTION 2 Items reduced:**

Item	Reduced by	Reduced to		Reduced by	Reduced to
0320-0010	70,000	509,499	0331-3100	20,000	968,060
0330-2200	2,000,000	23,953,035	0331-3300	220,000	2,602,999
0330-2205	1,000,000	5,915,826	0331-3400	300,000	1,424,109
0330-3200	600,000	10,654,490	0332-5700	130,000	2,475,451
0331-2900	40,000	2,590,131	0333-0002	770,000	322,112

Item	Reduced by	Reduced to	Item	Reduced by	Reduced to
0335-0001	400,000	5,053,691	4130-0001	277,302	182,500
0336-0002	41,000	59,000	4403-2100	20,595,427	19,000,048
0336-0300	22,000	328,000	4406-2000	73,481,776	21,500,000
0336-0400	100,000	200,000	6005-0012	17,700,000	144,067,921
0336-0500	100,000	200,000	6010-0001	18,000,000	64,151,387
0337-0002	61,000	373,631	6030-7201	2,000,000	17,000,000
0337-0100	665,000	2,656,925	7010-0005	352,244	8,018,485
0337-0400	68,000	893,613	7010-0025	553,000	553,000
1100-1400	700,000	3,300,000	8000-0100	70,000	926,251
1101-2380	246,782	10,274,792	8100-0003	6,207,835	18,623,507
1102-3302	250,000	7,213,137	8100-0004	2,099,441	6,298,325
1108-5200	375,768,910	39,500,000	8100-0005	84,925	2,491,093
1201-0100	500,000	104,297,690	8910-0020	1,300,000	4,043,525
2200-0100	1,000,000	15,750,390	9212-0001	70,000	870,703
2330-0100	500,000	2,703,033	9218-0100	38,120	486,581
2444-9001	614,193	1,126,807			

**SECTION 2** *Items reduced in amount and by striking the wording*

Item	Reduced by	Reduced to	Wording stricken
2100-0000	1,000,000	15,048,000	"provided that not less than eight thousand five hundred and eighty dollars be expended for the expenses of the North River Commission;"
4400-1000	350,000	108,268,458	"provided, that three hundred and fifty thousand dollars shall be expended for a food stamp outreach program;"
4403-2000	2,200,000	700,236,818	"provided further, that a program of assistance, including medical assistance, shall be provided to families otherwise eligible for aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse;"

4406-5000	15,656,423	5,700,000
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“; and provided further, that of the amount appropriated herein an amount not less than three million one hundred and four thousand nine hundred and twenty-four dollars shall be expended for the Health Care for the Homeless programs in Boston, Worcester, and Springfield and also the Pip Shelter in Worcester, Daybreak Shelter in Lawrence, and Long Island Shelter in Boston, including not less than four hundred and thirty-six thousand dollars for the Boston program operated by the Boston Trustees of Health and Hospitals”

7070-0065	9,000,000	26,000,000
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“provided further that the Massachusetts state scholarship office is hereby authorized and directed to expend no less than nine million dollars for the purpose of providing financial assistance, which shall be subject to repayment, pursuant to section 87 of this act, to Massachusetts students enrolled in and pursuing a program of higher education in any approved public or independent college, university, school of nursing, or any other approved institution furnishing a program of higher education within the commonwealth;”

**SECTION 2** *Items reduced in amount and by striking the wording and inserting in place thereof the following:*

Item	Reduced by	Reduced to
0321-1600	300,000	1,623,641

Wording inserted  
 “For the Massachusetts Legal Assistance Corporation to provide legal representation for the indigent or otherwise disadvantaged residents of the commonwealth; provided, that not less than one million seventy thousand three hundred and fourteen dollars shall be obligated for a disability representation project; provided further, that not less than four hundred eighty-nine thousand seven hundred and fifty-nine dollars shall be obligated for a medicare advocacy project; provided further, that not less than sixty-three thousand five hundred and sixty-eight dollars shall be obligated for an asylum representation project; provided further, that the first paragraph of section nine of chapter two hundred and twenty-one A of the General Laws shall not apply to these programs; and provided further that said corporation may contract with any organization for the purpose of providing said representation”

**SECTION 2. *Wording Stricken***

Item

0331-2100

Wording Stricken

“; provided that, notwithstanding any general or special law to the contrary, the clerk of the court elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning, and case flow management,”

0331-2200

“; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,”

0331-2300

“; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,”

0331-2400

“; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General

	<p>Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"</p>
0331-2500	<p>"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"</p>
0331-2600	<p>"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"</p>
0331-2700	<p>"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, infor-</p>

0331-2800

mation systems and statistical controls, purchasing, planning and case flow management,"

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

0331-2900

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

0331-3000

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

0331-3100

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General



0331-3200

Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

0331-3300

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

0331-3400

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, infor-

0331-3500

mation systems and statistical controls, purchasing, planning and case flow management,"

"; provided that, notwithstanding any general or special law to the contrary, the clerk of the court, elected pursuant to section three of chapter two hundred and twenty-one of the General Laws, shall act as the administrative head of said court; provided further, that said clerk shall have responsibility for the administrative management of the personnel, staff services and business of the court, including, but not limited to, financial administration and budget preparation, record-keeping, information systems and statistical controls, purchasing, planning and case flow management,"

0340-0130

"including salaries and expenses for litigation"

0340-0230

"including salaries and expenses for litigation"

0340-0330

"including salaries and expenses for litigation"

0340-0430

"including salaries and expenses for litigation"

0340-0530

"including salaries and expenses for litigation"

0340-0630

"including salaries and expenses for litigation"

0340-0730

"including salaries and expenses for litigation"

0340-0830

"including salaries and expenses for litigation"

0340-0930

"including salaries and expenses for litigation"

0430-1030

"including salaries and expenses for litigation"

0340-1130

"including salaries and expenses for litigation"

2100-0001

"provided further, that funds appropriated herein shall not be expended until sufficient revenue is present in the environmental management revolving fund to provide for expenses;"

and

2260-8870

"Environmental Management Revolving Fund 100%"

"; provided further, that the governor shall file legislation with the office of the clerk of the house of representatives relative to recommending the establishment of a long-term funding mechanism to provide new revenues to the environmental challenge fund to meet the expenses of the administration of said hazardous waste cleanup program on or before September first, nineteen hundred ninety-one; provided further, that said longterm

		funding mechanism shall not include the utilization of general fund revenues; provided further, that three million dollars authorized in section two of chapter three hundred four of the acts of nineteen hundred eighty-seven shall be made available for the operating purposes of said hazardous waste cleanup program and shall be deemed expenditures from the environmental challenge fund"
2440-0010		"provided that the commission shall open a designated number of rinks on October first, nineteen hundred and ninety-one; provided further, that notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the department of procurement and general services;"
2440-0012		"provided further, that funds appropriated herein shall not be expended until sufficient revenue is present in the metropolitan parks revolving fund to provide for expenses;"
	and	
3772-9024		"Metropolitan Parks Revolving Fund...100% "; provided further, that notwithstanding any general or special law, rule or regulation to the contrary the department shall reduce the average monthly rents by one hundred dollars by September 1, 1991"
3722-9027		"; contracts, renegotiations, modifications"
	and	
8900-0004		"revisions of existing" "as of January first, nineteen hundred and ninety-two, no position other than that of psychiatrist or physician shall be funded contractually; provided further, that the commonwealth shall contract individually with said psychiatrists and physicians; and provided further,"
9081-7011		"; and provided further, that notwithstanding any general or special law to the contrary, said corporation shall cease to receive funding or financial support of any kind from the commonwealth on June thirtieth, nineteen hundred and

9110-1630 ninety-two"  
 "that revenues accrued from said sliding fees be deposited in the General Fund and"  
 9110-9002 "; provided the executive office of elder affairs shall establish an incentive grant program for those councils that implement long term care volunteer programs"  
 9221-1000 "subject however to the condition that sections 270 to 273 inclusive of this act take effect pursuant to the provisions of this act. No funds authorized under this item shall be expended unless said sections are enacted into law pursuant to the provisions of this act. It is the intent of the General Court that the enactment of said sections operate as a condition to the expenditure of any funds authorized under this item."

**SECTION 2** *Item disapproved by striking the wording and inserting in place thereof the following*  
 7052-0004

"For grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty eight, for first annual payments on school projects; provided, that the aggregate amount of first annual estimated payments for school projects approved by the board of education under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight in fiscal year ending June thirtieth, nineteen hundred and ninety-two shall not exceed eight million nine hundred twenty-nine thousand and eight dollars of which not more than sixty percent shall be for projects ordered or approved by a court as necessary for desegregation or such projects as may be required in the judgment of said board to reduce or eliminate racial imbalance  
 Local Aid Fund 100.0%"

**SECTION 2.** The words "including not more than X positions", where X stands for the number stated in the respective items are disapproved in the following items:

0321-1500	0330-2205	0330-3700	0331-2200	0331-2600	0331-3000
0330-0100	0330-2410	0331-0100	0331-2300	0331-2700	0331-3100
0330-0300	0330-2500	0331-0600	0331-2400	0331-2800	0331-3200
0330-2000	0330-3200	0331-2100	0331-2500	0331-2900	0331-3300

0331-3400	0332-4300	0332-7700	0340-0100	1108-1214	2460-1000
0331-3500	0332-4400	0332-7800	0340-0200	1108-2500	2511-0100
0332-0100	0332-4500	0332-7900	0340-0300	1108-3000	2511-3000
0332-1100	0332-4500	0333-0002	0340-0400	1108-4010	2511-4000
0332-1200	0332-4600	0333-0100	0340-0500	1108-5100	2515-1000
0332-1300	0332-4700	0333-0200	0340-0600	1108-6100	2518-1000
0332-1400	0332-4800	0333-0300	0340-0700	1108-6200	2520-0100
0332-1500	0332-4900	0333-0400	0340-0800	1110-1000	3000-0100
0332-1600	0332-5000	0333-0500	0340-0900	1120-4005	3722-9024
0332-1700	0332-5100	0333-0600	0340-1000	1150-5100	3722-9315
0332-1800	0332-5200	0333-0700	0340-1100	1150-5200	3743-2027
0332-1900	0332-5300	0333-0800	0340-1135	1201-0100	3743-3036
0332-2000	0332-5400	0333-0900	0340-2100	1201-0160	4000-0100
0332-2100	0332-5500	0333-0911	0900-0100	1231-0100	4099-1501
0332-2200	0332-5600	0333-1000	0910-0200	1310-1000	4100-0010
0332-2300	0332-5700	0333-1100	0920-0300	2000-0100	4110-0001
0332-2400	0332-5800	0333-1111	1000-0001	2020-0100	4110-1020
0332-2500	0332-5900	0333-1200	1100-1100	2050-0100	4110-2010
0332-2600	0332-6000	0333-1300	1100-1101	2060-0100	4110-2040
0332-2700	0332-6100	0333-1400	1100-1103	2100-0000	4110-4000
0332-2800	0332-6200	0334-0001	1101-2100	2200-0100	4120-0010
0332-2900	0332-6300	0335-0001	1101-2380	2210-0100	4125-0100
0332-3000	0332-6400	0336-0002	1102-3210	2260-8870	4130-0001
0332-3100	0332-6500	0336-0100	1102-3301	2300-0100	4130-0005
0332-3200	0332-6600	0336-0200	1103-5010	2310-0200	4130-0720
0332-3300	0332-6700	0336-0300	1104-1000	2310-0500	4170-0010
0332-3400	0332-6800	0336-0400	1104-1007	2315-0100	4170-0100
0332-3500	0332-6900	0336-0500	1104-1091	2320-0100	4180-0100
0332-3600	0332-7000	0337-0002	1104-6601	2330-0100	4180-0101
0332-3700	0332-7100	0337-0100	1107-2400	2350-0100	4190-0100
0332-3800	0332-7200	0337-0200	1107-2500	2350-0101	4200-0010
0332-3900	0332-7300	0337-0300	1108-1000	2410-1000	4237-1010
0332-4000	0332-7400	0337-0400	1108-1002	2420-1400	4238-1000
0332-4100	0332-7500	0339-1001	1108-1003	2440-0010	4400-1000
0332-4200	0332-7600	0339-2100	1108-1011	2443-2000	4400-1003

4401-1000	4800-0025	6020-2505	8000-1000	8850-0001	9218-0100
4510-0100	4800-0050	7000-9101	8100-0002	8850-0015	9221-1000
4510-0102	4800-0060	7010-0005	8100-0003	8900-0001	9222-0100
4510-0110	4800-0150	7028-0031	8100-0004	8900-0002	9222-0199
4510-0600	4800-1100	7066-0000	8100-0005	8900-0003	9230-0001
4510-0710	5011-0100	7070-0031	8100-0100	8900-0004	9230-0150
4510-0750	5046-0000	7070-0065	8100-0200	8900-0007	9270-0001
4512-0103	5047-0000	7100-0102	8100-0300	8900-0009	9272-0001
4512-0200	5049-0000	7100-0200	8200-0200	8900-0010	9275-0003
4512-0500	5051-0100	7100-0201	8311-1000	9000-0100	9275-0004
4513-1000	5095-0000	7100-0300	8314-1000	9000-1801	9275-0500
4513-1002	5911-0025	7100-0301	8314-1100	9000-1900	9275-0600
4513-1005	5911-0100	7100-0400	8350-0100	9000-2200	9400-0100
4516-1000	5948-0000	7100-0401	8400-0001	9110-0100	9410-0001
4518-0100	5983-0100	7220-0004	8400-0100	9200-0100	9420-0100
4540-0900	6000-0100	8000-0100	8600-0001	9210-0001	9421-0100
4600-1000	6006-0003	8000-0105	8700-0001	9212-0001	9430-0100
4800-0015	6010-0001	8000-0110	8800-0001	9215-0001	9440-0200
4800-0020					

**SECTION 2B.** The words "including not more than X positions", where X stands for the number stated in the respective items are disapproved in the following items:

1101-4000  
1104-4028  
1104-6600  
1104-6603

**SECTION 7.**

*Wording stricken:*

"(a) The division of local services within the department of revenue shall develop guidelines governing the disbursement of emergency assistance funds retained by the state treasurer pursuant to item 1599-3850 of section two of this act. Said guidelines shall require that said division certify, after study and analysis, that a serious financial emergency exists in a city or town requesting such assistance. Certification of a serious financial emergency shall be based upon (1) the city's or town's excess levy capacity, net free cash and overlay surplus; (2) the

total bonded indebtedness as a percentage of equalized property valuation of the municipality, less reserves or appropriations available for payment thereof; (3) the inability of the municipality to provide the public safety, health, education and welfare within the revenues available to the municipality; (4) the degree to which the city or town has taken advantage of opportunities to lower the costs of municipal government or to raise own-source revenues as provided in various sections of this act or of any other general or special law; and (5) any other financial criteria deemed appropriate by said division. (b) Guidelines developed pursuant to this section shall also require: (1) that each city or town develop and implement financial management plans to remediate the cause of its financial emergency; (2) that no city or town may receive more than twenty percent of the total amount appropriated in said item; and (3) that the house and senate committees on ways and means shall be notified of the approval of any distribution of monies to be made from said item at least fifteen days prior to such distribution."

*Wording stricken:*

";provided, however, that said justice shall provide the house and senate committees on ways and means with at least twenty-one days' advance notice of any such proposed transfer, and shall make no such transfer unless it is approved by the house committee on ways and means; provided, further, that any such proposed transfer shall be deemed approved if such house committee has not disapproved it within said twenty-one day period; provided, further, that the notice of a proposed transfer shall include a justification of the necessity of such transfer with reference to actual and projected expenditures throughout the trial court for the fiscal year"

*Wording stricken:*

"as an independent agency"

and

", but not subject to the control of,"

**SECTION 41.**

**SECTION 43.**

**SECTION 49.**

**SECTION 54.**

**SECTION 152.**

and

and

*Wording stricken:*

"This section shall not be construed to allow hunting on watershed lands under the jurisdiction of the metropolitan district commission."

*Wording stricken:*

"There is hereby established a special commission to study any proposed closing of Rutland Heights Hospital and the impact of such closing, including, but not limited to, such issues as the effect of such closing on patients, employees, the town of Rutland and the future use of the facility. This commission shall consist of one member of the senate, one member of the house of representatives, the commissioner of the Department of Public Health or his designee, a representative of the Friends of Rutland Heights, the director of the Office of Employee Relations or his designee, the superintendent of Rutland Heights Hospital, a member of the board of selectman of the town of Rutland or a designee, and one representative each from the Service Employees International Union, the American Federation of State, County and Municipal Employees, the National Association of Government Employees, the Massachusetts Nurses Association and the Massachusetts Organization of State Engineers and Scientists. Said commission shall file a report of the results of its investigation and study, and its recommendations, if any, together with any drafts of legislation necessary to carry said recommendations into effect, with the clerks of the senate and the house of representatives on or before September thirtieth, nineteen hundred and ninety-two."

*Wording stricken:*

"temporary"

"The Basketball Hall of Fame shall be responsible for designing, manufacturing or contracting for manufacture, inventory control, promotion and distribution of these plates."

"for one year, provided that said plates shall not be used after



**SECTION 227.**

December thirty-first, nineteen hundred and ninety-two"

*Wording stricken:*

"or aid for families with dependent children"

and

"or, if the recipient has not previously received benefits in another jurisdiction and has not been a resident of the commonwealth for the immediate preceding six months, the maximum benefits available to the recipient is equal to the benefits available in the state with the lowest benefit rate until they have been a resident of the commonwealth for a minimum of six months"

*Pursuant to Article 56 of the Amendments to the Constitution, Sections 86 and 105, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.*

The remainder of the bill was approved by the Governor on July 10, 1991 at two o'clock and thirty minutes, P.M.

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**Chapter 139.**

**AN ACT RATIFYING, CONFIRMING AND AUTHORIZING  
THE CITY OF TAUNTON, ACTING THROUGH ITS MU-  
NICIPAL LIGHTING PLANT COMMISSION, TO CONTRACT  
FOR AN ELECTRIC POWER PLANT AND FACILITIES RE-  
LATED OR NECESSARY THERETO, AND TO LEASE LAND  
TO THE OWNERS OF SUCH A PLANT AND RELATED  
FACILITIES FOR PLACEMENT OF SUCH FACILITIES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately ratify, confirm and authorize the actions of the city of Taunton, acting through its municipal lighting plant commission, in contracting for the design, construction, operation and maintenance of a coal fired electric generating plant with a net electrical output of approximately one hundred and fifty megawatts and facilities related or necessary thereto, but not to include any additional generating units or additions which would increase the said net electrical output, to lease certain parcels of land and to authorize and permit the design, construction, operation and maintenance of such electric power plant and facilities related and necessary thereto on such land, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section three of chapter forty of the General Laws or any other general or special law to the contrary, and in addition to any other power conferred by law, the city of Taunton, acting through its municipal light plant commission, is hereby authorized to lease certain land as described below for the purposes of designing, constructing, operating, and maintaining a coal fired electric generating plant with a net electrical output of approximately one hundred and fifty megawatts, and facilities related or necessary thereto, which shall not include any additional generating units or additions which would increase the said net electrical output, for a term not to exceed fifty years. Said land may be used for the aforementioned purposes notwithstanding any restrictions or limitations on said lands existing by deed or otherwise.

Said land consists of the following parcels located in the city of Taunton.

The property conveyed to the Taunton Municipal Lighting Plant by deed of Daniel W. Cody, Trustee of Railroad Realty Trust, dated September 19, 1988, and recorded with the Bristol county north district registry of deeds in book 3922, page 294.

The property conveyed to the Taunton Municipal Lighting Plant by deed of Jose DaRosa and Louisa DaRosa, dated October 23, 1989, and recorded with the Bristol

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county north registry of deeds in book 4272, page 121.

The property conveyed to the city of Taunton and the Taunton Municipal Lighting Plant by deed of Ralph M. Strange, dated April 16, 1964, and recorded with the Bristol county north district registry of deeds in book 1440, page 509.

The property conveyed to the Taunton Municipal Lighting Plant by deed of Carlos DaRosa and Maria J. DaRosa, dated October 24, 1978, and recorded with the Bristol county north district registry of deeds in book 1860, page 23.

The property conveyed to the city of Taunton, for and on behalf of the Taunton Municipal Lighting Plant, by deeds of Antone L. Rose and Mary P. Rose, dated March 1, 1965 and recorded with the Bristol county north district registry of deeds in book 1458, page 33, and by deed dated May 8, 1965, and recorded with the Bristol county north district registry of deeds in book 1461, page 863.

The property conveyed to the Taunton Municipal Lighting Plant, by deed of Richard St. Germain, Lynn St. Germain and Mathew St. Germain, dated March 10, 1989, and recorded with the Bristol county north district registry of deeds in book 4069, page 259.

The property conveyed to the Taunton Municipal Lighting Plant by deed of Princess House, Inc. dated June 5, 1978, and recorded with the Bristol county north district registry of deeds in book 1820, Page 263.

**SECTION 2.** The provisions of sections thirty-eight A 1/2 thirty-eight O, inclusive, of chapter seven of the General Laws, the provisions of section twenty A of chapter nine of the General Laws, the provisions of sections thirty-nine F to thirty-nine R of chapter thirty of the General Laws, inclusive, the provisions of sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws, the provisions of section fifty-six D of chapter one hundred and sixty-four of the General Laws; provided, however, that contracts for the supply of electricity to a municipal plant shall be subject to the approval of the department of public utilities, the regulations promulgated under any of such portions of the General Laws or any other provisions of the General Laws governing the procurement by municipal light plants of construction and design services other than the provisions of section twenty-seven and sections twenty-seven A to twenty-seven F, inclusive, of chapter one hundred and forty-nine, if and to the extent otherwise applicable, shall not apply to the design, construction, operation, or maintenance of the electric power plant and facilities related or necessary thereto, provided for in section one of this act.

**SECTION 3.** The city of Taunton, acting through the municipal light plant commission, is hereby authorized to lease certain parcels of land presently zoned by the city of Taunton for open space and conservancy, described in particular below, and located in said city of Taunton which is currently the site of the existing Taunton municipal lighting plant clearly flood electrical generating station, for the purposes set forth in section one of this act. Said land is described in the following

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instruments:

The property conveyed to the Taunton Municipal Lighting Plant by deed of Daniel W. Cody, Trustee of Railroad Realty Trust, dated September 19, 1988; and recorded with the Bristol county north district registry of deeds in book 3922, page 294.

The property conveyed to the Taunton Municipal Lighting Plant by deed of Richard St. Germain, Lynn St. Germain and Mathew St. Germain, dated March 10, 1989, and recorded with the Bristol county north district registry of deeds in book 4069, page 259.

The property conveyed to the city of Taunton and the Taunton Municipal Lighting Plant by deed of Ralph M. Strange, dated April 16, 1964, and recorded with the Bristol county north district registry of deeds in book 1440, page 509.

The property conveyed to the Taunton Municipal Lighting Plant by deed of Carlos DaRosa and Maria J. DaRosa, dated October 24, 1978, and recorded with the Bristol county north district registry of deeds in book 1860, page 23.

The property conveyed to the city of Taunton, for and on behalf of the Taunton Municipal Lighting Plant, by deeds of Antone L. Rose and Mary P. Rose, dated March 1, 1965 and recorded with the Bristol county north district registry of deeds in book 1458, page 33, and by deed dated May 8, 1965, and recorded with the Bristol county north district registry of deeds in book 1461, page 863.

The property conveyed to the Taunton Municipal Lighting Plant, by deed of Princess House, Inc. dated June 5, 1978, and recorded with the Bristol county north district registry of deeds in book 1820, page 263.

Said lease shall be used for the construction and operation of an electric power plant and facilities related or necessary thereto notwithstanding any restrictions or limitations on said lands.

**SECTION 4.** Notwithstanding the provisions of any general or special law to the contrary or any ordinance of the city of Taunton, the city of Taunton acting through its board of assessors and mayor is hereby authorized to agree to and to take all actions necessary and proper to carry out the provisions contained in the agreement between the city of Taunton and Silver City Energy Limited Partnership dated April twenty-third, nineteen hundred and ninety-one, with regard to the taxation of the real and personal property and betterment assessments applicable to certain electric power plant and facilities necessary or related thereto located in the city of Taunton.

**SECTION 5.** This act shall take effect upon its passage.

Approved July 10, 1991.

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**Chapter 140.**

**AN ACT AUTHORIZING THE SOUTH ESSEX SEWERAGE DISTRICT TO ACQUIRE ADDITIONAL EASEMENTS FOR THE CONSTRUCTION OF CERTAIN SEWERAGE FACILITIES IN THE CITY OF BEVERLY.**

*Be it enacted, etc., as follows:*

Chapter 492 of the acts of 1983 is hereby amended by adding the following two paragraphs:-

**ADDITIONAL PERMANENT EASEMENT PARCEL**

A certain parcel of land situated in O'Bear Park in the City of Beverly shown as "ADDITIONAL PERMANENT SEWER EASEMENT" on a plan entitled "PLAN OF ADDITIONAL SEWER EASEMENTS THRU CITY OF BEVERLY PARK LAND FOR PORTIONS OF CONTRACT NUMBER 81-12, BEVERLY, MASS., FOR SOUTH ESSEX SEWERAGE DISTRICT, SCALE: 1"=20', DATE: SEPTEMBER 1990, ASEC CORPORATION, BOSTON, MASS." and bounded as follows:

Beginning at a point on the most northerly corner of the additional permanent easement parcel, said point also being the intersection of the northerly line of Livingstone Avenue with the easterly line of The City of Beverly (O'Bear Park) and with the line of the westerly end of Livingstone Avenue;

Thence, southerly along the line of said westerly end a distance of forty-one feet more or less (41'±) to a point at the intersection with the southerly line of said Livingstone Avenue;

Thence, westerly a distance of forty-nine feet more or less (49'±) along a line being the extension of the southerly line of Livingstone Avenue to a corner on the northerly line of an existing South Essex Sewerage District easement, said existing easement being recorded in Book 9607, Page 143, in the Essex South District Registry of Deeds and shown on a plan by ASEC Corporation dated June 1983 on file in Plan Book No. 241, Plan No. 75, in said Registry;

Thence, northwesterly, westerly and northerly on three courses along said existing easement line having distances of thirty-six feet more or less (36'±), one hundred feet more or less (100'±) and twenty-eight feet more or less (28'±), respectively, to a corner;

Thence, easterly and northeasterly on two courses through O'Bear Park having distances of one hundred thirty feet more or less (130'±) and thirty-one feet more or less (31'±), respectively, to the point of beginning.

The above-described parcel contains an area of four thousand six hundred and thirty more or less (4630'±) square feet.

**ADDITIONAL TEMPORARY CONSTRUCTION EASEMENT PARCEL**

A certain parcel of land situated in O'Bear Park in the City of Beverly shown as "ADDITIONAL TEMPORARY SEWER EASEMENT" on a plan entitled "PLAN OF

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ADDITIONAL SEWER EASEMENTS THRU CITY OF BEVERLY PARK LAND FOR PORTIONS OF CONTRACT NUMBER 81-12, BEVERLY, MASS., FOR SOUTH ESSEX SEWERAGE DISTRICT, SCALE: 1"=20', DATE: SEPTEMBER 1990, ASEC CORPORATION, BOSTON, MASS." and bounded as follows:

Beginning at a point on the most northwesterly corner of the Additional Permanent Sewer Easement shown on said plan, said point also being on the easterly line of an existing South Essex Sewerage District easement;

Thence, northwesterly along said existing easement line a distance of fourteen feet more or less (14'±) to a corner;

Thence, easterly a distance of one hundred forty-seven feet more or less (147'±) along a line which is ten feet (10'±) northerly of and parallel with the northerly line of said Additional Permanent Sewer Easement to a point on the northerly line of said Additional Permanent Sewer Easement;

Thence, southwesterly and westerly on two courses having distances of thirteen feet more or less (13'±) and one hundred thirty feet more or less (130'±), respectively, along part of the northerly line of said Additional Permanent Sewer Easement to the point of beginning.

The above described parcel contains an area of one thousand three hundred eighty-five more or less (1385±) square feet.

Approved July 10, 1991.

**Chapter 141.        AN ACT TO ESTABLISH A UNIFORM DEFINITION OF  
                      NORMAL MAINTENANCE OR IMPROVEMENT OF LAND  
                      IN AGRICULTURAL USE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Whereas: There are nearly 700,000 acres of land in Massachusetts which is owned and managed by farmers. The continued urbanization of this state is making this land more and more important as open space, wildlife habitat, groundwater recharge zones and as a buffer to the environmental impacts associated with increases in population density, and;

Whereas: Farmers across the state are faced with a growing morass of regulation and restriction which is increasing the cost of farming and jeopardizing the future economic viability of our farms. This, in turn, jeopardizes the open space which is supported by the agricultural operation, and;

Whereas: Although the Wetlands Protection Act exempts "work performed for normal maintenance or improvement of land in agricultural use: many routine and long standing farm operations are being challenged by local and state agencies,

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creating confusion, frustration and in some cases, costly delays. The intent of this Act is to establish a uniform definition to assist the agricultural community in complying with the Wetlands Protection Act and reducing the current uncertainty that exists.

**SECTION 2.** Section 40 of Chapter 131 of the General Laws, is hereby amended by inserting, after the eighteenth (18) paragraph, the following paragraph:

Within one hundred and twenty days of the effective date of this act, the department, upon the advice and consent of the Commissioner of the Department of Food and Agriculture, shall promulgate rules and regulations pursuant to this section which shall establish definitions for the term "normal maintenance or improvement of land in agricultural, or in aquacultural use", for each agricultural commodity, or where appropriate because of similarities in cultural practices, groups or commodities in the Commonwealth. The department shall create a farmland advisory board to be appointed by the commissioner consisting of five persons one a member of the cooperative extension service, one a member of the USDA soil conservation service, one a member of a municipal conservation commission who has demonstrated expertise in agricultural issues, and two commercial farmers with expertise in different agricultural commodities to assist the department in the drafting of rules and regulations pursuant to this paragraph.

**SECTION 3.** Chapter 131 of the General Laws is hereby further amended by inserting after Section 40A, the following Section:

Section 40B. The farmland advisory committee established in paragraph nineteen of section 40 of this chapter shall meet quarterly and at the call of the commissioner or upon written request of any two members. The committee is charged with advising the commissioner relative to the definitions of "normal maintenance or improvement of land in agricultural or aquacultural use and other issues relating to agriculture including but not limited to, consistency in federal and state statutes, rules, and regulations pursuant to agricultural activities governed by Chapter 131, Section 40, of the general laws and issues affecting agriculture pursuant to Chapter 21G of the general laws. The farmland advisory committee, in conjunction with the department, shall make an annual report to the committee on natural resources and agriculture as to their activities under this section.

**SECTION 4.** The department of environmental quality engineering shall submit any rules and regulations promulgated under the provisions of this act to the committee on natural resources and agriculture for its review within thirty days prior to the effective date of said regulations.

Approved July 10, 1991.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 17 of chapter 6 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 56 and 57, the words “, the board of regents of higher education”.

**SECTION 2.** Section 17A of said chapter 6, as so appearing, is hereby amended by inserting after the word “regulation”, in line 4, the words:- , the secretary of education.

**SECTION 3.** Said chapter 6 is hereby further amended by striking out section 18A, as so appearing, and inserting in place thereof the following two sections:-

Section 18A. There shall be a committee on educational policy whose membership is established and powers, duties and responsibilities are defined under the provisions of chapter fifteen A.

Section 18B. (a) A public education nominating council is hereby established to advise the governor with respect to appointments to the board of education, the higher education coordinating council, and all boards of trustees of community colleges, state colleges, and the University of Massachusetts, other than the student and alumni trustees elected pursuant to section twenty-one of chapter fifteen A, and in the case of the university, pursuant to section one A of chapter seventy-five. Said council shall consist of not fewer than twelve nor more than fifteen members and shall act with the concurrence of at least a majority of its members.

(b) Members of the council shall be appointed to serve without compensation for terms coterminous with that of the governor. Members may be reimbursed for all expenses reasonably incurred in the performance of their duties. Any succeeding appointments and vacancies on the council shall be filled by the governor. A member of the council shall be considered a “person employed by the commonwealth for compensation” for the purposes of section thirteen of chapter fifty-five.

(c) The governor shall from time to time select one member to serve as chair of the council. The council shall adopt and make public by-laws for the conduct of its affairs. All records and deliberations with respect to persons under consideration as nominees or prospective nominees shall be held in confidence by the council but shall be available to the governor and the governor's representatives.

(d) Whenever a vacancy occurs or is expected to occur on the board of education, the higher education coordinating council or on a board of trustees, the governor shall notify the council. The council shall submit to the governor a list of persons who, in the judgment of the council, are qualified and willing to serve



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as members or trustees. Said list shall include at least twice as many names as there are vacant positions. The governor may appoint any person whose name is forwarded to him by the council. If the governor declines to appoint a person from any such list, the council shall submit additional names for that vacancy.

(e) In considering candidates, the council shall seek persons of the highest quality who, by experience, temperament, ability and integrity will provide policy direction and oversight for the commonwealth's educational system and its community colleges, state colleges, and the University of Massachusetts. Candidates shall be evaluated according to law and without regard to race, religion, sex, age, national or ethnic origin, sexual orientation or political affiliation. There shall be persons from diverse cultural, racial, social, geographic and ethnic backgrounds on the council. No member of the council may be considered for appointment to any board while a member of the council.

**SECTION 4.** Section 2 of chapter 6A of the General Laws, as so appearing, is hereby amended by inserting after the word "regulation", in lines 3 and 4, the word:- , education.

**SECTION 5.** The first paragraph of section 1E of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following three sentences:- There shall be in the department a board of education, in this section and in sections one F and one G called the board, consisting of the chairman of the student advisory council, established under this section, the chancellor of higher education, the director of research of the advisory council on education, and the secretary of education, ex officio, and eleven persons to be appointed by the governor, one of whom shall be a member of a labor organization affiliated with the State Labor Council, AFL-CIO and all others shall be residents of the commonwealth. Said chancellor and said director of research shall have no vote. The secretary of education shall serve as a voting member of the board, but shall not serve as chairperson of said board.

**SECTION 6.** Section 18A of said chapter 15, as so appearing, is hereby amended by striking out, in lines 7 to 9, the words "and the board of regents of higher education on behalf of any employee of its system of public institutions of higher education" and inserting in place thereof the words:- , the higher education coordinating council on behalf of any employee of said council, the state colleges or the community colleges, the board of trustees of the University of Massachusetts on behalf of any employee of said university.

**SECTION 6A.** Said section 1E of said chapter 15, as so appearing, is hereby further amended by striking out the first and second sentence and inserting in place thereof the following two sentences:- There shall be in the department a board of education, in this section and in sections one F and one G called the board, consisting of the chairman of the student advisory council, established under this

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section, the chancellor of higher education, the director of research of the advisory council on education, and the secretary of education, ex officio, and thirteen persons to be appointed by the governor, one of whom shall be a member of a labor organization affiliated with the State Labor Council, AFL-CIO and all others shall be residents of the commonwealth. Said chancellor and said director of research shall have no vote. The secretary of education shall serve as a voting member of the board, but shall not serve as chairperson of said board.

**SECTION 7.** The General Laws are hereby further amended by striking out chapter 15A and inserting in place thereof the following chapter:-

**CHAPTER 15A.**

Section 1. It is hereby declared to be the policy of the commonwealth to provide, foster and support institutions of public higher education that are of the highest quality, responsive to the academic, technical and economic needs of the commonwealth and its citizens, and accountable to its citizens through lay boards, in the form of the higher education coordinating council and the boards of trustees of each of the system's institutions.

It is hereby further declared that in pursuit of its stated goals, the system of public higher education will strive for excellence in its programming and strengthen the access of every individual in the commonwealth to educational opportunities.

It is hereby further declared that by maintaining a high quality system of public colleges and universities, the commonwealth moves toward achieving the following goals:-

(a) to provide its citizens with the opportunity to participate in academic and educational programs for their personal betterment and growth, as well as that of the entire citizenry;

(b) to contribute to the existing base of research and knowledge in areas of general and special interest, for the benefit of our communities, our commonwealth and beyond; and

(c) to understand the importance of higher education to the future of the economic growth and development of the commonwealth, and, by so doing, prepare its citizens to constitute a capable and innovative workforce to meet the economic needs of the commonwealth at all levels.

The higher education coordinating council shall be responsible for defining the mission of the state's system of higher education, in accordance with the provisions of this chapter. The council shall work with boards of trustees to identify and define institutional missions, taking into account regional needs, as well as to define each institution's role within the greater system. Said institutional missions shall also relate to the mission the council shall identify for each category of institution within the system, including the university, the state college, and community college segments. The council shall be responsible for publishing such mission statements,

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which shall be used for purposes of accountability, efficiency, and focus.

The higher education coordinating council shall work in conjunction with boards of trustees to hold the system accountable for achieving its goals and establishing a comprehensive system to measure quality by defining educational achievement and success with the use of standards and measurements. The council shall encourage an economical and effective use of the resources of the commonwealth with particular emphasis upon the development of regional and local consortia and related co-operative arrangements by and between public and independent institutions of higher education.

The council shall, in its role as a participant on the state's committee on educational policy, work to coordinate its activities within a framework of an integrated public education system extending from early childhood programs through the university level, to promote coordination and greater benefits to students. The council shall also encourage collaboration between educational institutions and business and industry in order to promote employment opportunities and educational improvements.

In achieving these ends the council shall foster decision-making close to the actual learning environment. The council shall encourage participation in that process by students, faculty, and the general public in an effort to create and maintain a system of higher education which provides the cultural, economic and personal growth opportunities to enrich and empower the lives of the people of this commonwealth.

Section 2. There shall be a committee on educational policy, hereinafter called the committee, consisting of the chairperson, who shall be the secretary of education, the members of the board of education and the members of the higher education coordinating council, whose powers and duties shall be as follows:

(a) to serve as a public forum for discussion of general education goals for the commonwealth;

(b) to develop goals and vision for a co-ordinated system from early childhood through higher education at the university level, and make recommendations to appropriate boards or groups relative to such;

(c) to study and report on issues common to both higher education and public elementary and secondary schools, including, but not limited to; (i) teacher preparation and certification; (ii) vocational education and training; (iii) standards for high school graduation and college admission; (iv) demographic trends relative to educational plans and regional needs;

(d) to build public support and understanding of education and of the committee's goals;

(e) to encourage and facilitate partnerships among and between elementary, secondary, and vocational schools with institutions of higher learning;

(f) to serve as a forum for discussion between the lay boards responsible for

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overseeing public education in the commonwealth;

(g) to articulate, through study and discussion, the vital connection between high quality public education and future economic growth and development in the commonwealth;

(h) to encourage and facilitate partnerships between schools and businesses to improve the delivery of educational services;

(i) to articulate goals for accountability and high standards of quality for the entire system of education in the commonwealth, in consultation with parents, students, educators, business representatives, community officials and the public at-large;

(j) to advise the legislature, the secretary of education, and the governor relative to any issue within its purview;

(k) to encourage contributions and grants to schools from businesses, foundations, or any viable and appropriate funding source;

(l) to develop methods of assessing achievement relative to committee goals and to publish the results of said assessments.

The committee may utilize subcommittees of the full committee to accomplish any of the duties required of it. Nothing in this section shall be construed to grant the committee any authority vested in the board of education or the higher education coordinating council.

The committee shall meet four times annually and the chairperson may call additional meetings at other times.

Section 3. The secretary of education shall be appointed by the governor and shall devote full time to the duties of the office. The secretary shall receive a salary as determined by the governor. The secretary shall serve in the cabinet established by section seventeen A of chapter six, and shall have the rank of secretary for all purposes.

The secretary shall advise the governor on matters relating to public education, and shall coordinate public education programs from early childhood through the university level by chairing the committee on educational policy and the higher education coordinating council. The secretary may appoint such experts, technical consultants and other assistants in his executive office as he deems necessary, pursuant to section seven of chapter six A. Nothing in this section shall be construed as conferring any powers or imposing any duties upon the secretary with respect to the board of education or the higher education coordinating council except as expressly provided by law.

The secretary shall have the following duties and powers:

(a) analyze the present and future goals, needs and requirements of public education in the commonwealth and recommend to the committee on educational policy comprehensive goals necessary to achieve a well coordinated system of high achievement in public education in the commonwealth;

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(b) serve as the governor's advisor on educational issues and represent the interests of education in the governor's cabinet. The secretary shall report to the governor on the activities of public education from early childhood through the university level;

(c) serve as the chairperson of the committee on educational policy and the higher education coordinating council. The secretary shall convene said bodies as required by law and at such other times as may be appropriate. The secretary shall be a full voting member of each of the respective bodies;

(d) in the case of a vacancy, shall select, from a list of three qualified nominees recommended by the higher education coordinating council, a person to serve as chancellor of the public system of higher education;

(e) make recommendations to the governor relative to the funding of public higher education in the commonwealth and assist the governor in preparing proposals for appropriations to be put before the legislature;

(f) articulate the need for public support of education and to assist in building that support.

Section 4. The higher education coordinating council, hereinafter referred to as the council, shall consist of ten members appointed by the governor. Of the appointed members, at least one shall be a representative of organized labor, at least one shall be a representative of the business community, and one shall be a member which the governor shall choose from among no more than three full-time undergraduate students who shall be nominated, and who are currently enrolled in a public institution set forth in section five. Nominated students shall have maintained a satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section twenty. There shall be an office of the council consisting of a chancellor and employees appointed by said council.

Members of the council shall be appointed to serve five year terms, except that the undergraduate student members shall be appointed annually to serve a term of one year's duration commencing initially upon the appointment by the governor and expiring on April thirtieth and every year thereafter commencing on May first and expiring on April thirtieth, for as long as he remains a full-time undergraduate; provided, however, that within three consecutive years said student appointee shall in the first year be a student attending a community college, and in the second year be a student attending a state college, and in the third year be a student attending a state university. This cycle shall repeat. For the purpose of this section the Massachusetts College of Art and the Massachusetts Maritime Academy shall be deemed to be a state college. Each of the student government associations at each

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of said public institutions may submit to the student advisory committee an individual nominated to be the undergraduate student member of the council. All guidelines for procedures and deadlines for the selection process of the undergraduate board members shall be established by the said student advisory committee, except as herein provided. No member shall be appointed for more than two consecutive terms, except that any student member may serve for one term only. Upon expiration of the term of office of a member, a successor shall be appointed in like manner. A vacancy shall be filled by the governor for the remainder of the term. The secretary shall forthwith notify the governor of any such vacancy.

The council shall, unless otherwise enumerated, be the successor of the board of regents and shall have all the duties and exercise the powers previously vested in said board, unless otherwise enumerated.

The members of the council shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties.

No member of said council shall be principally employed within the public higher education system of the commonwealth; provided, however, that no more than one-third of the members shall be principally employed by the commonwealth. A member of the council shall cease to be a member if such member ceases to be qualified for appointment or if he is absent from five regularly scheduled meetings during any calendar year.

A person affiliated with an independent institution of higher education shall be eligible for membership on said council. No member of said council shall be found to be in violation of section six of chapter two hundred and sixty-eight A for conduct which involves his participation, as a member of said council, in a particular matter before said council which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that said member, his immediate family or partner, has no personal and direct financial interest in said particular matter; and provided, further, that such affiliation is disclosed to said council and recorded in the minutes of the council.

The council shall meet each month except that the chairperson, with the council's approval, may omit meetings in the months of July and August, and the chairperson may call additional meetings at other times.

Six members of the council shall constitute a quorum, and the affirmative vote of six members shall be necessary for any action taken by the council.

The chairperson shall be the secretary of education.

Commencing on September first, nineteen hundred and ninety-one, and continuing for the terms hereinafter stated and until their successors are appointed, the council shall include among its appointed members five persons appointed by the governor from among the members of the board of regents serving as of June first, nineteen hundred and ninety-one.

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Of the ten initial appointed members of the council, two shall be appointed for one year terms, two shall be appointed for two year terms, two shall be appointed for three year terms, two shall be appointed for four year terms and two shall be appointed for five year terms. With the exception of the appointed members from among the members of the board of regents, and the student representative, all members of the council shall be appointed according to the provisions of section eighteen B of chapter six.

Section 5. There shall be, for the purposes of this chapter, a system of public institutions of higher education, hereinafter called the system, which shall include the following institutions:- the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester; Bridgewater State College, Fitchburg State College, Framingham State College, the Massachusetts College of Art, the Massachusetts Maritime Academy, North Adams State College, Salem State College, Westfield State College, Worcester State College, Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College, Massasoit Community College, Middlesex Community College, Mount Wachusett Community College, Northern Essex Community College, North Shore Community College, Quinsigamond Community College, Roxbury Community College and Springfield Technical Community College.

The council shall coordinate activities among the institutions.

Section 6. Upon its formation, and whenever a vacancy may occur, the council shall submit, to the secretary, a list of three qualified nominees as approved by majority vote of the council, to serve as chancellor of the system of public higher education. The secretary shall select a person from said list for appointment and notify the council of the selection. The council shall then appoint said person to serve as chancellor. If the secretary does not forward a selection within thirty days of receiving said list, the council may then appoint a chancellor by majority vote. The chancellor shall serve as chief executive officer of the council to implement its policies, and shall serve at the pleasure of said council.

The council shall be provided with adequate offices and shall, subject to appropriation, appoint such other employees as it deems necessary to carry out its duties and responsibilities under the provisions of this chapter. The council shall also, subject to appropriation, establish a schedule of salaries for said chancellor and said other employees. Such salaries as so established by the council shall be in accordance with a classification and pay plan adopted by the council pursuant to a professional study of the job responsibilities of and appropriate salaries for the offices and positions held by said chancellor and said other employees. Such salaries shall be compensation in full for all services rendered to the council, except as otherwise expressly provided for by any general or special law; provided,

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however, that the chancellor shall receive, subject to appropriation, in addition to said salary such expenses as are approved by the council which are incurred by him in the discharge of his duties and which have been approved by majority vote of the house and senate committees on ways and means.

The council may delegate its authority or any portion thereof to the chancellor whenever in its judgment such delegation may be necessary or desirable. The chancellor shall exercise any such powers or duties delegated with the full authority of the council in any matter concerning the system of public institutions of higher education subject to the direction and approval of the council.

Section 7. With regard to the overall system of public higher education, and each of the three segments of the system, as defined by (i) the university segment, (ii) the state college segment, and (iii) the community college segment, the council shall develop and adopt mission statements. Said segmental mission statements shall include, but not be limited to, the goals and purpose of each type of institution within the system and how they relate to each other in fulfilling the mission of the entire system.

The board of trustees of the university of Massachusetts, shall develop and submit to the council mission statements for the university and each of its campuses. The board of trustees of each state college and community college shall develop and submit to the council a mission statement for each such college. The council shall have authority to approve institutional mission statements, as developed and submitted by boards of trustees. Said approval shall take into consideration how well the institution's mission statement correlates with the mission statements as set forth in the preceding paragraph.

The council shall be responsible for making public said mission statements. The council may, as it deems necessary, undertake or cause to be undertaken, revisions of said statements.

Section 8. The council shall have the following duties and powers:- (a) confer upon the boards of trustees the power to offer degree programs after taking into account, among other things, the need, resources and mission of the institution. The council shall confer the authority to award degrees to persons who have satisfactorily completed degree requirements; (b) in addition to the degrees authorized to be awarded under clause (a), the council may approve the awarding of certain other degrees and may define and authorize new functions or new programs, or consolidate, discontinue or transfer existing functions, educational activities and programs. The council shall act in writing on requests for program approval from boards of trustees within six months of said request, or said program shall be considered approved. The council may, after a public hearing and submission of a written report to the clerks of the house of representatives and the senate, by a two-thirds vote of the full membership of the council, consolidate, discontinue, or transfer divisions, schools, stations, colleges, branches or institu-



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tions as it deems advisable; (c) consistent with general goals that may be established by the committee on educational policy, analyze the present and future goals, needs and requirements of public higher education in the commonwealth and establish overall goals in order to achieve a well coordinated quality system of public higher education in the commonwealth; (d) develop and adopt mission statements as defined in section seven; (e) approve institutional mission statements, pursuant to section seven; (f) prepare a five year master plan for public higher education in the commonwealth, which plan shall take into account the five year plans submitted by individual boards of trustees, as well as the general goals established by the committee on educational policy. The master plan shall include, but need not be limited to, enrollment projections, utilization of existing facilities, promotion of research, programmatic excellence, and public service activities, recommendations for closing of facilities or the construction or acquisition of new facilities, program distribution and the need for program revision, including the termination of obsolete or unnecessarily duplicative programs. The master plan shall be filed with the clerk of the house of representatives, the clerk of the senate, the secretary of education and the secretary of administration and finance; (g) annually file a detailed progress report on the five year master plan with said clerks and secretaries by the first Wednesday in September; (h) require boards of trustees to submit admission standards and program standards, which shall be subject to the approval of the council; provided, however, that said admission standards shall comply with the provisions of section thirty and that the council shall publish all admission and program standards; (i) develop a rational and equitable statewide tuition plan for the community colleges and state colleges in the commonwealth, which plan shall take into account by type of institution, the per student maintenance costs, total mandated costs per student and the need to maximize student access to higher education regardless of a student's financial circumstances. The council shall issue regulations governing the implementation of such tuition plans by the community colleges and state colleges. In the case of the university, the council shall review the recommendation of the board of trustees relative to tuition rates at said university and its campuses. Said tuition rates shall be subject to the approval of the council; (j) receive allotments to the commonwealth under federal programs of aid to public higher education and disburse such funds in accordance with a plan promulgated by the council, not to include grants to individuals or grants received directly by institutions; (k) set enrollment levels for each institution in the system; (l) require each institution in the system to submit to the council a five year plan, which plan shall be updated annually; (m) have overall responsibility for the property, real and personal, occupied or owned by the council, the state colleges and the community colleges; (n) subject to its direction and approval, authorize the chancellor to seek, accept and administer grants, gifts and trusts for system-wide purposes from private foundations,

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corporations, individuals and federal agencies, which shall be administered under the provisions of section two C of chapter twenty-nine of the General Laws and disbursed at the direction of the council pursuant to its authority; (o) from time to time, employ consultants and experts to study and report on matters necessary to the operation of the system; (p) establish, implement and maintain an accounting system as required by the state comptroller; (q) approve and fix the compensation of the chief executive officer of each institution within the state college system and community college system; (r) review annually, in accordance with post-audit procedures established by the council, the fiscal operations of constituent institutions. The council shall insure public inspections, through publication, of institutional spending plans; (s) require, collect, analyze, maintain such data from institutions and agencies for public higher education as may be relevant to the careful and responsible discharge of its purposes, functions and duties and such data shall include information available from private institutions of higher education. In the case of public institutions, such data shall include, but not be limited to, analyses of the rates of graduation and the scores received by students on standardized examinations. The council shall publish said analyses, both for the system and for individual institutions. (t) issue regulations defining residence of the commonwealth and proof of the same for the purpose of admission and tuition expenses of public institutions of higher education and prepare uniform proofs of residence to be used by all public institutions; (u) establish, where appropriate, coordination between and among post-secondary institutions public or private and resolve conflicts of policies or operations arising in public higher education; (v) develop and implement a transfer compact for the purpose of facilitating and fostering the transfer of students without the loss of academic credit or standing from one public institution to another; (w) establish an affirmative action policy and implement a program necessary to assure conformance with such policy throughout the system; (x) in the case of state colleges, fix the classification, title, salary range within the general salary schedule and descriptive job specifications for each position shall be determined by the council for each member of the professional staff and copies thereof shall be placed on file with the governor, budget director, personnel administrator and the joint committee on ways and means, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, the council may establish the salary for the chief executive officer and such other officers and members of the professional staff and for the academic deans and members of the professional teaching staff without reference to the general salary schedule and salary range; and, provided further, that no such salary shall be established for any academic dean or any member of the professional teaching staff unless his classification rating is equal to or higher than that of professor, nor shall the number of academic deans and members of the professional teaching staff

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whose salaries may be so established exceed one percent of the combined total number of academic deans and members of the professional teaching staff. A notification of each personnel action taken shall be filed by the council with the personnel administrator and with the comptroller; (y) in the case of community colleges, fix the classification, title, salary range of each member of the professional staff within the general salary schedule, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, that the council may fix the salary and salary range for the chief executive officer of each individual community college and other officers and members of the professional staff of the community college system not exceeding in number one percent of the total number of such other officers and members of the professional staff taken together in the community college system, without reference to the general salary schedule; and provided, further, that no such salary shall be fixed for any such member classed within the one percent unless he holds a position equivalent to or higher than the rank of professor; (z) recognize the duly elected student government association at each public university, state college or community college as the official representative of the student body; (aa) submit a written application of the Health and Educational Facilities Authority hereinafter referred to as HEFA requesting that said authority undertake a project, as defined in section three of said chapter six hundred and fourteen, on behalf of one or more public institutions for higher education, as so defined; provided, however, that the council shall only make such application for a project on behalf of the public university if such project is approved by the board of trustees of the public university; (bb) transfer or pledge that they will periodically transfer to HEFA any funds available for expenditure by the council, in order to provide for the expenses of HEFA and for the payment of indebtedness incurred by HEFA in connection with any project financed by HEFA on behalf of the council, one or more public institutions of higher education, their affiliated building authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said section three of said chapter six hundred and fourteen; provided, however, that in the case of any funds expected to be available for expenditure by the council or such other entities pursuant to subsequent appropriation or other spending authorization by the legislature, the council may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. Any such pledge shall be valid and binding from the time when the pledge is made; the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the council or any such public institution of higher education, affiliated building authority, or other organization affiliated therewith, irrespective of whether such parties have notice thereof.

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Neither the resolution nor any trust agreement by which such a pledge is created need be filed or recorded except in the records of HEFA.

Section 9. The council shall have the following duties and powers:- (a) confer upon the boards of trustees the power to offer degree programs after taking into account, among other things, the need, resources and mission of the institution. The council shall confer the authority to award degrees to persons who have satisfactorily completed degree requirements; (b) in addition to the degrees authorized to be awarded under clause (a), the council may approve the awarding of certain other degrees and may define and authorize new functions or new programs, or consolidate, discontinue or transfer existing functions, educational activities and programs. The council shall act in writing on requests for program approval from boards of trustees within six months of said request, or said program shall be considered approved. The council may, after a public hearing and submission of a written report to the clerks of the house of representatives and the senate, by a two-thirds vote of the full membership of the council, consolidate, discontinue, or transfer divisions, schools, stations, colleges, branches or institutions as it deems advisable; (c) consistent with general goals that may be established by the committee on educational policy, analyze the present and future goals, needs and requirements of public higher education in the commonwealth and establish overall goals in order to achieve a well-coordinated quality system of public higher education in the commonwealth; (d) develop and adopt mission statements as defined in section seven; (e) approve institutional mission statements, pursuant to section seven; (f) prepare a five year master plan for public higher education in the commonwealth, which plan shall take into account the five year plans submitted by individual boards of trustees, as well as the general goals established by the committee on educational policy. The master plan shall include, but need not be limited to, enrollment projections, utilization of existing facilities, promotion of research, programmatic excellence, and public service activities, recommendations for closing of facilities or the construction or acquisition of new facilities, program distribution and the need for program revision, including the termination of obsolete or unnecessarily duplicative programs. The master plan shall be filed with the clerk of the house of representatives, the clerk of the senate, the secretary of education and the secretary of administration and finance; (g) annually file a detailed progress report on the five year master plan with said clerks and secretaries by the first Wednesday in September; (h) require boards of trustees to submit admission standards and program standards, which shall be subject to the disapproval of the council; provided, however, that said admission standards shall comply with the provisions of section thirty and that the council shall publish all admission and program standards; (i) develop a rational and equitable statewide tuition plan for the state colleges and community colleges in the commonwealth, which plan shall take into account by type of institution, the per student

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maintenance costs and total mandated student costs per student. The total mandated costs per student shall include the state appropriation, retained revenue, fringe benefits, and ongoing maintenance. Said tuition plans shall include direct and indirect elements of the per student maintenance costs, including but not limited to, faculty and administrators that support an institution's primary mission of instruction; student admission services, and ongoing maintenance for classrooms, administrative buildings, libraries and laboratories. Said tuition plan shall include revised retention expenditure regulations which take into account the needs of said institutions with regards to personnel and utility costs. Said tuition plan shall further take into account the need to maximize student access to higher education regardless of a student's financial circumstances. The council shall issue regulations governing the implementation of such tuition plans by the state colleges and community colleges. In the case of the university, the council shall review the recommendations of the board of trustees relative to tuition rates at said university and its campuses. Said tuition rates shall be subject to the approval of the council. The council shall establish final tuition rates for the subsequent academic year no later than fifteen days prior to the deadline for submission of state or federal financial aid applications by students attending the institutions of higher education set forth in section five of this chapter. The council shall establish fee guidelines for the state colleges and community colleges which shall take into account the cost of educational activities. Fees established pursuant to said guidelines shall not exceed twenty-five percent of total student charges. (j) receive allotments to the commonwealth under federal programs of aid to public higher education and disburse such funds in accordance with a plan promulgated by the council, not to include grants to individuals or grants received directly by institutions; (k) review enrollment levels for each institution of the system subject to disapproval of the council; (l) require each institution in the system to submit to the council a five year plan, which plan shall be updated annually; (m) have overall responsibility for the property, real and personal, occupied or owned by the council, state colleges and community colleges; (n) subject to its direction and approval, authorize the chancellor to seek, accept and administer grants, gifts and trusts for system-wide purposes from private foundations, corporations, individuals and federal agencies, which shall be administered under the provisions of section two C of chapter twenty-nine of the General Laws and disbursed at the direction of the council pursuant to its authority; (o) from time to time, employ consultants and experts to study and report on matters necessary to the operation of the system; (p) maintain a uniform accounting system as required by the state comptroller; (q) approve and fix the compensation of the chief executive officer of each institution within the state college system and community college system; (r) review annually, in accordance with post-audit procedures established by the council, the fiscal operations of constituent institutions. The council shall insure

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public inspections, through publication, of institutional spending plans; (s) require, collect, analyze, maintain such data from institutions and agencies for public higher education as may be relevant to the careful and responsible discharge of its purposes, functions and duties and such data shall include information available from private institutions of higher education. In the case of public institutions, such data shall include, but not be limited to, analyses of the rates of graduation and the scores received by students on standardized examinations. The council shall publish said analyses, both for the system and for individual institutions. (t) issue regulations defining residence of the commonwealth and proof of the same for the purpose of admission and tuition expenses of public institutions of higher education and prepare uniform proofs of residence to be used by all public institutions; (u) establish, where appropriate, coordination between and among post-secondary institutions public or private and resolve conflicts of policies or operations arising in public higher education; (v) develop and implement a transfer compact for the purpose of facilitating and fostering the transfer of students without the loss of academic credit or standing from one public institution to another; (w) establish an affirmative action policy and implement a program necessary to assure conformance with such policy throughout the system; (x) in the case of state colleges, fix the classification, title, salary range within the general salary schedule and descriptive job specifications for each position shall be determined by the council for each member of the professional staff and copies thereof shall be placed on file with the governor, budget director, personnel administrator and the joint committee on ways and means, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, the council may establish the salary for the chief executive officer and such other officers and members of the professional staff and for the academic deans and members of the professional teaching staff without reference to the general salary schedule and salary range; and, provided further, that no such salary shall be established for any academic dean or any member of the professional teaching staff unless his classification rating is equal to or higher than that of professor, nor shall the number of academic deans and members of the professional teaching staff whose salaries may be so established exceed one percent of the combined total number of academic deans and members of the professional teaching staff. A notification of each personnel action taken shall be filed by the council with the personnel administrator and with the comptroller; (y) in the case of community colleges, fix the classification, title, salary range of each member of the professional staff within the general salary schedule, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, that the council may fix the salary and salary range for the chief executive officer of each individual community college and other officers and

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members of the professional staff of the community college system not exceeding in number one percent of the total number of such other officers and members of the professional staff taken together in the community college system, without reference to the general salary schedule; and provided further, that no such salary shall be fixed for any such member classed within the one percent unless he holds a position equivalent to or higher than the rank of professor; (z) recognize the duly elected student government association at each public university, state college or community college as the official representative of the student body; (aa) submit a written application of HEFA requesting that said authority undertake a project, as defined in section three of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight, on behalf of one or more public institutions for higher education, as so defined; provided, however, that the council shall only make such application for a project on behalf of the public university if such project is approved by the board of trustees of the public university; (bb) transfer or pledge that they will periodically transfer to HEFA any funds available for expenditure by the council, in order to provide for the expenses of HEFA and for the payment of indebtedness incurred by HEFA in connection with any project financed by HEFA on behalf of the council, one or more public institutions of higher education, their affiliated building authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said section three of said chapter six hundred and fourteen; provided, however, that in the case of any funds expected to be available for expenditure by the council or such other entities pursuant to subsequent appropriation or other spending authorization by the legislature, the council may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. Any such pledge shall be valid and binding from the time when the pledge is made; the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the council or any such public institution of higher education, affiliated building authority, or other organization affiliated therewith, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which such a pledge is created need be filed or recorded except in the records of HEFA.

Section 10. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:-

“Community college” shall mean any of the following institutions of higher education: Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College, Massasoit Community College, Middlesex Community College, Mount Wachusett

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Community College, Northern Essex Community College, North Shore Community College, Quinsigamond Community College, Roxbury Community College, and Springfield Technical Community College, and any other community college established after November first, nineteen hundred and eighty-nine; or, if any such community college shall be abolished, any institution succeeding to the principal functions thereof.

"Community college affiliate" any organization or association, in any form, the activities of which are a part of the activities of such community college and are subject to regulation by the trustees of such community college or any research foundation, teaching hospital and associated clinics or other research or educational organization the operation of which in conjunction with such community college is approved by the trustees of such community college as furthering the purposes of the community college.

"HEFA" shall mean the Health and Educational Facilities Authority, established by section four of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight, or, if said Health and Educational Facilities Authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to which the powers given by said chapter six hundred and fourteen shall be given into law.

"Project" in the case of a participating institution for higher education, a structure or structures suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities related to any of the foregoing or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of an institution of higher education, whether or not such items are related to a particular facility or structure financed by HEFA, but shall not include such items as books, fuel, supplies or other items the cost of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination. Project may include any combination of one or more of the foregoing undertaken jointly by one or more



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participating institutions with each other or with other parties.

Section 11. The council may, in the name and on behalf of the commonwealth, upon such terms and with or without consideration, do any or all of the following in order to aid and contribute to the performance of the educational and other purposes of any community college:

(a) Sell, convey or lease to HEFA or any community college affiliate real or personal property owned by the commonwealth in a city or town in which a community college is located or grant easements, licenses or any other rights or privileges therein to HEFA to any community college affiliate. Neither HEFA nor any community college affiliate shall be liable to taxation upon any real property, including any building or buildings erected thereon, or personal property sold, conveyed or leased under this section;

(b) Cause private ways, sidewalks, footpaths, ways for vehicular travel, parking areas, water, sewage or drainage facilities and similar improvements and steam service and other utilities and connections for heating and other necessary purposes to be furnished to or in any project carried out by HEFA or any community affiliate;

(c) Make available to HEFA or to any community college affiliate the services of officers and employees of a community college and office space and facilities in a community college for, among other things, billing and collecting rents, fees, rates and other charges for the use and occupancy of property of HEFA or any community college affiliate by one or more community colleges or community college affiliates, students, staff and their dependents; renting and leasing rooms and other accommodations in the buildings and structures of HEFA or a community college affiliate; cleaning, heating, daily operation of and repairs to and maintenance of such buildings and structures and other property of HEFA or any community college affiliate; and keeping all books of account for HEFA or any community college affiliate;

(d) Establish and manage trust funds for self-amortizing projects and self-supporting activities including, but not limited to, the operation of the boarding halls, student health service, research institutes and foundations, dormitories and student and faculty apartment; provided, that all income received from such projects or activities shall be held in trust by the council and expended for the purpose for which the trust fund was established; provided further, that the council may, for the purposes of this section or section twelve, group together several or more projects into one or more funds as is, in its judgement, required to best effectuate the purposes of the projects and activities and the purposes of the community colleges; and provided, further, that any unrestricted balances remaining in a trust fund upon its termination shall be used as directed by the council for the general purposes of the community college;

(e) Do any and all things authorized by law and necessary or convenient to aid

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and cooperate with HEFA or any community college affiliate in carrying out the purposes of HEFA or such community college and exercising their powers and in complying with the provisions of any trust agreement into which HEFA may enter in connection with any project financed by HEFA on behalf of any community college or community college affiliate.

In connection with any financing or refinancing provided by HEFA, the provisions of this paragraph shall apply. No lease or other agreement made under this section or section twelve made by HEFA, or the commonwealth acting through the council, or any other community college affiliate to HEFA, the commonwealth acting through the council, or any other community college affiliate shall be subject to any provision of law relating to publication or advertising for bids, and any such lease or agreement may be entered into and shall become effective without any necessity for any order of court or other action or formality other than the regular and formal action of the authorities concerned. No sale, conveyance, lease, or grant made under this section to HEFA or any community college affiliate by the council or by any community college affiliate shall be subject to the provisions of section forty F, section forty F 1/2, section forty H or section forty I of chapter seven; provided, however, that the council may elect for any such sale, conveyance, lease, or grant to be subject to the provisions of said sections; provided, further, that in connection with (i) any project upon any real property or right thereto obtained by HEFA or any community college affiliate pursuant to the sale, conveyance, lease, or grant hereby exempted from said sections, or (ii) any disposition to a person or entity other than HEFA, the commonwealth acting through the council or otherwise, or a community college affiliate of any real property or right thereto obtained by HEFA or any community college affiliate pursuant to the sale, conveyance, lease, or grant hereby exempted from said sections, HEFA or such community college affiliate, as the case may be, shall be deemed to be a state agency for the purpose of paragraph (v) of section thirty-nine A of said chapter seven and shall be deemed to be a public agency for the purpose of subsection (1) of section forty-four A of chapter one hundred and forty-nine.

Section 12. To provide for the expenses of HEFA and for the payment of indebtedness incurred by it in connection with any project financed by HEFA on behalf of any community college or any community college affiliate, or in connection with any transfer for such purpose by HEFA, or the commonwealth acting through the council under the provisions of section eleven, or any other community college affiliate to HEFA, or the commonwealth acting through the council, or any other community college affiliate of buildings or other property, the council may, in the name and on behalf of the commonwealth, (i) transfer or pledge that they will periodically transfer to HEFA, or to any community college affiliate under terms permitting further transfer or pledge to HEFA, any part or all of any funds held as trust funds for any community college under the provisions of

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paragraph (d) of section eleven, administered on behalf of any community college as gifts, grants, or trusts under the provisions of clause (e) of section twenty-two, made available for expenditure on behalf of any community college pursuant to an appropriation or other spending authorization in the commonwealth's annual operating budget, including supplementary and deficiency budgets, or otherwise available for expenditure by the council, and (ii) may contract with HEFA or any community college affiliate with respect thereto under terms permitting further transfer or pledge by HEFA to a trustee under any trust agreement related to such project and entered into by HEFA pursuant to chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight; provided, that in the case of any funds expected to be available for expenditure by the council pursuant to subsequent appropriation or other spending authorization by the legislature, the council may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. The council may impose such terms and conditions as to the application of the funds so transferred as it deems appropriate for the carrying out of the provisions of said chapter six hundred and fourteen and of this chapter. Any such pledge shall be valid and binding from the time when the pledge is made; the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the council, any community college, or any other community college affiliate, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which such a pledge is created need be filed or recorded except in the records of HEFA.

Section 13. HEFA may sell the buildings or other structures upon any land acquired by it pursuant to section eleven and which are not included in a project, or may remove the same, and may sell or lease any lands or rights or interest in lands or other property acquired for the purposes of this act whenever the same shall, in the opinion of HEFA, cease to be needed for such purposes. The proceeds of any such sale or lease shall be held and disposed of as revenues from the project for or with respect to which the property sold or leased shall have been acquired; provided, however, that except as permitted by section eleven, no property acquired from the commonwealth shall be sold or leased without prior approval of the governor and council; and provided further that the proceeds of any sale or lease of any such property shall be paid to the treasurer and receiver-general of the commonwealth and shall be credited on the books of the commonwealth to the General Fund.

In the event that the council shall sell, convey or lease to HEFA any dormitory, dining commons or boarding hall faculty or student apartment building or student union building at any community college and owned by the commonwealth or any

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interest of the commonwealth in or to such a building so located but owned by another, and in the further event that funds for the rental or maintenance of such building or buildings have been provided by appropriation from general funds of the commonwealth for any fiscal year ending after the effective date of such sale, conveyance or lease, such sale, conveyance or lease shall provide that the rentals, fees or other charges levied for the use of such building or rooms or accommodations therein or services provided therein in such fiscal years shall be retained by or paid to the treasurer and receiver-general of the commonwealth, as the case may be.

Section 14. Upon application by the trustees of the state university, the council may exercise on behalf of such university and its university affiliates all the powers it has with respect to community colleges or community college affiliates under sections eleven and twelve.

Section 15. The council shall periodically prepare and submit to the budget director an estimate, in detail, for the ordinary maintenance of the entire system of public institutions of higher education, and revenue therefrom, as provided in section three of chapter twenty-nine. Said statement shall include the salaries of all officers and employees within said system and all program costs which are to be borne by any source other than the commonwealth, including such sources as federal financing or federal research, demonstration, or training grants, community contributions and other grants, endowments or trusts.

The council shall also periodically submit requests for capital outlay for the entire system of public institutions of higher education to the secretary of administration and finance as provided by section seven of said chapter twenty-nine and to the house and senate committees on ways and means. The council shall use the estimates and requests prepared by each board of trustees for the purposes of this section attaching whatever recommendations it may desire or deem necessary. The general court shall appropriate funds for the system of public institutions of higher education in various line items, including, but not limited to four separate appropriations; one each for the university, state colleges, community colleges, and scholarships.

The board of trustees of the university shall receive its appropriation directly, in one sum. Funds appropriated for the state college system and the community college system shall be disbursed by the council to each board of trustees by the establishment of allocation accounts; provided, however, that the council shall not allocate an amount less than that appropriated by the general court for the expenses of "01, salaries, permanent positions"; "02, salaries, other"; or "03, services, nonemployee" without prior approval of the commissioner of administration; and provided, further, that no such funds allocated for the expenses of "01 salaries, permanent" to a board of trustees shall be transferred without the prior approval of the commissioner of administration.

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Except as provided in the preceding paragraph, the council shall not be prevented from amending institutional allocations or reallocating funds among institutions.

Section 15B. There shall be established a two year budget cycle for the public system of higher education which shall be instituted beginning in fiscal year nineteen hundred and ninety-four and shall be repeated every even numbered fiscal year thereafter.

In preparing for the even numbered fiscal year of said two year budget cycle each board of trustees shall prepare and submit to the council a budget request for the ordinary maintenance of its institution; said budget request shall include the salary of all officers and employees of said institution and all revenues therefrom and any other such information as the council may require or as provided in section three of chapter twenty-nine. Each board of trustees shall make requests to the council under the provisions of chapter twenty-nine. The boards of trustees shall attach to said even numbered fiscal year budget request a budget request for the following odd numbered fiscal year; said odd numbered fiscal year budget request shall include the salary of all officers and employees of said institution and all revenues therefrom and any other such information as the council may require or as provided in section three of chapter twenty-nine.

Each board of trustees shall prepare their estimates and requests according to the funding formulas prescribed in section fifteen A of this chapter.

The council shall review the institutional budget requests prepared by each board of trustees attaching whatever comments and recommendations it may desire or deem necessary. Said comments and recommendations shall be consistent with the aforementioned funding formulas, statewide needs and the adopted institutional and system long range plans. In reviewing the various estimates and requests the council may comment on the overall level of funding for the system of public higher education and may comment regarding funding priorities among segments of the system of public higher education and among the various institutions. The council shall submit the recommendations and comments of the council to the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. The council shall include in addition to the information provided by the boards of trustees all program costs which are to be borne by any other source other than the commonwealth, including such sources as federal financing or federal research, demonstration or training grants, community contributions and other grants, endowments or trusts.

Section 16. There shall be a general scholarship program administered by the council for the purpose of providing financial assistance to students domiciled in the commonwealth and enrolled in and pursuing a program of higher education in any approved public or independent college, university or school of nursing, or

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any other approved institution furnishing a program of higher education. Such aid and assistance shall consist of awarding of full or partial scholarships to worthy and qualified students in need of financial assistance.

The amount of awards to qualified students shall be determined by using an indexing system which shall be included in the guidelines established by the council to govern this program. The council shall file a report of current year general scholarship program expenditures, appropriations needed to fund full need for all students, and projections of general scholarship expenditures for the following year by family contribution ranges and independent student contribution ranges. Said report shall be filed with the clerk of the house and senate no later than the end of each calendar year.

There shall be a Christian A. Herter Memorial Scholarship Program which authorizes the council to guarantee the payment of full or partial scholarships to no more than twenty-five students annually of extraordinary need and ability selected in tenth or eleventh grades by persons or agencies designated by said council under such regulations as the council shall deem necessary. These awards shall be guaranteed to the student at the time of the student's selection; provided however, that said student successfully completes high school and is enrolled in and pursuing a program of higher education in any approved public or independent college, scientific or technical institution, or any other approved institution furnishing a program of higher education, and shall be payable from the general scholarship funds at the time of the student's matriculation.

There shall be a program, administered by the council, providing for the matching of scholarship grants to participating Massachusetts independent regionally accredited colleges, universities and schools of nursing; provided, that the council shall establish policies and regulations relating to the program, including an audit procedure to insure that institutions are in compliance with such policies and regulations; provided, further, that a participating institution shall be eligible to receive an amount equal to such institution's expenditure for scholarship aid to needy Massachusetts undergraduate students enrolled in such institutions as full-time matriculating students in a course of study leading to an associate or bachelor degree; provided further, that each participating institution shall agree to expend an amount equal to one hundred percent of the grant awarded hereunder in direct financial assistance to the needy Massachusetts students; provided further, that each participating institution shall agree to comply with the information requests of the council in accordance with this chapter, and provided, further, that students receiving such aid shall be ineligible for additional scholarship assistance provided by the commonwealth.

There shall be a Christa McAuliffe Teacher Incentive Program for the purpose of providing financial assistance for undergraduate and graduate students in approved institutions of higher education within the commonwealth who agree to

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teach on a full time basis within a public education system located in the commonwealth. The council shall institute and maintain learning contracts for all students admitted in the teacher incentive program, which shall include provisions for "payback" service for a period commencing after such students have fulfilled all graduation requirements, or for repayment to the commonwealth of the full amount of such grants on terms established by said council. Said council shall establish guidelines governing said program which shall include but not be limited to eligibility requirements, selection criteria, and period of time which must be spent teaching in the commonwealth.

There shall be a part-time student grant program to provide assistance to part-time undergraduate students attending approved institutions of higher education within the commonwealth who have demonstrated financial need. The council shall establish guidelines governing said program.

The council may award full or partial scholarships to worthy and qualified students who have been residents of the commonwealth for a period of four years immediately prior to receiving such award and who are in need of financial assistance in order to pursue graduate studies. The council shall award scholarships and notify all applicants on or before July first in each year. No scholarship may be awarded for more than five years to any one student. The council may expend such sums as may be appropriated to carry out the provisions of this paragraph. The council shall establish guidelines governing said program which shall include but not be limited to eligibility requirements and selection criteria.

There shall be a Council Grant for Campus-based Assistance Program for adult learners and work study opportunities. Participating approved institutions of higher education within Massachusetts shall receive an allocation from the council to provide grant or work study assistance to eligible students with demonstrated financial need. The council shall establish guidelines to govern this program which shall insure that those students receiving assistance include part-time students, graduate students and adult learners.

There shall be a Public Service Scholarship Program to provide scholarships to children and widowed spouses of Massachusetts police officers, firefighters and correction officers, who are killed or die from injuries received while in the performance of duties including authorized training duty; to children of prisoners of war or military or service persons missing in action in Southeast Asia whose wartime service is credited to the commonwealth and whose service was between February first, nineteen hundred and fifty-five, and the termination of the Vietnam campaign; and to the children of veterans whose service was credited to the commonwealth and who were killed in action or otherwise died as a result of such service. Such scholarships shall be awarded by the council pursuant to its guidelines established to govern this program and shall go to those persons referenced above who are admitted to an institution of higher education in the

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commonwealth to pursue undergraduate studies.

There shall be a dedicated grant program for undergraduate students enrolled at an approved institution of higher education within the commonwealth. The council shall establish guidelines to govern said program.

There shall be a consortium scholarship program for undergraduate students to pursue programs that are not currently offered by public institutions of higher education within the commonwealth. The council shall establish guidelines to govern said program.

Any student receiving financial assistance under any program listed above shall maintain satisfactory academic progress in order to continue to receive such assistance. Each institution which recipients attend shall maintain documentation of each recipient's academic standing and provide requested documentation to the council in accordance with guidelines promulgated by the council.

All programs of financial assistance above shall be subject to appropriation.

Any institution of higher education participating in any of the programs set forth above shall annually execute a participating agreement for each such program and place such contracts on file with the council's scholarship office.

When applicable federal law requires, each applicant for assistance under any program established herein shall provide appropriate documentation to verify his compliance with the Military Selective Service Act in effect at the time of such application.

With the exception of the public service scholarship program grants, all financial assistance provided for in this section shall be based on ability to pay, as provided for in guidelines promulgated by the council.

Upon adoption by the council of guidelines promulgated pursuant to the provisions of this section, said council shall file a copy thereof with the secretary of administration and finance, and with the clerk of the house of representatives, who shall refer such guidelines to the joint committee on education, arts and humanities, and the house and senate ways and means committees.

Section 17. The council, subject to appropriation, shall establish a program entitled the "teaching learning corps".

The program shall provide school districts choosing to participate, which contain a significant proportion of low-income students or a significant proportion of students deficient in basic skills, as determined by the board of education with college students as instructional aides. Instructional aides shall assist teachers in instructional activities during regular school programs or extended day programs, but shall not replace existing school personnel. Funds provided under this section shall be used first to provide matching funds for work-study college students, and in the case where work-study students are not available, to hire college students not enrolled in work-study programs. The council, in cooperation with the board of education, shall promulgate rules and regulations for said program, including



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selection criteria for public school sites, cooperative agreements between colleges and public schools, yearly programs evaluation procedures, program duration standards, and other rules.

Section 18. Every full-time and part-time student enrolled in a public or independent institution of higher learning located in the commonwealth shall participate in a qualifying student health insurance program. For the purposes of this section, "part-time student" shall mean a student participating in at least seventy-five percent of the full-time curriculum. Such an institution may elect to allow students to waive participation in its student health insurance program or any part thereof; provided, however, that an institution permitting such waivers shall require students waiving participation to certify in writing prior to any academic year in which they will not participate in the institution's plan that they are participating in a health insurance program having comparable coverages.

Each public and independent institution of higher education shall submit an annual report to the department of medical security detailing its procedures for complying with the provisions of this section; provided, however, that prior to the implementation of this section the department of medical security and the council shall submit a report to the house and senate committees on ways and means. Such a report shall include, but not be limited to, an analysis of the number of students lacking health insurance, the costs of the requirements of this section to the students and the public and independent institutions of higher education, and a proposed method for meeting such costs.

Any public or independent institution of higher learning failing to carry out its responsibilities under this section shall pay a penalty per student for every day during which the failure continues, equal to the penalty per employee per day imposed upon noncomplying employers by subsection (i) of section fourteen G of chapter one hundred and fifty-one A. Any penalties collected pursuant to this section shall be deposited in the public responsibility account of the medical security trust fund established by chapter one hundred and eighteen F. Any institution which, in accordance with regulations promulgated pursuant to this section, relies in good faith on statements by students relative to their health insurance status shall not be liable for any penalty or for failure to comply with the provisions of this section caused by misstatements of such students.

The department of medical security, with the advice and consent of the council, shall issue regulations to define qualifying student health insurance programs, to establish procedures to monitor compliance, and to implement the provisions of this section.

Section 19. There shall be a single tuition waiver program administered by the council in accordance with guidelines established by the council to govern the program, provided that no tuition waiver be funded by the transfer of funds appropriated pursuant to section sixteen.

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Such guidelines (i) shall establish institutional waiver allocation formulas and eligibility requirements, including needs criteria, for designated waiver programs, (ii) shall provide tuition waivers for specific categories of students designated by the council which shall include veterans, armed forces personnel, senior citizens, graduate students and native Americans, (iii) may provide waivers for additional categories of students not included in clause (ii), and (iv) may provide waivers of tuition or fees for undergraduate programs, summer sessions, evening classes, or any specific courses or set of courses.

Tuition waivers for graduate students shall be administered by each institution of public higher education. Said institutions shall annually and on a date specified by the council submit a written report to the board detailing graduate student waiver policies and distributions of said waivers.

Upon the adoption of guidelines in accordance with the provision of this section the council shall file copies of thereof with the clerks of the house and the senate, who shall refer such guidelines to the house and senate committees on ways and means and the joint committee on education, arts and humanities.

The council shall annually on or before March fifteenth report to the house and senate committees on ways and means and to the joint committee on education, arts and humanities regarding any modifications to the guidelines setting forth tuition waiver programs. Said report shall include information relative to tuition waivers for graduate students as administered by the several institutions of public higher education.

Section 20. There shall be an educational opportunities information center in the office of the council to provide information and assistance to prospective college and university students, and to public and independent institutions of higher education on matters regarding student admissions, transfers, and enrollments.

Such public institutions shall cooperate with the center by furnishing such nonconfidential information as may assist the center in the performance of its duties. The center may request and receive similar information from private or other public educational institutions to the commonwealth.

An applicant for admission to an institution whose application is not accepted may send to the center appropriate nonconfidential information concerning his application. The center may, at its discretion and with permission of the applicant, direct the attention of the applicant to other institutions and direct the attention of other institutions to the applicant.

The center may conduct such studies and analyses of admission, transfers and enrollments as may be deemed appropriate.

Section 21. There shall be board of trustees consisting of eleven members for each of the institutions named in section five other than the University of Massachusetts. Each board of trustees shall elect a chairman.

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One member of such board of trustees shall be a full-time undergraduate student member from said institution, and ten members shall be appointed by the governor pursuant to the provisions of section eighteen B of chapter six, at least one of whom shall be an alumnus of said institution and one of whom shall be elected thereto by the alumni association of said institution. Each elected alumnus member shall be elected every five years. No elected alumnus member shall serve for more than two consecutive terms. A vacancy in the position of elected alumnus member prior to the expiration of a term shall be filled for the remainder of the term in the same manner as elections to full terms. Each student member shall be elected by the student body annually, no later than May fifteenth. The term of office of each elected student member of the board shall be one year and shall commence on July first following their election and terminate on June thirtieth of the following year. The student member shall be eligible for re-election for as long as said student remains a full-time undergraduate student and maintains satisfactory academic progress as determined by the policy of the institution at which the student is enrolled. If at any time during the elected term of office said student member ceases to be a full-time undergraduate student or fails to maintain satisfactory academic progress, the membership of said student on the board shall be terminated and the office of the elected student member shall be deemed vacant, provided, however, that if the elected student member vacates his position upon graduation from the institution prior to July first, the elected successor may assume the position of student member on the board effective from the date of graduation of his predecessor, provided further that the statutory time limit of one year of the successor student trustee shall commence to run on July first notwithstanding any taking of office prior to the commencement of said term. A vacancy in the office of the elected student member prior to the expiration of a term shall be filled for the remainder of the term in the same manner as student elections to full terms.

No member of a board of trustees shall be a member of the higher education coordinating council. No member of a board of trustees shall be principally employed within the public higher education system of the commonwealth; provided, however, that no more than one-third of the members shall be principally employed by the commonwealth. Membership on a board of trustees shall terminate if a member ceases to be qualified for appointment.

Members shall be appointed to serve for five year terms, but no member shall be appointed for more than two consecutive terms. Members of the board shall serve without compensation but may be reimbursed for all expenses reasonably incurred in the performance of their duties.

Any vacancy on a board of trustees shall be filled for the duration of the term, in the same manner as the prior appointment. If a member is absent from four regular meetings in any calendar year, exclusive of July and August, that person's membership on the board shall terminate and a vacancy shall be deemed to exist.

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The chairman shall forthwith notify the governor when any vacancy exists.

Each board of trustees shall from time to time advise the higher education coordinating council on admissions programs, labor relations and program approval for its institution. Each board of trustees shall at their pleasure and with the approval of the council appoint and remove the chief executive officer of its institution.

Section 22. Each board of trustees of a community college or state college shall be responsible for establishing those policies necessary for the administrative management of personnel, staff services and the general business of the institution under its authority. Without limitation upon the generality of the foregoing, each such board shall: (a) cause to be prepared and submit to the council estimates of maintenance and capital outlay budgets for the institution under its authority; (b) establish all fees at said institution subject to guidelines established by the council. Said fees shall include fines and penalties collected pursuant to the enforcement of traffic and parking rules and regulations. Said rules and regulations shall be enforced by persons in the employ of the institution who throughout the property of the institution shall have the powers of police officers, except as to the service of civil process. Said fees established under the provisions of this section shall be retained by the board of trustees in a revolving fund or funds, and shall be expended as the board of the institution may direct; provided that the foregoing shall not authorize any action in contravention of the requirements of Section 1 of Article LXIII of the Amendments to the Constitution. Said fund or funds shall be subject to annual audit by the state auditor; (c) appoint, transfer, dismiss, promote and award tenure to all personnel of said institution; (d) manage and keep in repair all property, real and personal, owned or occupied by said institution; (e) seek, accept and administer for faculty research, programmatic and institutional purposes grants, gifts and trusts from private foundations, corporations, federal agencies, alumnae and other sources, which shall be administered under the provisions of section two C of chapter twenty-nine and may be disbursed at the direction of the board of trustees pursuant to its authority; (f) implement and evaluate affirmative action policies and programs; (g) establish, implement and evaluate student services and policies; (h) recommend to the council admission standards and instructional programs for said institution, including all major and degree programs provided, however, that said admission standards shall comply with the provisions of section thirty; (i) have authority to transfer funds within and among subsidiary accounts allocated to said institution by the council; (j) establish and operate programs, including summer and evening programs, in accordance with the degree authority conferred under the provisions of this chapter; (k) award degrees in fields approved by the council; either independently or in conjunction with other institutions, in accordance with actions of the boards of trustees of said other institutions and the council; (l) submit a five year master plan to the council,

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which plan shall be updated annually on or before the first Wednesday of December in each year; (m) submit financial data and an annual institutional spending plan to the council for review. Said plan shall include an account of spending from all revenue sources including but not limited to, trust funds; (n) develop a mission statement for the institution consistent with identified missions of the system of public higher education as a whole, as well as the identified mission of the category of institution within which the institution operates. Said mission statement shall be forwarded to the council for its approval. The board of trustees shall, after its approval, make said mission statement available to the public; (o) submit an institutional self-assessment report to the council, which the board of trustees shall make public and available at the institution. Said assessment report shall be used to foster improvement at the institution by the board of trustees and shall include information relative to the institution's progress in fulfilling its mission, as approved by the council. Said report shall be submitted, initially, by January first, nineteen hundred and ninety-three and every two years thereafter.

The board of trustees of each institution may delegate to the president of such institution any of the powers and responsibilities herein enumerated.

The commonwealth shall indemnify a trustee of a community college or state college against loss by reason of the liability to pay damages to a party for any claim arising out of any official judgment, decision, or conduct of said trustee; provided, however, that said trustee has acted in good faith and without malice; and provided, further, that the defense or settlement of such claim shall have been made by the attorney general or his designee. If a final judgment or decree is entered in favor of a party other than said trustee, the clerk of the court where such judgment or decree is entered shall, within twenty-one days after the final disposition of the claim, provide said trustee with a certified copy of such judgment or entry of decree, showing the amount due from said trustee, who shall transmit the same to the comptroller who shall forthwith notify the governor; and the governor shall draw his warrant for such amount on the state treasurer, who shall pay the same from appropriations made for the purpose by the general court.

Section 23. Each board of trustees shall periodically prepare and submit to the council an estimate, in detail, for the ordinary maintenance of its institution, including the salaries of all officers and employees of said institution and all revenues therefrom and any other such information as the council may require or as provided in section three of chapter twenty-nine. Each board of trustees shall make requests to the council under the provisions of section seven of chapter twenty-nine.

Section 24. Notwithstanding any other provision of law to the contrary, each board of trustees shall have the authority to make any purchase or purchases in the amount of two thousand dollars or less, and to purchase without limitation of amount library books and periodicals, educational and scientific supplies and

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equipment, printing and binding, emergency repairs and replacement parts, and perishable items, without recourse to any other state board, bureau, department or commission; provided, however, that in so doing the college shall follow modern methods of purchasing and shall, wherever practicable, invite competitive bids. Except as herein provided, the state purchasing agent shall on the certification of availability of funds purchase all items specified on requisitions submitted to him by any such board of trustees; provided, that the board of trustees shall have the right to review all bids received on any said board's requisitions and to make binding recommendations on the award of the contract based on the judgment of the board as to which of the bids best meet said board's specification on which the bids were received. Products assembled, manufactured or otherwise produced by the Massachusetts commission for the blind shall be purchased from the commission pursuant to the provisions of section one hundred and thirty-four of chapter six.

Section 25. The council or a board of trustees shall not refuse to elect and contract with a candidate for a teaching position in any public institution of higher education because of the blindness of such candidate.

Section 26. Each public institution of higher education may conduct summer sessions, provided such sessions are operated at no expense to the commonwealth. Each public institution of higher education may conduct evening classes, provided such classes are operated at no expense to the commonwealth.

Section 27. Each public institution of higher education which provides housing for students in dormitories shall establish rules and regulations providing that a certain number of dormitory rooms shall be reserved for nonsmokers. Each such public institution shall provide a space on the application for admission or student housing for the applicant to indicate whether he would prefer to reside in a room where smoking was prohibited or whether he would prefer to reside in a room where smoking was allowed.

Section 28. Notwithstanding any contrary provisions of law, the board of bank incorporation or the commissioner of banks is hereby authorized to allow a bank, as defined in section one of chapter one hundred and sixty-seven, to establish and maintain a branch on the grounds of any public institution of higher education in the commonwealth, provided that the council shall determine the method and terms of the lease if applicable or rental thereof.

Section 29. (a) As used in this chapter and in chapters seventy-three, seventy-five A, and seventy-five B, the following words shall have the following meanings:-

"Waivable fee", any amount payable on a student tuition bill, but not a mandatory charge, appearing as a separately assessed item, accompanied by a statement as to the nature of said item and that said item is not a charge required to be paid by the student but rather the student may deduct said charge from the

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total amount due, and that said item appears on the bill at the request of the student body and does not necessarily reflect the endorsement of the board of trustees.

"Student organization", any organization of students at public post-secondary educational institutions which is open to membership of all students who pay the waivable fee and is controlled by its student members.

"Nonpartisan", as applied to student organizations not endorsing or adhering to particular ideological or religious positions in the articles of incorporation, charter, constitution, or by-laws.

"Official student referendum", a referendum vote of the student body which is sanctioned by the college-recognized student governmental association and certified by said student government association as valid.

(b) Nonmandatory student fees to nonpartisan student organizations which employ legislative agents as defined in section thirty-nine of chapter three, or to nonpartisan student organizations attempting to influence legislation as defined in section forty-four of said chapter three, shall be paid on student tuition bills by a waivable fee whenever students have authorized said fee by a majority vote of those students voting in an official student referendum. The continuation of said waivable fee on the student tuition bill may be subject to reauthorization by an official student referendum every two years. Necessary administrative costs arising in connection with the collection of said fee may be billed by the board of trustees to the student organization at the time of the transfer of funds collected to said student organizations.

(c) The boards of trustees shall not allow any funds for legislative agents as defined in section thirty-nine of said chapter three or organizations attempting to influence legislation as defined in section forty-four of said chapter three to be assessed on student tuition bills; provided, however, that waivable fees for nonpartisan student organizations which employ said legislative agents or attempt to influence legislation shall be collected by the boards of trustees whenever students have authorized a waivable fee by a majority vote of those students voting in an official student referendum. Said waivable fees shall be collected as provided in paragraph (b).

(d) No funds collected as a mandatory student activities fee shall be paid to legislative agents as defined in section thirty-nine of said chapter three or organizations attempting to influence legislation as defined in section forty-four of said chapter three.

(e) As used in this section, the term "legislative agent" or "organization attempting to influence legislation" shall not include any student government association or associations, individually or collectively, or any organization comprised of representatives of such associations, which are selected by students through referendum to be an official representative of the student body.

Section 30. No resident of the commonwealth who has been diagnosed as

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being developmentally disabled, including but not limited to, having dyslexia or other specific language disabilities, by any evaluation procedure prescribed by chapter seventy-one B, or equivalent testing, shall be required to take any standardized college entrance aptitude test to gain admittance to any public institution of higher education in the commonwealth. Admission shall be determined by all other relevant factors excluding standardized achievement testing. The provisions of this section shall not apply to any person solely because of blindness or visual impairment, regardless of age at which such individual became blind or visually-impaired.

Section 31. The council shall define which of those expenses at the institutional level are to be considered administrative expenses. In preparing their annual spending plans, each board of trustees shall indicate the amount of spending which falls under said definition. The council shall make public the amount of administrative spending at each institution and may, as a result, make recommendations relative to reducing such spending to provide for more efficient administration of the system of public higher education.

Section 32. The council shall prepare a system of student assessment, to be administered within the public system of higher education, to measure student improvement, between the first and fourth years of attendance at public higher education institutions, on various tasks, including, but not limited to, ability to reason, communication and language skills, and other factors the council deems appropriate to evaluate, in order to assess the general performance of higher education institutions in fostering learning and academic growth. The council shall determine the method of assessment shall publish the results of such assessment.

Section 33. The council shall publish a report, on or before January first, nineteen hundred and ninety-four, and every four years thereafter, assessing overall faculty productivity and overall teacher effectiveness within the public system of higher education. Said report may include narrative research and statistical data which the council deems appropriate. Any data or information gathered for said report is not intended to be and shall not be used for the evaluation of the performance of any individual faculty member and the identity of individual faculty members shall be confidential. Said report shall also include information gained from students, both present and former, and shall further include information obtained from the commonwealth's business community relative to work force preparation. The report shall draw comparisons between institutions and types of institution, as well as between the commonwealth's public higher education system and those in other states, to the extent feasible.

Section 34. It is hereby declared the policy of the commonwealth to provide and ensure an accurate and objective study of the public system of higher education in order to fulfill the goals and purposes of this chapter. Subject to appropriation a benchmark study of the public system of higher education may be undertaken



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to determine the strengths and weaknesses of said system and to propose strategies and directions for the higher education coordinating council and the system as a whole to take in order to fulfill its mission more effectively. Said benchmark study shall be conducted by a panel of nationally recognized objective experts in the field of higher education whose members shall be selected by the council, through the consultation with the secretary of education, the joint committee on education, the arts and humanities, and the ways and means committees of the house and senate. Said benchmark study shall be filed with the clerks of the senate and the house of representatives no later than December first, nineteen hundred and ninety-three, and shall be made available to the public.

The aforementioned study shall be conducted at least every seven years, subject to appropriation.

Section 35. There is hereby established a professional development schools grant program. The board of education shall award grants to exemplary public schools and to cooperating public or private institutions of higher education in the commonwealth to establish collaborative programs for the purpose of fostering improved teacher training and professional development. In order to be eligible for a professional development school grant a school in cooperation with one or more public or private institutions of higher education shall jointly submit a program application which shall include, but not be limited to, a statement of program objectives covering a three year period, a program plan with specific timelines for implementation, and a plan for program evaluation. The program designated in the application must be approved by the faculty of the institution of higher education, the teachers, administrators and other professional staff of the public school, the superintendent of schools and by majority vote of the school committee and school improvement council. The board of education shall give priority to those programs in which the teacher training and professional development activities will take place in the public school.

Grants awarded under this section, to the extent that said funds are allocated to the public school, shall be deposited with the town, city, or regional district treasurer in a separate account to be expended, without further appropriation, by the school committee for the purposes of the professional development schools grant.

The board of education may contract with any public institution of higher education or nonprofit corporation, which has the requisite knowledge and experience in teacher training for the purpose of administering the professional development schools grant program.

Section 36. No public school shall receive funds through the professional development schools grant program if, (1) said school is within a city, town, or regional school district in which the share of local expenditures allocated to the support of the public schools has declined in any fiscal year commencing on July

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first, nineteen hundred and eighty-five, or (2) any schools receiving professional development school grants have received average per pupil support less than that received on average by all other schools of the same classification and grade level in the district, or (3) the absolute level of financial support for the public schools in the city, town or regional school district has decreased in any year since fiscal year nineteen hundred and eighty-six. In the case of a school district which fails to meet the aforementioned criteria, the board of education shall consider as eligible those schools in which the per pupil educational portion of local expenditures, adjusted for inflation and other factors, has not declined in any year since fiscal year nineteen hundred and eighty-six.

**SECTION 8.** Section 30 of chapter 69 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 8, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 9.** Said section 30 of said chapter 69, as so appearing, is hereby further amended by striking out, in line 8, the second time it appears, and in lines 11, 16, 19, 23, 28, 33, and 37 the word "board" and inserting in place thereof, in each instance, the word:- council.

**SECTION 10.** Said section 30 of said chapter 69, as so appearing, is hereby further amended by striking out, in line 46, the words "board of higher education" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 11.** Section 30A of said chapter 69, as so appearing, is hereby amended by striking out, in line 1, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 12.** Said section 30A of said chapter 69, as so appearing, is hereby further amended by striking out, in lines 4, 7 and 16, the word "board" and inserting in place thereof, in each instance, the word:- council.

**SECTION 13.** Section 31 of said chapter 69, as so appearing, is hereby amended by striking out, in line 1, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 14.** Section 31A of said chapter 69, as so appearing, is hereby amended by striking out, in line 9, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 15.** Section 31B of said chapter 69, as so appearing, is hereby amended by striking out, in line 3, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 16.** Chapter 75 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. The state university shall be the University of Massachusetts, consisting of campuses to be maintained at Amherst, Boston, Dartmouth, Lowell, and Worcester, which shall continue as a public institution of higher learning within

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the system of public higher education and shall be governed by the board of trustees established herein. In addition to the authority, responsibility, powers and duties specifically conferred by this chapter, the board of trustees shall have all authority, responsibility, rights, privileges, powers and duties customarily and traditionally exercised by governing boards of institutions of higher learning. In exercising such authority, responsibility, powers and duties said board shall not in the management of the affairs of the university be subject to, or superseded by, any other state agency, board, bureau, commission, department or officer, except as provided in sections thirty-eight A 1/2 to forty-three I, inclusive, of chapter seven, chapter fifteen, chapter fifteen A or in this chapter. This chapter shall be liberally construed to effectuate its purposes.

**SECTION 17.** Said chapter 75 is hereby further amended by inserting after section 1 the following section:-

Section 1A. There shall be a board of trustees for University of Massachusetts consisting of nineteen voting members. Two members shall be full-time students from said institution, and seventeen members shall be appointed by the governor, at least five of whom shall be alumni of said institution, and one of whom shall be a representative of organized labor who shall be appointed by the governor from a list of not less than two nor more than five names, representing different unions submitted by the Massachusetts AFL-CIO. If no such list of names is submitted within sixty days after a vacancy occurs, the governor may appoint any representative of organized labor of his own choosing to the board. Of the alumni appointed to the University board, one shall be a graduate of the Amherst campus; one shall be graduate of the Boston campus; one shall be a graduate of the Dartmouth campus; one shall be a graduate of the Lowell campus; and one shall be a graduate of the Worcester campus. The student members shall be elected annually, and each shall be selected on a rotating basis in order by the student body of the Amherst, Boston, Dartmouth, Lowell, and Worcester campuses. In any given year, the elected student representatives of the three campuses without a vote shall be ex officio non-voting members of the board; provided, however, that said members may only participate in open meetings of the full board of trustees. The secretary of education shall be an ex officio non-voting member of the board.

The term of office of each elected student member shall be one year and shall commence on July first following her election and shall terminate on June thirtieth of the following year. If at any time during the elected term of office said student member ceases to be a full-time student or fails to maintain satisfactory academic progress, the membership of said student shall be terminated and the office of the elected student member shall be deemed vacant. A vacancy in the office of an elected student member prior to the expiration of a term shall be filled for the remainder of the term in the same manner as an election to a full term.

Members shall be appointed to serve for five year terms, but no member shall

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be appointed for more than two consecutive terms. A vacancy in the appointed membership prior to the expiration of a term shall be filled for the remainder of the term by the governor. Membership on the board of trustees shall terminate if a member ceases to be qualified for appointment. If any member, either elected or appointed, is absent from four regular meetings in any calendar year, exclusive of July and August, his office as member of said board shall be deemed vacant. The chairperson shall forthwith notify the governor when any vacancy exists. Said vacancy shall be filled by the governor according to the provisions of section eighteen B of chapter six.

All members of the board shall be elected or appointed for their interests in, and their ability to contribute to, the fulfillment of the purposes of the board. The members appointed by the governor shall include representatives from each region of the commonwealth. All members shall be deemed members-at-large, charged with the responsibility of serving the best interests of the university. No member of the board of trustees shall be principally employed by the commonwealth. Members of the board shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties. The board of trustees shall elect a chair. No chair shall serve for more than three consecutive years.

The board of trustees shall be responsible for establishing those policies necessary for the administrative management of personnel, staff services and the general business of the university. The board shall: (a) cause to be prepared and submit to the higher education coordinating council estimates of maintenance and capital outlay budgets for the university; (b) establish all fees at said institution, subject to guidelines established by the council. The board shall submit recommendations for fee guidelines to the council. Said fees shall include fines and penalties collected pursuant to the enforcement of traffic and parking rules and regulations. Said rules and regulations shall be enforced by persons in the employ of the institution who throughout the property of the institution shall have the powers of police officers, except as to the service of civil process. Said fees established under the provisions of this section shall be retained by the board of trustees in a revolving fund or funds, and shall be expended as the board of the institution may direct; provided that the foregoing shall not authorize any action in contravention of the requirements of Section 1 of Article LXIII of the Amendments to the Constitution. Said fund or funds shall be subject to annual audit by the state auditor; (c) appoint, transfer, dismiss, promote and award tenure to all personnel of the university; (d) manage and keep in repair all property, real and personal, owned or occupied by the university; (e) seek, accept and administer for faculty research, programmatic and institutional purposes grants, gifts and trusts from private foundations, corporations, federal agencies, alumni and other sources, which shall be administered under the provisions of section two C of

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chapter twenty-nine and may be disbursed at the direction of the board of trustees pursuant to its authority; (f) implement and evaluate affirmative action policies and programs; (g) establish, implement and evaluate student services and policies; (h) with approval of the higher education coordinating council, establish admission standards and instructional programs for the university, including all major and degree programs; provided, however, that said admission standard shall comply with the provisions of section thirty of chapter fifteen A; (i) have authority to transfer funds within and among subsidiary accounts allocated to the university; (j) establish and operate programs, including summer and evening programs, in accordance with the degree authority conferred under the provisions of this chapter; (k) with the approval of the council, award degrees in fields, either independently or in conjunction with other institutions; and (l) submit a five year master plan to the council, which plan shall be updated annually on or before the first Wednesday of December in each year; (m) submit financial data and an annual institutional spending plan to the council for review. Said plan shall include an account of spending from all revenue sources including but not limited to, trust funds; (n) develop a mission statement for each campus, as well as a statement for the university, consistent with identified missions of the system of public higher education as a whole. Said mission statements shall be forwarded to the council for its approval. The board of trustees shall, after their approval, make said mission statements available to the public; (o) submit an institutional self-assessment report to the council, which the board of trustees shall make public and available at the institution. Said assessment report shall be used to foster improvement at the institution by the board of trustees and shall include information relative to the institution's progress in fulfilling its mission, as approved by the council. Said report shall be submitted, initially, by January first, nineteen hundred and ninety-three and every two years thereafter; (p) submit recommendations to the council for approval for tuition rates at the university.

The board of trustees may delegate to the president of the university any of the powers and responsibilities herein enumerated.

The commonwealth shall indemnify a member of the board against loss by reason of the liability to pay damages to a party for any claim arising out of any official judgment, decision, or conduct of said member; provided, however, that said member has acted in good faith and without malice; and provided, further, that the defense or settlement of such claim shall have been made by the attorney general or his designee. If a final judgment or decree is entered in favor of a party other than said member, the clerk of the court where such judgment or decree is entered, shall, within twenty-one days after the final disposition of the claim, provide said member with a certified copy of such judgment or entry of decree, showing the amount due from said member, who shall transmit the same to the comptroller who shall forthwith notify the governor; and the governor shall draw

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his warrant for such amount on the state treasurer, who shall pay the same from appropriations made for the purpose by the general court.

**SECTION 18.** Said chapter 75, as so appearing, is hereby amended by striking out section 2 and inserting in place thereof the following:-

Section 2. The major purpose of the university shall be to provide, without discrimination, public service, research, and education programs, including continuing education services, in the liberal arts and sciences and in the professions, and in those professional areas normally requiring either education beyond four years of undergraduate training or a basic or advanced degree beyond the bachelor's level, with exclusive jurisdiction in agriculture. The university may offer the adult education services of the university extension services. The university shall have the general authority to award an earned doctoral degree, either independently or jointly with any other public institution of higher education operated by the commonwealth in accordance with joint programs approved by the higher education coordinating council and the board of trustees of the university and the board of trustees of such other public institution. The trustees shall maintain high educational standards at the university and shall, subject only to the general authority in the higher education coordinating council, have complete authority to establish, locate, support, consolidate or abolish classes, courses, curricula, departments, divisions, schools or colleges of the university wherever and whenever required in meeting the needs of the commonwealth in the field of public higher education. The trustees shall establish for the university the qualifications and standards for promotion and graduation and shall award academic degrees and diplomas and confer honors as is customary in American universities. The trustees shall establish, for the university, the qualifications and standards for admission subject to approval by the higher education coordinating council. Said standards for admission shall accommodate persons who have been diagnosed as developmentally disabled, including but not limited to, having dyslexia or other specific language disabilities, by an evaluation procedure prescribed by chapter seventy-one B, or equivalent testing. The trustees may confer such honorary degrees as they deem appropriate.

**SECTION 19.** Said chapter 75 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. The board of trustees shall have the authority to make any purchase or purchases in the amount of one hundred thousand dollars or less, and to purchase without limitation of amount library books and periodicals, educational and scientific supplies and equipment, printing and binding, emergency repairs and replacement parts, and perishable items, without recourse to any other state board. Such purchases shall be subject to competitive bids wherever practicable. The board of trustees shall promulgate regulations further defining the process for the purchase of said supplies.

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**SECTION 20.** Section 14 of said chapter 75, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-

The trustees shall have complete authority with respect to the election or appointment of the president of the university and such other officers and members of the professional staff of the university, including terms, conditions and periods of employment, classification and reclassification, salary within such salary schedule and exemptions as the trustees shall determine, compensation, transfer, promotion, and demotion, and shall define the duties and tenure of all officers and members of the professional staff, without limitation of any other provision of law. Said compensation and university salary schedule shall be set without reference to any state salary schedule. Copies of the classification, title, salary range, and descriptive job specifications for each position shall be placed on file with the governor, the council, the budget director, the personnel administrator, and the house and senate committees on ways and means.

**SECTION 21.** Said section 14 of said chapter 75, as so appearing, is hereby further amended by striking out the definition of "General salary schedule".

**SECTION 22.** Said chapter 75 is hereby further amended by inserting after section 14 the following two sections:-

Section 14A. Notwithstanding any provision of law to the contrary, the trustees shall prescribe and enforce such regulations as they may deem necessary, and may enter into contracts with corporations, foundations, other entities, and individuals concerning inventions, discoveries, research, or other work product, including patents, trademarks, copyrights, trade secrets, and any other intellectual property, developed under the terms of a sponsored agreement entered into by the university or involving the use of university funds, facilities, excluding libraries, equipment, material or time by students, research fellows, staff members, faculty or other university personnel, including the transfer of rights involving such work product, the amount of the respective shares in the proceeds therefrom, and provision for the resolution of any and all disagreements involving the same. The trustees shall also have the authority to prescribe in such regulations the circumstances under which the university, students, research fellows, staff members, faculty, and other university personnel may own equity or hold other financial interests in connection with such work product.

Section 14B. The trustees shall establish for each campus a council, broadly representative of the community, alumnae and students, and shall, upon recommendation of the campus president, appoint members thereto. The campus council shall advise the campus president and the trustees and make recommendations regarding said campus, and shall undertake such other activities as shall be determined by the campus president.

**SECTION 23.** Chapter seventy-five A of the General Laws is hereby repealed.

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**SECTION 24.** Chapter seventy-five B of the General Laws is hereby repealed.

**SECTION 25.** The definition of "Employer" in section 1 of chapter 150E of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- In the case of employees of the system of public institutions of higher education, the employer shall mean the higher education coordinating council or any individual who is designated to represent it and act in its interest in dealing with employees, except that the employer of employees of the University of Massachusetts shall be the board of trustees of the university or any individual who is designated to represent it and act in its interest in dealing with employees.

**SECTION 26.** Paragraph (b) of section 7 of said chapter 150E, as so appearing, is hereby amended by striking out, in line 7, the words "board of regents of higher education" and inserting in place thereof the words:- higher education coordinating council or the board of trustees of the University of Massachusetts.

**SECTION 27.** Paragraph (c) of said section 7 of chapter 150E, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words "board of regents of higher education" and inserting in place thereof the words:- higher education coordinating council, the board of trustees of the University of Massachusetts.

**SECTION 28.** (a) All books, papers, records, documents, equipment, lands, interests in land, buildings, facilities and other property, both personal and real, which immediately prior to the effective date of this act, are in the custody of the board of regents shall be transferred to the higher education coordinating council by this act. All duly existing contracts, leases and obligations of the board of regents in force immediately prior to the effective date of this act shall thereafter be performed by the council. No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act. All monies heretofore appropriated for the board of regents remaining unexpended on the effective date of this act shall be available for expenditure by the council for the purposes for which funds were originally appropriated.

(b) All employees of the board of regents are hereby transferred by this act to the council or the board of trustees of the University of Massachusetts, as appropriate.

Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited prior to said effective date.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted by the board of regents which are in force immediately prior to the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, unless and until otherwise suspended, revised, rescinded or canceled in accordance with law.



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**SECTION 29.** As of the effective date of this act, each employee transferred from the board of regents shall become an employee of the council or of the board of trustees of the University of Massachusetts as appropriate. Rights and obligations under collective bargaining agreements with respect to employees of all state colleges and all community colleges transferred from the board of regents to said council shall be assumed by and imposed upon the council who shall, pursuant to section one of chapter one hundred and fifty E of the General Laws, be the "public employer" of all employees of all state colleges and community colleges.

**SECTION 30.** Commencing on September first, nineteen hundred and ninety-one, and continuing for the terms hereinafter stated and until their successors are appointed, the board of trustees of the University of Massachusetts established by section one A of chapter seventy-five of the General Laws shall include the following appointed members:

(1) Eight persons appointed by the governor prior to September one, nineteen hundred and ninety-one from among members of the board of trustees of the University of Massachusetts; provided, however, that the governor shall select from existing board members the alumni to be appointed from the Amherst, Boston, and Worcester campuses, as provided in said section one A.

(2) Four persons appointed by the governor prior to July first, nineteen hundred and ninety-one from among members of the board of trustees of the University of Lowell; provided, however, that the governor shall select from existing board members the alumnus to be appointed from the Lowell campus, as provided in said section one A.

(3) Four persons appointed by the governor prior to September first, nineteen hundred and ninety-one from among members of the Southeastern Massachusetts University; provided, however, that the governor shall select from existing board members the alumnus to be appointed from the Dartmouth campus, as provided in said section one A.

Of the sixteen initial appointed trustees, three shall be appointed for one year terms, three shall be appointed for two year terms, three shall be appointed for three year terms, three shall be appointed for four year terms, and four shall be appointed for five year terms. As the terms of the initial appointed members of the board expire, their successors shall be appointed as provided for in section one A of chapter seventy-five of the General Laws and according to the provisions of section eighteen B of chapter six of the General Laws. For purposes of appointment under said section one A, an alumnus of the University of Lowell shall be considered to be a graduate of the Lowell campus of the University of Massachusetts, and an alumnus of Southeastern Massachusetts University shall be considered to be a graduate of the Dartmouth campus of the University of Massachusetts. Any term of office served by a member of the board of trustees of Southeastern Massachusetts University, the board of trustees of the University of Lowell, or the

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board of trustees of the University of Massachusetts prior to July one, nineteen hundred and ninety-one shall not be considered for purposes of qualification and appointment as provided in said section thereafter.

**SECTION 31.** Commencing on September first, nineteen hundred and ninety-one, the board of trustees of the University of Massachusetts established by section one A of chapter seventy-five of the General Laws shall include as the two initial elected student members the student elected by the student body of the Dartmouth campus and the student elected by the student body of the Lowell campus to serve respectively on the board of trustees of Southeastern Massachusetts University and the University of Lowell on July first, nineteen hundred and ninety-one. The terms of said elected student members shall expire on June thirtieth, nineteen hundred and ninety-two. As the terms of the initial elected student members of the board expire, their successors shall be elected on a rotating basis in order as provided for in section one A of chapter seventy-five of the General Laws.

**SECTION 32.** The terms of office of all appointed and elected members of the board of trustees of Southeastern Massachusetts University, the board of trustees of the University of Lowell, and the board of trustees of the University of Massachusetts who are not appointed or elected to the board of trustees of the University of Massachusetts under the provisions of this act are hereby terminated as of August thirty-first, nineteen hundred and ninety-one.

**SECTION 33.** The rights, powers, duties, and properties of the board of trustees of Southeastern Massachusetts University, the board of trustees of the University of Lowell, and the board of trustees of the University of Massachusetts, abolished by this act, shall hereafter be exercised, performed, and held by the board of trustees of the University of Massachusetts, established by section one A of chapter seventy-five of the General Laws, which shall be their lawful successor.

**SECTION 34.** The staff of Southeastern Massachusetts University and the University of Lowell on August thirty-first, nineteen hundred and ninety-one shall be and are hereby transferred to the staff of the University of Massachusetts without impairment of status, tenure, seniority, retirement, insurance, industrial accident coverage and all other rights and benefits to which such staff are entitled on said date notwithstanding any change in duties and titles resulting from such transfer; provided, however, that nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to such transfer.

**SECTION 35.** The terms of any collective bargaining agreement in existence on August thirty-first, nineteen hundred and ninety-one between any employee organization and the board of regents of higher education concerning Southeastern Massachusetts University, the University of Lowell, and the University of Massachusetts shall continue in full force and effect until the expiration of said agreement, subject to the provisions of this act.

No provisions of this act shall itself constitute an independent basis for altering

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the appropriate bargaining units existing as of the effective date of this act.

**SECTION 36.** All orders, rules and regulations duly made by the board of trustees of Southeastern Massachusetts University, the board of trustees of the University of Lowell, and the board of trustees of the University of Massachusetts with respect to the institutions under their respective jurisdictions and which are in force and effect on August thirty-first, nineteen hundred and ninety-one, shall continue until superseded, revised, or rescinded in accordance with law. All petitions, hearings, and other proceedings relating to said boards or their respective institutions shall continue unabated, notwithstanding the passage of this act, in the name of the board or their respective institutions shall continue unabated, notwithstanding the passage of this act, in the name of the board of trustees of the University of Massachusetts established by section one A of chapter seventy-five of the General Laws, or the University of Massachusetts respectively. All questions relating to the identification of such orders, rules, regulations, petitions, hearings, and proceedings shall be determined by the board of trustees of the University of Massachusetts or an officer designated by said trustees.

**SECTION 37.** All duly existing contracts, leases and obligations of the board of trustees of Southeastern Massachusetts University, the board of trustees of the University of Lowell and the board of trustees of the University of Massachusetts which are in force and effect on August thirty-first, nineteen hundred and ninety-one, shall thereafter be performed by the board of trustees of the University of Massachusetts established by section one A of chapter seventy-five of the General Laws, and no existing right of any character shall be lost, impaired, or affected by the provisions of this act. This section shall not affect any renewal provision or option to renew contained in any said contracts, leases and obligations, all of which may thereafter be exercised by said trustees as hereinbefore provided.

**SECTION 38.** All monies of any kind heretofore appropriated to the board of regents of higher education or any other entity for the benefit of Southeastern Massachusetts University or the University of Lowell and encumbered therefor, or any monies from any other sources for the benefit of said institutions, remaining unexpended on August thirty-first, nineteen hundred and ninety-one, shall be and are hereby transferred to and made available for expenditure by the board of trustees of the University of Massachusetts established by section one A of chapter seventy-five of the General Laws; provided, however, that such monies shall be expended by said trustees solely for the benefit of the Dartmouth and Lowell campuses of said university respectively. All questions regarding the identification of such monies and the appropriate accounts to which they are to be transferred shall be determined by the board of trustees of the University of Massachusetts or an officer designated by said board.

**SECTION 39.** This act shall not be construed to affect the building authorities

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of Southeastern Massachusetts University, the University of Massachusetts, and the University of Lowell or the obligations, contracts and agreements thereof with their respective institutions in effect on August thirty-first, nineteen hundred and ninety-one, which shall be assumed by the board of trustees of the University of Massachusetts established by section one A of chapter seventy-five of the General Laws.

**SECTION 40.** Whenever the name of the board of trustees of Southeastern Massachusetts University or the board of trustees of the University of Lowell, or of Southeastern Massachusetts University or the University of Lowell, or any words connoting the foregoing appear in any general or special law, or in any order, bylaw, rule, regulation or other document, such name or words shall be construed as referring to the board of trustees of the University of Massachusetts or the University of Massachusetts respectively; provided, however, that any such general or special law shall not be inconsistent with the provisions of this act.

**SECTION 41.** On September first, nineteen hundred and ninety-one, Southeastern Massachusetts University and the University of Lowell shall be discontinued; provided, however, that all programs, functions, and activities shall be transferred to the Dartmouth and Lowell campuses of the University of Massachusetts, and the education of the students presently enrolled at Southeastern Massachusetts University and the University of Lowell will continue without interruption.

**SECTION 42.** The board of trustees of the University of Massachusetts, established by section one A of chapter seventy-five of the General Laws, shall prepare or cause to be prepared for submission to the general court, not later than December first, nineteen hundred and ninety-one, recommendations for further amendment of the general and special laws relating to the management and operation of said university, as said trustees may deem desirable or necessary.

**SECTION 43.** The joint committee on education, arts and humanities is hereby directed to conduct a thorough study of elementary and secondary education in the commonwealth for the purpose of recommending necessary reforms in said system of education.

Said study shall include, but not be limited to, consideration of the following: (i) school finance, (ii) curriculum issues, (iii) personnel issues, (iv) teacher certification and preparation, (v) specialized areas such as vocational or special education programs, (vi) school governance and system governance.

Said study and report shall be issued to the general court on or before November first, nineteen hundred and ninety-one.

**SECTION 44.** A commission on the future of the state college and community college system is hereby established to advise and report to the governor and the higher education quality of its curricula, appropriate funding levels and funding sources, and the differentiation of its purposes and programs. Said commission

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shall also consider issues relative to allowing greater autonomy and decision-making at the campus level.

Said commission shall make such recommendations to the governor and the council as are concurred in by at least a majority of its members.

Said commission shall consist of nineteen members to be appointed by the governor. The chairperson of the commission shall be the secretary of education, one of whom shall be the chancellor of higher education, one of whom shall be a member of a board of trustees of a state college, one of whom shall be a member of a board of trustees of a state community college, one of whom shall be a president of a state college, one of whom shall be a president of a state community college, one of whom shall be a faculty member of a state college, one of whom shall be a student presently attending a state college, one of whom shall be a student presently attending a state community college, one of whom shall be a state senator who attended a state college or community college and is nominated by the senate president, one of whom shall be a state senator who attended a state college or community college and is nominated by the minority leader of the senate, one of whom shall be a state representative who attended a state college or community college and is nominated by the speaker of the house of representatives, one of whom shall be a state representative who attended a state college or community college and is nominated by the minority leader of the house of representatives, and five of whom shall be at-large members who shall be chosen for their experience, temperament, ability and integrity.

Said commission shall report its recommendations to the governor with regard to the matters set forth in this section. Said report shall include proposed drafts of legislation necessary to implement any of its recommendations and copies shall be forwarded to the clerk of the house of representatives who shall forward the same to the joint committee on education, arts and humanities. Said report shall also be forwarded to the higher education coordinating council for the purpose of assisting said council in fulfilling its role to develop and approve mission statements within the system of public higher education, and for any other purposes relative to its duties according to chapter fifteen A of the General Laws.

**SECTION 45.** The secretary of education, in conjunction with the higher education coordinating council, shall undertake a study of the system of financial accounting for its public higher education system, with the intention of developing and implementing a uniform accounting system for all public higher education institutions. In conducting said study, the secretary shall involve representatives of each type of institution, including the university, state college and community college segments. The secretary shall appoint a subcommittee of the council and may utilize staff of the council to accomplish said study. The secretary and council shall complete and approve said study and publish the results by April first,

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nineteen hundred and ninety-two. The council shall implement a uniform accounting system in accordance with said study as of July first, nineteen hundred and ninety-two.

**SECTION 46.** The secretary of education, in conjunction with higher education coordinating council, shall conduct a study of tuition and fees charged at each institution with the intention of implementing guidelines to be followed by each institution relative to various charges and whether said charges should be classified as tuition or as a separate fee. The secretary shall appoint a subcommittee of the council and may utilize staff of the council to accomplish said study. Except for the fees mandated by section twenty-nine of chapter fifteen A, and fees for summer and evening sessions, for purposes of said study and guidelines, the secretary and council shall consider as "tuition" any charge or fees that are mandatory for all students, and the secretary and council shall consider as "fees" only those charges or fees that are assessed for a particular purpose and are not mandatory for all students.

Said study, subject to council approval, shall be completed and published by April first, nineteen hundred and ninety-two. The council shall implement the recommendations of said study by July first, nineteen hundred and ninety-two.

**SECTION 47.** The secretary of education, in conjunction with the higher education coordinating council, shall conduct a study of the issues relative to allowing each institution of public higher education to retain tuition charges, as imposed pursuant to section nine of chapter fifteen A of the General Laws, inserted by section eight of this act, as funds received on account of said institution. The secretary shall appoint a subcommittee of the council and may utilize staff of the council to accomplish said study. Said study shall include a plan for implementing such a "tuition retention" plan for fiscal year nineteen hundred and ninety-three and shall take into account various factors, including, but not limited to, the payment of fringe benefits for employees whose salaries are paid from the Tuition Retention Trust Fund, as well as the impact the tuition waivers and need-based waivers will have on various institutions under a full tuition retention plan.

The secretary, subject to council approval, shall forward an analysis of all pertinent issues and recommendations relative to "tuition retention" to the joint committee on education, arts and humanities and the house and senate committees on ways and means. Said study shall be completed by January first, nineteen hundred and ninety-two, and said tuition retention plan shall be implemented by for fiscal year nineteen hundred and ninety-three.

**SECTION 47A.** The higher education coordinating council shall conduct a study relative to developing funding formulas to determine the allocation of state support for the public institutions of higher education. Said study shall take into account, but shall not be limited to, such factors as: the previous year's costs for education and general operations; costs of instruction, administration, libraries,

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institutional support, academic support, student services, operation and maintenance of physical plant, and differential costs per student for bachelor's, master's, and doctoral level programs. Said study shall also consider discretionary incentive funding to promote excellence within the system, and its role within a formula funding system. The council shall publish a report relative to said study no later than March first, nineteen hundred and ninety-two, and shall submit said report to the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities.

**SECTION 48.** Notwithstanding any provisions of this act to the contrary, the board of regents as constituted on the effective date of this act shall continue to function through August thirty-first, nineteen hundred and ninety-one but with all powers and duties of the higher education coordinating council established by this act. The higher education coordinating council, appointed in accordance with section four of chapter fifteen A of the General Laws, shall be appointed and shall assume its powers, duties, and responsibilities as of September first, nineteen hundred and ninety-one.

**SECTION 48A.** Notwithstanding the provisions of any section of this act to the contrary, the members of the board of trustees for each of the institutions named in section five of chapter fifteen A of the General Laws, other than the University of Massachusetts at Boston, Amherst, Dartmouth, Lowell and Worcester shall remain as members of said boards until the expiration of their current terms.

**SECTION 49.** Section eight of chapter fifteen A of the General Laws shall become inoperative on July first, nineteen hundred and ninety-two. Section nine of said chapter fifteen A shall take effect on July first, nineteen hundred and ninety-two.

**SECTION 50.** Section six A of this act shall take effect on July first, nineteen hundred and ninety-two.

Emergency Letter: August 9, 1991@ 11:55 A.M.

Approved July 11, 1991.

**Chapter 143.            AN ACT RELATIVE TO THE REGISTRATION OF MOTOR  
VEHICLE REPAIR SHOPS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 100A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- No person shall engage in motor vehicle repair unless such person is registered as a motor vehicle repair shop under this chapter. Any person desiring to be registered as a motor vehicle repair shop shall make written application under oath to the director on a form provided

by him.

**SECTION 2.** Section 7 of said chapter 100A, as so appearing, is hereby amended by striking out the second paragraph.

**SECTION 3.** Said chapter 100A is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. No registered motor vehicle repair shop or other person shall: (a) advertise for motor vehicle repair in the commonwealth without including the number of its certificate of registration issued by the director as a part of the advertisement; (b) with respect to any repair paid for in whole or in part by an insurer, fail to charge all or any part of the applicable deductible to be paid by the insured, or give any rebate, gift, prize, premium, bonus, fee or any other monetary or tangible thing to the insured or any other person not in the employ of the repair shop as an inducement to have the repair made at the repair shop; (c) charge or offer to charge a higher rate or discount for an insured repair than for an uninsured repair; (d) make any false or fraudulent statement in connection with any repair or attempt to collect for a repair; (e) without lawful authority, prevent the owner of a motor vehicle from recovering the same.

**SECTION 4.** Section 9 of said chapter 100A, as so appearing, is hereby amended by striking out, in line 1, the words "or unregistered".

Approved July 12, 1991.

#### **Chapter 144.        AN ACT RELATIVE TO THE LICENSING OF CERTAIN MORTGAGE LENDERS AND BROKERS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the licensing of certain mortgage lenders and brokers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 87PP of chapter 112 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 29 to 31, inclusive, the words ", or negotiates or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real estate".

**SECTION 2.** Said section 87PP of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 37 and 38, the words ", or in a loan secured or to be secured by mortgage or other encumbrance on real estate".

**SECTION 3.** The General Laws are hereby amended by inserting after chapter 255D the following chapter:-



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## CHAPTER 255E.

### LICENSING OF CERTAIN MORTGAGE LENDERS AND BROKERS.

Section 1. As used in this chapter the following words shall, unless the context otherwise requires, have the following meanings:-

“Commissioner”, the commissioner of banks.

“Mortgage broker”, any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly negotiates, places, assists in placement, finds or offers to negotiate, place, assist in placement or find mortgage loans on residential property for others.

“Mortgage lender”, any person engaged in the business of making mortgage loans, or issuing commitments for mortgage loans.

“Mortgage loan”, a loan to a natural person made primarily for personal, family or household purposes secured wholly or partially by a mortgage on residential property.

“Residential property”, real property located in the commonwealth having thereon a dwelling house with accommodations for four or less separate households and occupied, or to be occupied, in whole or in part by the obligor on the mortgage debt.

Section 2. No person shall act as a mortgage broker or mortgage lender with respect to residential property unless first obtaining a license from the commissioner; provided, however, that any person who is employed by or associated with a licensed mortgage broker or mortgage lender in the capacity of a mortgage broker or mortgage lender under the direction of said licensed mortgage broker or mortgage lender shall not be required to obtain such license. The provisions of this chapter shall not apply to any mortgage lender making fewer than five mortgage loans within any period of twelve consecutive months; provided, however, that in computing the number of mortgage loans, there shall be counted in the loans of more than one partnership, association, trust or corporation, the majority interest of which are owned or controlled directly or indirectly by the same person or persons, partnerships, associations, trusts or corporations and including in the loans of a partnership or company not incorporated the loans of the several members thereof. The provisions of this chapter shall not apply to any person who acts as a mortgage broker fewer than five times within any period of twelve consecutive months. The provisions of this chapter shall not apply to a bank as defined in section one of chapter one hundred and sixty-seven, a national banking association, a federally chartered credit union, a federal savings and loan association, a federal savings bank, or any subsidiary or affiliate of the above, a company licensed to carry on the business of making small loans under the provisions of section ninety-six of chapter one hundred and forty, insurance company, or to any bank, trust company, savings bank, savings and loan association, credit union or insurance company organized under the laws of any

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other state; provided, however, that except as provided herein, such provisions shall apply to any subsidiary or affiliate, as defined by the commissioner, of any such exempted entity and of a bank holding company established in accordance with state or federal law; and provided, further, that such provisions shall not apply to any instrumentality created by the United States or any state or to any nonprofit, public or independent post-secondary educational institution within the commonwealth authorized by law to grant degrees by the commonwealth, or by any agency or instrumentality thereof, for mortgage loans made by any such educational institution to its faculty or staff or to a real estate broker or real estate salesman as defined in section eighty-seven PP of chapter one hundred and twelve who, in connection with services performed in a prospective real estate transaction, provides mortgage information or assistance to a buyer if such real estate broker or real estate salesman is not compensated for the same in addition to the compensation received from the seller for such real estate services. The commissioner may adopt, amend or repeal rules and regulations, which may include an adequate capitalization requirement for mortgage lenders, to aid in the administration and enforcement of this chapter.

Section 3. The application for a license shall be in writing and in the form prescribed by the commissioner and shall contain the name and address or addresses where the business of the applicant is located and if the applicant is a partnership, association, corporation or other form of business organization, the names and addresses of each member, director and principal officer thereof. Such application shall also include a description of the activities of the applicant, in such detail and for such periods, as the commissioner may require, as well as such further information as the commissioner may require. Each application for a license shall be accompanied by an investigation fee. Investigation and license fees shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven.

Section 4. Upon the filing of an application for a license, if the commissioner finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant, and of the partners or members thereof if the applicant is a partnership or association, and of the officers, directors and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, soundly and efficiently in the public interest consistent with the purposes of this chapter, he shall thereupon issue the applicant a license to engage in the business of a mortgage lender or mortgage broker. If the commissioner shall not so find, he shall not issue a license and he shall notify the applicant of the denial. Within twenty days thereafter, he shall enter upon his records a written decision and findings containing the reasons supporting the denial and shall forthwith give written notice thereof by registered mail to the applicant. Within thirty days after the date of such notice, the applicant may appeal

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from such denial to the superior court for Suffolk county, sitting in equity. The court shall hear all pertinent evidence and determine the facts and upon the facts as so determined, review said denial and, as justice and equity may require, affirm the same or order the commissioner to issue such license. The commissioner shall approve or deny every application for a license within ninety days after the filing thereof, but any failure of the commissioner to act within such period shall not be deemed to be an approval of any such application.

Section 5. Each license shall state the address at which the business is to be conducted and shall state the name of the licensee. If a licensee intends to carry on such business at any place other than the address on the license, he shall so notify the commissioner, in writing, at least thirty days prior thereto. Such notice shall contain the address of any such place and such other information as the commissioner may require; provided, however, that any such business shall at all times be conducted in the name of the licensee as it appears on the license. A copy of such license shall be prominently posted in each place of business of the licensee. Such copies for places of business at addresses other than that appearing on the license may be obtained at a reasonable cost, as determined by the commissioner. Such license shall not be transferrable or assignable and shall expire annually on April first. Any change of location or closing of a place of business of the licensee, either at the address stated on the license or at a place other than said address stated on the license, shall require prior written notice thereof to the commissioner. Such notice shall be in writing setting forth the reason therefor and shall be filed with the commissioner at least thirty days prior to any such relocation or closing. If there shall be any change among the members, officers, partners or directors of any licensee, the licensee shall notify the commissioner in a timely manner of the name, address and occupation of each new member, officer, partner or director, and provide such other information as the commissioner may require.

Section 6. The commissioner may suspend or revoke any license issued pursuant to this chapter if said commissioner finds that:

(i) the licensee has violated any provision of this chapter or any rule or regulation adopted hereunder, or any other law applicable to the conduct of its business; or

(ii) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commissioner in refusing to issue such license.

Except as provided in section seven, no license shall be revoked or suspended except after notice and a hearing thereon pursuant to chapter thirty A.

A licensee may surrender a license by delivering to the commissioner written notice that it thereby surrenders such license, but such surrender shall not affect the civil or criminal liability of the licensee for acts committed before such surrender.

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No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

Section 7. (a) If the commissioner determines, after giving notice of and opportunity for a hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule, regulation or order hereunder, he may order such licensee to cease and desist from such unlawful act or practice and take such affirmative action as in his judgment will effect the purposes of this chapter.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly notify, in writing, the licensee affected thereby that such order has been so entered, the reasons therefor, and that within twenty days after the receipt of a written request from such licensee, the matter will be scheduled for hearing to determine whether or not such temporary order shall become permanent and final. If no such hearing is requested and none is ordered by the commissioner, the order shall remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and opportunity for a hearing to the licensee subject to said order, shall, by written finding of facts and conclusions of law, vacate, modify or make permanent the order.

(c) No order under this section, except an order issued pursuant to subsection (b), may be entered without prior notice of and opportunity for a hearing. The commissioner may vacate or modify an order under this section upon finding that the conditions which required such an order have changed and that it is in the public interest to so vacate or modify.

Any order issued pursuant to this section shall be subject to review as provided in chapter thirty A.

Section 8. Each licensee shall annually, on or before a date to be determined by the commissioner, file a report with the commissioner giving such information as said commissioner may require concerning its business and operations during the preceding calendar year.

The licensee shall keep and use within the commonwealth such books, records and accounts as will enable the commissioner to determine whether such licensee is complying with the provisions of this chapter and rules and regulations lawfully made pursuant thereto by the commissioner and any other law, rule and regulation applicable to the conduct of its business as a mortgage broker or mortgage lender. Every licensee shall preserve such books, records and accounts for at least three years. Preservation of such books, records and accounts by photographic reproduction thereof or records in photographic form shall constitute compliance with the requirements of this section.

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Each licensee shall, when directed by the commissioner, permit the commissioner or his duly authorized representative to inspect its relevant records and evidence of compliance with this chapter or any rule or regulation issued thereunder and with any other law, rule and regulation applicable to the conduct of the business for which it is licensed under this chapter. For the purposes of such inspection, the commissioner or his representative shall have access to the offices and place of business, books, accounts, papers, records and files of all such licensees. The commissioner and any person designated by him may require the attendance and testimony of all persons as he may deem necessary relative to such business. The total cost for any such inspection, which shall be paid by the licensee within thirty days after the receipt of invoice therefor, shall be determined by the commissioner of administration under the provisions of section three B of chapter seven.

Section 9. The commissioner may enforce the provisions of this chapter, or restrain any violations thereof, by filing a civil action in any court of competent jurisdiction.

Section 10. Whoever violates any provision of section two or any rule or regulation made thereunder by the commissioner shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or both such fine and imprisonment. Each day such violation occurs or continues shall be deemed a separate offense.

**SECTION 4.** The commissioner of banks is hereby authorized to promulgate rules and regulations to implement the provisions of this act.

**SECTION 5.** Sections one, two and three of this act shall take effect on January first, nineteen hundred and ninety-two.

Approved July 12, 1991.

**Chapter 145.****AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-ONE TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.***Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and fifty of the acts of nineteen hundred and ninety, for the fiscal year ending June thirtieth, nineteen hundred and ninety-one or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.**

Item

## JUDICIARY.

Supreme Judicial Court.

0321-0100 For the services of the board of bar examiners \$16,000

## TREASURER AND RECEIVER-GENERAL.

Debt Service.

0699-0091 For payments related to bonds issued pursuant to chapter one hundred and fifty-one of the acts of nineteen hundred and ninety due under agreements entered into pursuant to section thirty-eight C of chapter twenty-nine of the General Laws \$4,000,000

## EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Group Insurance Commission.

1108-5200 For the commonwealth's share of the group insurance premium and plan costs; provided, that not more than four hundred and seventy-five thousand dollars shall be obligated for the evaluation and audit of said premium and plan cost; provided, further, that not more than one hundred thousand dollars shall be obligated for the evaluation and coordination of the managed care component of said premium; provided further, that not more than one hundred and fifty thousand dollars shall be obligated for the evaluation and negotiation of premium rates; provided further, that not more than one hundred and fifty thousand dollars shall be

obligated for claims utilization analysis; provided further, that budget bureau, shall charge the department of employment and training and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of the cost of the program as it determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from several state or other funds, and amounts received in payment of all such charges of such transfers shall be credited to the General Fund; and the group insurance commission shall obtain reimbursement for premium and administrative expenses from other non-state funded agencies and authorities; provided further, that notwithstanding the provisions of section twenty-six of chapter twenty-nine of the General Laws, the commission is hereby authorized to negotiate, purchase and executive contracts by April first of each year for a policy or policies of group insurance as authorized by chapter thirty-two A of the General Laws; provided further, that the present level of health insurance coverage shall be maintained but shall not constitute payments in full of charges for health care services; provided further, that effective July first nineteen hundred and ninety, the commonwealth's share of the group insurance as provided in section eight of said chapter thirty-two A shall be ninety percent of the total monthly premium or rates as established by the commission effective July first, nineteen hundred and ninety; provided further that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother; provided further, that the commission shall notify the house and senate committees on ways and means by April fifteenth of each year, of the commonwealth's actual cost of its share of group insurance premiums for the next fiscal year; provided further, that for the purpose of accommodating the delaying receipt of revenues to be retained in item 1108-5300, an amount not to exceed two million dollars may be transferred from item 1108-5200 to item 1108-5300, provided that said amount shall be returned to item 1108-5200, from retained revenue otherwise authorized to be credited to 1108-5300 no later than June thirtieth, nineteen hundred and ninety-one

\$20,000,000

## Miscellaneous.

1599-0008 For a reserve for tort claims

\$200,000

1599-3727 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth of Massachusetts and the Metropolitan Police Patrolmen's Union (Unit 5B); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided further, that said secretary is hereby authorized to transfer from the sum appropriated to other items of appropriation and allocation thereof for the fiscal year nineteen hundred and ninety-one such amounts as

are necessary to meet the cost of said adjustments and benefits for said fiscal year and for prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that said secretary is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided further, that no transfers shall be made from this item without prior notice provided to the house and senate committees on ways and means

\$296,000

## EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Food and Agriculture.

2520-0107 For a reserve to undertake a program to control the spread of eastern equine encephalitis while ensuring maximum environmental protection; provided, that the comptroller shall allocate amounts appropriated herein to the departments within the executive office of environmental affairs pursuant to the requests of the secretary of environmental affairs; provided further, that the department of public health shall be notified prior to the implementation of any encephalitis control measures

\$2,200,000

## EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Massachusetts Commission for the Blind.

4110-1024 For the payment of prior year medical claims

\$1,800,400

Commissioner of Veterans' Services.

4170-0400 For reimbursing cities and towns for money paid for veterans' benefits and for payment to certain veterans in accordance with the following formula: seventy-five percent to be reimbursed by the commonwealth and twenty-five percent to be reimbursed by the cities and towns

\$1,342,362

Local Aid Fund

100.0%

Department of Public Welfare.

4402-5000 For a medical assistance program, including a program of special education medical services provided to medicaid children; provided, that no expenditure or commitment made pursuant to these items or to any agreements authorized by chapter eight hundred and sixty-nine, as amended, for the purpose of complying with the provisions of Public Law 89-97, Title XIX, shall be incurred in excess of available funds which have been appropriated therefor; provided further, that an amount not to exceed six hundred million dollars may be expended from this item for expenses incurred in the prior fiscal year; provided further, that the department of public welfare is authorized to provide certain primary and supplementary medical care and



Item

	assistance for those families and individuals who, due to increased income from employment, lose eligibility for the program of medical care and assistance administered by the department in accordance with Title XIX of the Social Security Act, as provided in section one B of chapter one hundred and eighteen E of the General Laws as amended by chapter twenty-three of the acts of nineteen hundred and eighty-eight; provided further, that funding may be expended from this account for administrative costs associated with cost containment efforts; provided further, that requests for funding for cost containment projects shall be accompanied with projections of total spending on the project, explanations of any increase over the previous fiscal year and estimates of savings resulting from said project; and provided further, that up to one million dollars shall be expended from this item for early screening and treatment necessary to reduce hospitalizations and to avoid medicaid costs by delaying the onset of fully symptomatic AIDS; and provided further, that said funds shall be expended through a request for proposals process and may be expended even in the absence of federal reimbursement; and provided further, that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother	\$25,000,000
4406-5000 For	a program of medical services for general relief recipients; provided, that notwithstanding the provisions of any general or special law to the contrary, certain medical services shall be provided to general relief recipients, including physician services, laboratory services, durable medical equipment, eye care, home health care, pharmacy services, transportation for medical care, emergency and basic restorative dental services, rehabilitative services, family planning, psychological testing, and private duty nursing; provided further, that the department through said program may contract with competitively selected hospitals and community based agencies for the purpose of providing coordinated health care services to certain general relief recipients; and provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother	\$12,000,000
	Department of Social Services.	
4800-0030 For	the delivery of foster care services to children in the care of the department, including the provision of foster care subsidies, services to foster families and reimbursements to foster parents for extraordinary expenses incurred; provided, that not more than two hundred and seventy-seven thousand dollars may be expended on a contract to increase federal reimbursements for social services; and provided further, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund	\$277,000
4800-0041 For	the delivery of group care services to children in the care of the department; provided, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund	\$40,888
	Department of Mental Retardation.	
5948-0000 For	mental retardation services; provided, that a maintenance of effort be made to continue services to retarded	

Item

	persons in the community who are not eligible for services through chapter seventy-one B of the General Laws or consent decrees, provided further, that not less than one million five hundred thousand dollars be expended for new respite services; including a six million six hundred thousand dollars for turning twenty-two clients funded through line-item 5911-0006 in fiscal year nineteen hundred and ninety, including not more than six hundred and fifty-one positions	160,243
5983-0100 For	the operation of facilities for the mentally retarded, including not more than one million six hundred thousand dollars for prior year's expenses, including not more than ten thousand four hundred and fifty positions	\$1,000,000
EXECUTIVE OFFICE FOR TRANSPORTATION AND CONSTRUCTION.		
6005-0011 For	additional assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of sections six and nine of chapter eight hundred and twenty-five of the acts of nineteen hundred and seventy-four, as amended by section four of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five	\$20,000,000
9628-0010 For	certain renovations and improvements to the house committee on ways and means, including the costs of data processing services, equipment and personnel	\$750,000
9749-0100 For	the expenses of the joint committee on redistricting	\$600,000

**SECTION 2B. I.** For the purpose of making available in fiscal year nineteen hundred and ninety-two balances of appropriation which otherwise would revert on June thirtieth, nineteen hundred and ninety-one, the unexpended balances of the maintenance appropriation items listed below, not to exceed the amount specified below for each item, are hereby reappropriated for the fiscal year nineteen hundred and ninety-two. Amounts in this section are reappropriated for the purposes and subject to the conditions stated below for each item; provided, however, that for items for which purposes and conditions are not specified below, the amounts in this section are reappropriated for the purposes of and subject to the conditions stated for the corresponding line item in section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two; provided, however, that for items neither with purposes and conditions specified below nor appearing in said section two, the amounts in this section are reappropriated for the purposes of and subject to the conditions stated for said items in prior appropriation acts. Amounts in this section are reappropriated from the fund or funds designated below, the amounts in this section are reappropriated from the fund or funds designated for said corresponding item in said section two; provided, however, that for items neither with a fund designated below nor appearing in said section two, the amounts in this section are reappropriated from the fund or funds designated for said items in prior appropriation acts.

## JUDICIARY.

0320-0003	\$75,000
0322-0001	\$8,775
0322-0002	\$29,145

## Item

EXECUTIVE.		
0411-1000	For the salaries and expenses of the governor and lieutenant governor and officers and employees in the governor's office and lieutenant governor's office, and for the payment of extraordinary expenses not otherwise provided for, and for transfers to appropriation accounts where the amounts otherwise available are insufficient	\$210,000
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.		
1105-3611		\$164,000
1108-3602		\$65,000
1108-5200		\$20,000,000
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.		
Department of Food and Agriculture.		
2520-0107		\$2,200,000
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.		
Parole Board.		
4380-0001		\$400,000
Department of Public Welfare.		
4402-5000		\$25,000,000
4406-5000		\$12,000,000
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.		
6005-0011		\$20,000,000
6006-0002		\$251,400
Department of Public Works.		
6030-7701		\$120,000
EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.		
Department of Employment and Training.		
9081-0350	For the administration of the department of employment and training and for the expenses of administering sections seventy-one A to seventy-one G, inclusive, of chapter one hundred and fifty-one A of the General Laws, and for the expenses of planning and operating certain employment and training programs; provided, that the commissioner of the department may consult with departments, commissions, offices, boards, divisions, institutions and other agencies for the purpose of planning for and operating employment and	

## Item

training programs within the division; provided, that funds may be obligated from this line item for the compensation of employees under item 9081-0100

\$1,430,000

General Fund

100.0%

9628-0100

750,000

9749-0100

\$600,000

II. For the purpose of making available in the fiscal year nineteen hundred and ninety-two certain balances from retained revenues, so-called, which otherwise would revert on June thirtieth, nineteen hundred and ninety-one, the unexpended balances of the retained revenue items listed below not to exceed the amount specified below for each item, are hereby re-authorized for the fiscal year nineteen hundred and ninety-two. Amounts in this section are re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two; provided, however, that for items not appearing in said section two, the amounts in this section are re-authorized for the purposes of and subject to the conditions stated for said items in prior appropriation acts. Amounts in this section are re-authorized from the fund or funds designated for said corresponding item in said section two; provided, however, that for items not appearing in said section two, the amounts in this section are re-authorized from the fund or funds designated for said items in prior appropriation acts.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Division of Capital Planning and Operations.

State Transportation Building.

1102-3214

\$1,896,000

1102-3215

\$2,665,000

Springfield State Office Building.

1102-5231

\$66,100

III. For the purpose of making available for expenditure in the fiscal year nineteen hundred and ninety-two certain balances of authorizations which otherwise would revert on June thirtieth, nineteen hundred and ninety-one, the unexpended balances of the bond-funded items listed below are hereby re-authorized for the fiscal year nineteen hundred and ninety-two:

0115-8758	2120-7871	2120-8825	2120-9846	2150-7872	2240-8820
2000-8830	2120-7874	2120-8846	2130-8771	2150-7873	2240-8860
2000-9841	2120-7875	2120-8848	2130-8772	2150-7874	2240-8881
2000-9843	2120-8794	2120-9841	2150-6844	2150-8831	2250-1001
2120-7842	2120-8803	2120-9842	2150-6847	2150-8845	2250-1010
2120-7845	2120-8805	2120-9843	2150-6849	2150-8848	2250-8820
2120-7846	2120-8812	2120-9844	2150-7841	2150-9845	2250-8822
2120-7848	2120-8823	2120-9845	2150-7871	2150-9847	2250-8823

Item				
2250-8844	2440-7878	2440-8873	2685-0012	7410-8781
2250-8860	2440-7879	2440-8878	2685-9011	7410-8784
2250-8863	2440-8778	2440-9812	2685-9050	7410-8843
2250-8864	2440-8794	2440-9813	4001-8860	7410-8846
2250-8865	2440-8795	2440-9841	6000-3025	7490-8722
2270-8771	2440-8798	2440-9842	6001-3100	7490-8751
2270-8772	2440-8802	2440-9843	6001-8610	7504-7871
2270-8791	2440-8812	2440-9844	6001-8620	7506-8771
2270-8811	2440-8813	2440-9845	6001-8625	7511-8751
2270-8812	2440-8816	2440-9846	6001-8626	7511-8752
2270-8813	2440-8819	2440-9848	6001-8635	7511-8841
2270-8821	2440-8842	2444-8812	6020-7872	7511-8842
2410-7872	2440-8843	2444-8842	6020-7873	7514-8752
2410-8801	2440-8844	2449-7350	6031-8830	7514-8841
2410-8802	2440-8845	2449-7370	6032-4037	7515-8811
2440-7848	2440-8847	2449-8754	6032-4038	7516-8841
2440-7870	2440-8848	2449-8755	6059-0000	9300-3901
2440-7871	2440-8849	2449-8791	7052-8860	9300-3902
2440-7875	2440-8872	2681-9029	7410-8772	9300-3905

IV. For the purpose of making available for expenditure in fiscal year nineteen hundred and ninety-two certain balances of authorization which would otherwise revert on June thirtieth, nineteen hundred and ninety-one, the unexpended balances of the bond-funded items listed below are hereby re-authorized for the fiscal year nineteen hundred and ninety-two; provided that the unexpended balances in any other items included by reference in the items listed below are not reauthorized:

0431-8811	1102-7847	1102-8804	1131-8781	3722-8862
0431-8832	1102-7849	1102-8806	1201-8841	3722-8863
0431-8833	1102-8774	1102-8812	2120-7873	3722-8864
0431-8835	1102-8778	1102-8813	2120-8846	3722-8865
1100-1560	1102-8791	1102-8814	2240-8801	3722-8866
1100-1561	1102-8792	1102-8819	2310-7871	3722-9015
1100-7850	1102-8793	1102-8822	2320-8813	3722-9030
1100-8758	1102-8794	1102-8843	2320-8842	3722-9301
1100-8860	1102-8801	1102-8844	3722-0810	3724-9001
1101-7872	1102-8802	1102-8847	3722-8846	4532-7872
1101-7845	1102-8803	1102-9802	3722-8861	4540-7871

5011-8801	5651-8841	7100-7871	7310-8841	7502-8841
5011-8802	5655-8841	7109-8846	7410-8842	7503-8841
5011-8811	5895-8841	7112-8842	7411-8842	7511-8801
5011-8812	6004-8752	7117-8841	7416-7871	7515-8842
5011-8841	6004-8754	7220-8841	7452-7871	7518-8841
5011-8842	6006-8861	7220-8843	7452-7872	7518-8842
5011-8845	6006-8862	7220-8845	7452-7874	8000-8841
5377-7872	7066-8841	7310-7872	7490-8721	8000-8842
5377-8842	7070-8811			

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized to transfer from the following items such amounts as would otherwise be unexpended on June thirtieth, nineteen hundred and ninety-one, to those of the following item which would otherwise have insufficient amounts to meet debt service payments for the fiscal year ending June thirtieth, nineteen hundred and ninety-one; provided, however, that each amount so transferred shall be charged to such funds as specified in the items to which said amount is transferred: 0699-0090, 0699-0091, 0699-1801, 0699-1900, 0699-2800, 0699-2900, 0699-3800, 0699-3801, 0699-3900, 0699-4800, 0699-4801, 0699-5900, 0699-5800, 0699-5801, 0699-5900, 0699-6800, 0699-6801, 0699-6900, 0699-7800, 0699-7801, 0699-7900, 0699-8300, 0699-8301, 0699-8302, 0699-8400, 0699-8401, 0699-8402, 0699-9100, 0699-9200.

**SECTION 4.** Notwithstanding the provisions of section three B of chapter 7 of General Laws, as amended by section four of chapter six of the acts of nineteen hundred and ninety-one, the secretary of administration and finance is hereby authorized and directed to establish the following fees for service; provided, however, that said fees for service shall take effect upon the effective date of this section.

Department of Fisheries, Wildlife and Environmental Law Enforcement.

A. Non-resident Commercial Fishery

Coastal	\$520
Offshore	\$520
Small Boat	\$260
Large Boat	\$390
Individual	\$130
Seasonal	\$130
Shellfish	\$ 80

Shell/Rod and Reel	\$130
Rod and Reel	\$100
B. Wholesale Dealer	\$260
C. Retail Dealer	\$130
D. Bait Dealer	\$130
Master Digger	\$260
Subordinate Digger	\$ 80
Contaminated Bait	\$ 60
Non-commercial Lobster	\$ 60
Other (scientific, etc.)	\$ 20
Striped Bass	\$ 50
Regulated	\$ 60
E. Duplicate	\$ 7

**SECTION 5.** Notwithstanding the provisions of any general or special law to the contrary, the state comptroller is directed to conduct the following transfers for the fiscal year nineteen hundred and ninety-one: pursuant to the provisions of section five C of chapter twenty-nine of the General Laws, as appearing in the 1990 Official Edition, from the funds contributing to the consolidated net surplus in the operating funds, as defined in section one of said chapter twenty-nine, to the Commonwealth's Stabilization Fund; and insofar as the undesignated component of fund balance in one or more of said funds is a negative number after the transfers required by the preceding clause, and insofar as the undesignated component of fund balance in one or more of said funds is a positive number after the transfers required by the preceding clause, additional transfers shall be conducted between the funds contributing to the consolidated net surplus in the operating funds to eliminate, insofar as possible, any negative undesignated component of fund balance in any of said funds; provided that such transfers as directed in the immediately preceding clause shall be sequenced so as first to reduce as necessary, but not in an amount which would cause a negative number, the undesignated component of fund balance in whichever of said funds has the largest such balance, and second to reduce as necessary, but not in an amount which would cause a negative number, the undesignated component of fund balance in whichever of said funds has the smaller such balance.

**SECTION 6.** Notwithstanding the provisions of section twenty-nine A of chapter twenty-nine of the General Laws or any other general or special law to the contrary, the comptroller is hereby authorized to approve payments for certain contracted

services rendered in fiscal year nineteen hundred and ninety-one for which certain regulations and procedures adopted under the authority of said section twenty-nine A or any other general or special law were not properly followed; provided, however, that the secretary of the executive office overseeing the agency which was a party to such a contract shall certify in writing that such services were actually performed; provided further, that such payments shall be based on schedules approved by the secretary of administration and finance and the house and senate committees on ways and means; provided further, that sufficient funds for such payments existed within the appropriate items as of June thirtieth, nineteen hundred and ninety-one; provided further, that said comptroller is hereby authorized to make payments for certain contracted services rendered in prior fiscal years for which certain regulations and procedures adopted as aforesaid were not properly followed; provided, however, that the secretary of the executive office overseeing the agency which was a party to such a contract shall certify in writing that such services were actually performed; provided further, that such prior year payments shall be based on schedules approved by said secretary of administration and finance and the house and senate committees on ways and means, and shall be charged according to the provisions of an account established for the purposes of paying prior year deficiencies; provided further, that such payments where appropriate, may be paid from capital appropriations, federal grants, or trust funds; and provided further, that this section shall not apply to payments authorized pursuant to section two for such purposes.

**SECTION 7.** Notwithstanding the provisions of any other special or general law to the contrary, boards of retirement which are governed by the provisions of chapter thirty-two of the General Laws are hereby authorized and directed to certify, for the purposes of inter-governmental reporting only, the retirement eligibility of public employees from the date that the employee first became eligible for membership during any present or previous period of qualified employment in a Massachusetts public retirement system.

**SECTION 8.** The comptroller, pursuant to section three hundred and twenty-three F of chapter ninety-four of the General Laws shall charge the Clean Environment Fund up to seven hundred and fifty-eight thousand eight hundred and thirty-five dollars for debt service incurred during the fiscal year through recycling, composting and solid waste management projects. The amount so charged shall be credited at the close of the fiscal year to the General Fund.

**SECTION 9.** The comptroller is hereby authorized to carry forward any unexpended balance from the following items in section two of chapter one hundred and fifty of the acts of nineteen hundred and ninety:

0111-9000	9623-0000	9628-0000	9633-0000	9634-5000
0185-7816	9625-0000	9629-0000	9634-3000	9634-6000
0185-7888	9626-0000	9630-0020		

**SECTION 10.** Notwithstanding the provisions of any general or special law to the contrary, items of appropriation in section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, which may be expended for salaries of commonwealth employees may also be expended for payroll expenses deferred from the prior fiscal year pursuant to agreements entered into, or rules promulgated, pursuant to the provisions of section ninety of chapter six of the acts of nineteen hundred and ninety-one, and for lump sum payments required pursuant to the provisions of said section ninety.

**SECTION 11** For the purpose of accommodating delayed receipt of revenues in fiscal year nineteen hundred and



ninety-two, authorized to be retained in item 4110-4035 during fiscal year nineteen hundred and ninety-two, the commission for the blind is authorized to incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year nineteen hundred and ninety-two, to be charged to said item, in an amount not to exceed one hundred thousand dollars, for the authorized purposes of said item.

**SECTION 12.** The Massachusetts commission for the blind is hereby authorized and directed to prepare a report identifying all prior year medicaid payments owed by said commission to nursing homes and other health care providers. Said report shall be filed with the secretary of administration and finance, the secretary of health and human services and the house and senate committees on ways and means on or before March fifteenth, nineteen hundred and ninety-two.

**SECTION 13.** The department of public health shall convene in an advisory group in developing the regulations required by section one hundred and thirty-five of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two. Said advisory group shall include representative physicians, including pediatricians, school nurses, other school personnel, including teachers, parents of pupils affected by said section one hundred and thirty-five and representation from the department of education. Upon obtaining approval from the public health council to proceed to public hearings on proposed regulations, said department shall promptly forward to the chairmen of the joint committee on education, arts and humanities and the joint committee on health care copies of the proposed regulations and notice of the scheduled hearing date at least three weeks in advance of said hearing.

**SECTION 14.** Notwithstanding the provisions of any other special or general law to the contrary, the commissioner of education is hereby authorized and directed to issue informational bulletins to each school committee in the commonwealth informing them of the provisions of law contained in section twelve B of chapter seventy-six of the General Laws, as amended by section twenty-three of chapter six of the acts of nineteen hundred and ninety-one, and section three hundred and four of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two; provided however, that said bulletins shall include copies of said sections, this section and item 0610-1500 of section two of said general appropriation act; and provided further, that said bulletins shall not be considered rules or regulations for the purposes of chapter thirty A of the General Laws or for the purposes of any other general or special law; and provided further, that said bulletins shall be issued not later than August first, nineteen hundred and ninety-one. The provisions of this section shall survive the expiration of the fiscal year.

**SECTION 15.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, is hereby amended in item 0411-1000 by striking out the wording and inserting in place thereof the following: "For the salaries and expenses of the governor and lieutenant governor and officers and employees in the governor's office and lieutenant governor's office, and for the payment of extraordinary expenses not otherwise provided for, and for transfer to appropriation accounts where the amounts otherwise available are insufficient".

**SECTION 16.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, is hereby amended, by inserting in item 2100-0000, after the words "peak season employees;" the following: "provided, that the provisions of section twenty-nine A of chapter twenty-nine of the General Laws shall not apply to expenditures made on said peak season employees employed during the period between June and October, exclusively;

provided further, that all revenues generated by the aforementioned divisions shall be deposited into the Metropolitan Parks Revolving Fund.

**SECTION 17.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, is hereby amended, in item 2520-0107 by striking said item.

**SECTION 18.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended, by inserting in item 2440-0010, after the words "peak season employees;" the following:- provided, that the provisions of section twenty-nine A of chapter twenty-nine of the General Laws shall not apply to expenditures made on said peak season employees employed between the period between June and October, exclusively; provided further, that all revenues generated by the department shall be deposited into the Environmental Management Revolving Fund.

**SECTION 19.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, is hereby amended, by striking out item 3743-3036 and inserting in place thereof the following:-  
3743-2036 For contracts with community-based organizations to provide housing services and assistance to low income tenants in privately owned housing, and to landlords, to maintain and secure decent and affordable shelter within the private housing stock, including not more than one position

\$300,000

**SECTION 20.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended, in item 4110-2040, by striking the dollar amount and inserting in place thereof the following:- \$5,509,876.

**SECTION 21.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended by striking out item 4800-1300, and inserting in place thereof the following:-  
4800-1300 For contracts for preventative and family support services; provided, that not less than four million three hundred and forty-nine thousand shall be contingent on contractual partner agreements secured by program providers committing a public or private source other than the commonwealth to provide funds equal to twenty-five percent of the cost of the proposed public/private partnership program; provided further, that not less than sixty-two thousand dollars shall be expended for a contract for an integrated family services team in Region VI; provided further, that not less than eighty thousand dollars shall be expended for a family support program with a counseling, education, job skills component, and interpaed child care for participants in Region VI; and provided further, that not less than two hundred and ninety-eight thousand dollars shall be expended for alternative schools for students aged fourteen to sixteen who are placed before the court on children in need of services petitions (CHINS) in Region VI

\$28,079,780

**SECTION 22.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended in item 5095-4000, by striking out, after the word "appropriation", item "5051-0000" and inserting in place thereof the following item:- 5051-0100.

**SECTION 23.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended, in item 7030-2000, by inserting after the word "programs" the following:- provided that one

hundred thousand dollars be allocated to the town of Walpole for said basic skills, remediation and drop off prevention programs.

**SECTION 24.** Section two of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended in item 8910-0040 by striking the wording and inserting in place thereof the following:-

8919-0040 For a reserve to replace county taxes previously assessed upon municipalities for the operation of county jails, to be distributed in accordance with schedules prepared by the deputy commissioner of revenue for local services and approved by the house and senate committees on ways and means; provided, that each county shall expend during the fiscal for the operation of county jails and houses of correction an amount not less than the sum of the amount distributed to it from this item and one hundred two and one-half percent of the amount expended for such purposes from tax revenues levied pursuant to sections thirty and thirty-one of chapter thirty-five of the General Laws in fiscal year nineteen hundred and eighty-nine; provided further, that the counties shall submit to the commissioner of administration, and the house and senate committees on ways and means, on or before January first, nineteen hundred and ninety-two, spending plans for all funds distributed to them from the commonwealth; provided further, that funds distributed from this item shall be paid to the treasurer of each county who shall place said funds in a separate account within the treasury of each county; provided further, that the treasurer shall authorize temporary transfers into this account for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the state under this item; provided further, that upon receipt of the state distribution, the treasurer shall be authorized to transfer out of said account an amount equal to funds advanced; provided further, that, except as provided herein, all funds deposited in said accounts and any interest accruing thereto shall be used solely for the purpose of maintenance and operation of jails and house of correction; provided further, that the commissioner of revenue is authorized to adjust the assessment limit of any county under section twenty A of chapter fifty-nine of the General Laws by the amount by which the sum of the county's distribution from this item in fiscal year nineteen hundred and eighty-nine and the county's fiscal year nineteen hundred and eighty-nine assessment limit, compounded at two and one-half percent per annum, exceeds the sum of its distribution from this item in fiscal year nineteen hundred and ninety-two and its otherwise applicable fiscal year nineteen hundred and ninety-two assessment limit; provided further, that in fiscal year nineteen hundred and ninety-two, notwithstanding the provisions of section twenty A of chapter fifty-nine of the General Laws, any county except Suffolk and Nantucket may increase its county tax for said fiscal year by an additional amount if the total amount of such additional county tax is approved by two-thirds of the cities and towns in the county, in towns by a majority vote of the town meeting or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the mayor or manager; provided further, that any county that does not have a budget for fiscal year nineteen hundred and ninety-two approved by the county government finance review board as of July first, nineteen hundred and ninety-one may expend funds for the operation of county government in fiscal year nineteen hundred and ninety-two in accordance

with its approved budget for fiscal year nineteen hundred and ninety-one; and provided further, that any county which borrowed under the provisions of section six of chapter one hundred and ninety-three of the acts of nineteen hundred and eighty-nine on or before July first, nineteen hundred and eighty-nine is hereby authorized to refund such debt for a term not to exceed seven years from the date of the original loan, with payments on such refunding loan to be made in accordance with the provisions of chapter thirty-five of the General Laws and section twelve of chapter sixty-four D of the General Laws, so far as applicable.

Local Aid Fund

100.0%

**SECTION 25.** Section 77 of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, is hereby amended by inserting, in line 4, after the word "section", the word "ninety-nine".

**SECTION 26.** Section 226 of the general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, is hereby amended, by striking out the first paragraph and inserting in place thereof the following:-

The provisions of sections one hundred and fifty-three through one hundred and fifty-five, inclusive, one hundred and fifty-seven through one hundred and sixty-three, inclusive, and two hundred and nine through two hundred and eleven, inclusive, shall become effective January first, nineteen hundred and ninety-two.

**SECTION 27.** The general appropriation act for the fiscal year ending June thirtieth, nineteen hundred and ninety-two is hereby amended by striking out section two hundred and twenty-five.

**SECTION 28.** Section 40G of chapter 7 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 13 through 16, the words, " provided that the budget director has certified that provision for payment of rent for so much of the term of the agreement as falls within the then current fiscal year has been made by appropriation."

**SECTION 29.** Chapter 15A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after section twenty-one the following section:-

Section 22. Notwithstanding any other provision of law to the contrary, all public institutions of higher education shall offer the same student information and on-campus recruiting opportunities to representatives of the state or United States armed services as they offer to nonmilitary recruiters.

**SECTION 30.** Section 39K of chapter 30 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 8, the words "twenty-four" and inserting in place thereof the following:- forty-five.

**SECTION 31.** Section 7A of chapter 71 of the General Laws as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 5, the words "of pupils not more than twice daily" and inserting in place thereof the words:- not more than twice daily, of pupils enrolled in grades kindergarten through six.

**SECTION 32.** The last paragraph of said section 7A of said chapter seventy-one, as so appearing, is hereby amended by adding the following sentence:- Any reimbursement made by the commonwealth pursuant to this section shall be subject to appropriation and shall only apply to transportation costs incurred for pupils enrolled in grades kindergarten through six.

**SECTION 33.** The first paragraph of section 7B of said chapter seventy-one, as so appearing, is hereby amended by inserting after the word "pupils", in line 5, the words:- , enrolled in grades kindergarten through six.

**SECTION 34.** The last paragraph of said section 7B of said chapter seventy-one, as so appearing, is hereby amended by

adding the following sentence:- Any reimbursement made by the commonwealth pursuant to this section shall be subject to appropriation and shall only apply to transportation costs incurred for pupils enrolled in grades kindergarten through six.

**SECTION 35.** Said chapter 71, as so appearing, is hereby further amended by inserting after section eighty-seven the following section:-

Section 88. Notwithstanding any other provision of law to the contrary, all public high schools shall offer the same student information and on-campus recruiting opportunities to representatives of state or United States armed services as they offer to nonmilitary recruiters.

**SECTION 36.** Section 7 of chapter 161A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:- The advisory board may incur expenses, as authorized by majority vote of such board, for staff, stenographic, clerical and other purposes. Such expenses as do not annually exceed 0.25% of the assessment upon member communities shall be paid by the authority.

**SECTION 37.** Section 19 of chapter 211B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended, in line 9, by inserting after the word "purposes" the words:- ; provided, further, that for the purposes of eligibility for life insurance and health plans available under chapter thirty-two A, said judge shall be considered an active employee.

**SECTION 38.** Section 2 of chapter 6 of the acts of 1991, is hereby amended, in item 0699-0090, by striking the dollar amount and inserting in place thereof the following:- \$63,837,000.

**SECTION 39.** Section 59 of chapter 6 of the acts of 1991 is hereby amended, by inserting after the words "Notwithstanding the provisions of any general or special law to the contrary" the following:- , during fiscal years nineteen hundred and ninety-one and nineteen hundred and ninety-two.

**SECTION 40.** Section 2 of chapter 150 of the acts of nineteen hundred and ninety is hereby amended in item 0411-1000, by striking out the wording and inserting in place thereof the following:-

For the salaries and expenses of the governor and officers and employees in the governor's office, including not more than ten thousand dollars to fund an employee suggestion award, to be awarded to the employee most responsible for the financial restructuring of the free care portion of the uncompensated care pool.

**SECTION 41.** Section 2 of chapter 150 of the acts of nineteen hundred and ninety, as amended by section two of chapter six of the acts of nineteen hundred and ninety-one, is hereby further amended, in item 1599-3600, by inserting after the words "Worcester County house of correction" the following:- and Norfolk County jail and Hampden County jail and house of correction.

**SECTION 42.** Section 2 of chapter 150 of the acts of nineteen hundred and ninety is hereby amended, in item 4349-0001, by inserting after the word "facilities" the following:- , provided that three hundred thousand dollars may be used for an operational grant to the towns of Bridgewater.

**SECTION 43.** Section 2 of chapter 150 of the acts of nineteen hundred and ninety is hereby amended, in item 7028-0302, by inserting after the words "prior fiscal years tuition" the following:- and transportation.

**SECTION 44.** Section 43 of chapter 150 of the acts of 1990, as amended by section fifty-four of chapter six of the acts of nineteen hundred and ninety-one, is hereby further amended by inserting at the end of the second sentence the following:-

; provided, further, that said division is hereby authorized to adjust rates of programs previously schedules as "on-cycle" for the purpose of rate adjustments in fiscal year nineteen hundred and ninety-one, pursuant to said division's recommendations which specifically cite compliance and unanticipated cost issues, as set forth in the report and the addendum to the report authorized in section forty-four and filed with the house and senate committees on ways and means; and provided further, that said division is authorized to reduce the rate of reimbursement for any program pursuant to chapter seventy-one B of the General Laws to the rate for said program proposed by the rate setting commission for fiscal year nineteen hundred and ninety-one if the proposed nineteen hundred and ninety-one rate is lower than the fiscal year nineteen hundred and ninety rate.

**SECTION 45.** Section 3 of chapter 142 of the acts 1989, as amended by section two C of chapter seventy-five of the acts of nineteen hundred and ninety, is hereby further amended, in item 1102-1101, by striking out said item and inserting in place thereof the following:-

1103-1101

The state comptroller may expend revenues in an amount not to exceed two million five hundred thousand dollars from federal reimbursements received on account of a project to maximize revenues collected by the department of social services pursuant to Title IV-E of the Social Security Act, by the department of revenue pursuant to Title IV-D of said Act, by the department of public welfare, pursuant to Titles IV-A, XIX and IV-F of said Act, and to the food stamp program operated by the department, by the executive office of elder affairs pursuant to section XIX of said Act, or by these departments or other state departments pursuant to reimbursement provisions of the federal government, for the costs of a contract to perform said revenue maximization project; provided, however, that expenditures of revenues authorized by this item to be retained by the comptroller shall be made from, and only upon receipt of, federal reimbursement for such costs; and, provided further that the comptroller shall report quarterly, to the house and senate committees on ways and means on the findings of said project, provided further that this item shall expire on June thirtieth, nineteen hundred and ninety-two.

**SECTION 46.** Chapter 240 of the acts of 1989 is hereby amended by striking out section seventy-four and inserting in place thereof the following:-

There shall be established within the executive branch a Massjobs Council (Massachusetts Workforce Development Council), hereinafter called the Council. The purpose of the Council is to assist the Governor to establish and oversee an effective and efficient workforce development system in Massachusetts. The primary goal of its workforce development system shall be to enable Massachusetts residents to acquire the skills necessary to maximize their economic self-sufficiency and to provide Massachusetts employers with the workforce they need to effectively compete in the changing world economy.

The following federally and state-funded employment, training, and employment-related education programs shall be among the components of the Massachusetts workforce development system: (1) training and employment-related education programs sponsored by the Job Training Partnership Act; (2) employment programs under the Wagner-Peyser Act; (3) employment, training, and education programs for welfare recipients funded by the federal JOBS and Basic Skills Training Program within the Family Support Act and the state sponsored ET/Choices program; (4) federally and state-funded adult

basic education programs; (5) vocational education programs funded by the Carl Perkins Vocational Education and Applied Technology Act; (6) state-sponsored technical skills training and education programs operated by the Bay State Skills Corporation; (7) employment-related community college programs; (8) employment-related secondary education programs; and (9) all other federal and state-funded training, employment-related education and placement programs serving youth, dislocated workers, immigrants, and other target groups.

The Council shall consist of thirty-one members and be co-chaired by the Secretary of Economic Affairs and a private sector business leader appointed by the Governor. Members shall be appointed in the following manner: (1) the Governor shall appoint eleven members who are representatives of business and industry in the Commonwealth, at least three of these eleven members shall also be Chairs of Regional Employment Boards in Massachusetts; provided, however, that no more than half of said appointees shall be members of the same political party; (2) the Governor shall appoint eleven additional members, of whom not less than three are representatives from organized labor and the remaining are representatives from local government, public secondary and post-secondary education, and organization representing or providing services to trainees; provided, however, that no more than half of said appointees shall be members of the same political party; (3) seven members of the executive branch of state government who represent key agencies or components of the state's workforce development system shall serve as Council members; these seven members shall include the Secretary of Economic Affairs, the Secretary of Human Services, the Secretary of Labor, the Chancellor of the Board of Regents of Higher Education, or an official designated by the Governor to represent education and training issues, the Commissioner of the Department of Employment and Training, the Commissioner of the Department of Public Welfare, and the Commissioner of the Department of Education; (4) the Senate President and the Speaker of the House of Representatives shall serve on the Council or each shall appoint a legislator to represent them.

The twenty-two members appointed by the Governor shall serve for a term of three years, provided however, that the nine additional members appointed to the Council shall serve initial terms which are staggered so that three appointees shall serve a term of three years, three appointees shall serve a term of two years, and three appointees shall serve a term of one year. Persons serving as gubernatorial appointees as of the effective date of this section shall continue to serve until their term expires. Any member shall be eligible for reappointment. Vacancies shall be filled in a like manner for the remainder of the unexpired term.

The Council shall meet from time to time, but not less than four times annually. The Co-chairs of the Council shall have the authority to recommend that the Governor replace members who do not comply with attendance requirements formally adopted by the Council in its by-laws.

The Council shall assist the Governor by: (1) strategically planning ways to use all the resources within the Massachusetts workforce development system in an integrated, cohesive manner in support of statewide policy priorities; (2) determining the effectiveness of each of the programs within the state's workforce development system and of the system as a whole; and (3) making the state's workforce development system more responsive to the needs of businesses and trainees at the local level through oversight by the Regional Employment Boards.

In carrying out these duties the Council shall establish system-wide policies and information to all agencies within the

system, standardize and coordinate program planning and funding processes, recommend structural and procedural changes, review industrial and occupational trends, review how changing economic and employment trends may impact upon the employment and training needs of client populations and how the workforce development system may meet those needs, and reconcile and develop priorities among diverse agency goals.

The Council shall develop measures of effectiveness of the workforce development system and oversee an annual assessment of the system's performance.

The Council shall be responsible for submitting the following information to the Governor and the Legislature on an annual basis: (1) a set of short-term and long-term policy priorities for the state's workforce development system to address in the coming fiscal year that are based on an annual review of the Massachusetts economy; (2) a proposed integrated program budget for all federal and state-funded programs within the Massachusetts workforce development system, which shall constitute the Council's recommendations for inclusion in the Governor's annual budget proposal; (3) a strategic plan for the state's workforce development system that identifies specific steps that each program within the system will take in the coming year in support of the Council's short-term and long-term policy priorities; (4) a report analyzing the progress that each program within the state's workforce development system made in the previous year in accomplishing the Council's stated policy priorities; and (5) a report of the annual assessment of the system's performance.

The Department of Employment and Training shall be responsible for providing staff and technical assistance to the Council to enable the Council to carry out its responsibilities, and may utilize program resources available to it for this purpose.

**SECTION 47.** This act shall take effect upon its passage.

*This bill was returned on July 12, 1991 by the Governor to the House of Representatives, the branch in which said bill originated, with his objections in writing to the following items therein:*

*Items disapproved: Sections 13, 16, 18, 24, 31, 32, 33 and 34.*

*Pursuant to Article 56 of the Amendments to the Constitution, Sections 86 and 105, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.*

The remainder of the bill was approved by the Governor on July 12, 1991 at four o'clock and forty-nine minutes, P.M.



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**Chapter 146.        AN ACT VALIDATING CERTAIN APPROPRIATION VOTES  
PASSED AT THE TOWN OF CHATHAM ANNUAL TOWN  
MEETING.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, any appropriation vote passed at the annual town meeting in the town of Chatham held in the year nineteen hundred and ninety-one and required to be submitted to the voters pursuant to section twenty-one C of chapter fifty-nine of the General Laws shall be valid if approved by the said voters at an election to be held no later than ninety days after the date of the appropriation vote.

*Emergency Letter: July 15, 1991 @ 4:24 P.M.*

Approved July 15, 1991.

**Chapter 147.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a certain marriage by the Honorable L. Scott Harshbarger, as he is the attorney general of the commonwealth, in the town of New Seabury on August fourth, nineteen hundred and ninety-one between Marjorie O'Neill Clapprood and Christopher Spinazzola, both of the town of Sharon, and the state secretary shall issue to said Honorable L. Scott Harshbarger in his capacity as aforesaid a certificate of such authorization.

Approved July 17, 1991.

**Chapter 148.        AN ACT EXEMPTING THE POSITION OF CIVILIAN SAFETY  
DISPATCHER IN THE CITY KNOWN AS THE TOWN OF  
WATERTOWN FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** The position of public safety dispatcher in the city known as the town of Watertown shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of public safety dispatcher in the city known as the town of Watertown on the effective date of this act.

**SECTION 3.** The city known as the town of Watertown is hereby authorized and directed to enact ordinances consistent with the provisions of this act to provide for the classification, hiring, employment and disciplinary actions of such public safety dispatchers.

**SECTION 4.** This act shall take effect upon its passage.

Approved July 19, 1991.

**Chapter 149.           AN ACT VALIDATING THE PROCEEDINGS OF THE NINETEEN HUNDRED AND NINETY-ONE ANNUAL TOWN MEETING AND THE JUNE SEVENTEENTH, NINETEEN HUNDRED AND NINETY-ONE SPECIAL TOWN MEETING OF THE TOWN OF EASTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** All acts and proceedings of the nineteen hundred and ninety-one annual town meeting held in the town of Easton are hereby ratified, validated and confirmed, notwithstanding the failure of said town to comply with its by-laws relative to the posting of the warrant for the meeting.

**SECTION 2.** Notwithstanding the provisions of section one hundred and eight of chapter forty-one of the General Laws, the salaries for fiscal year nineteen hundred and ninety-two of the elected officials of said town as set at the June seventeenth, nineteen hundred and ninety-one special town meeting are hereby ratified, validated and confirmed.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 23, 1991.

**Chapter 150.           AN ACT AUTHORIZING THE STATE SECRETARY TO AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate

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preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Richard A. Nylen, Jr. in the city of Boston on August tenth, nineteen hundred and ninety-one between Patricia Griffin and Brian Simpson, both of the town of North Reading, and the state secretary shall issue to said Richard A. Nylen, Jr. a certificate of such authorization.

Approved July 23, 1991.

**Chapter 151.        AN ACT RELATIVE TO THE CERTIFICATION REQUIREMENTS FOR CERTAIN TEACHERS.**

*Be it enacted, etc., as follows:*

Section 38G of chapter 71 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

Any person, who teaches children diagnosed as having autism, in a school approved by the department of education pursuant to the provisions of chapter seventy-one B who is legally present in the United States and possesses legal authorization to work, and who meets all other requirements of certification, shall not be denied certification solely because he is not a citizen of the United States.

Approved July 23, 1991.

**Chapter 152.        AN ACT AUTHORIZING THE CITY OF GLOUCESTER TO PAY CERTAIN UNPAID BILLS.**

The city of Gloucester is hereby authorized to pay from available funds, a sum not to exceed forty-six thousand eight hundred seventeen dollars and thirty-five cents in unpaid bills itemized on a schedule which is on file in the office of the city clerk, notwithstanding the failure of said city to comply with the appropriate provisions of law relative to the purchase by municipalities of services and materials.

Approved July 23, 1991.

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**Chapter 153.            AN ACT RELATIVE TO CONDOMINIUM LIENS.**

*Be it enacted, etc., as follows:*

Section 5A of chapter 254 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the third and fourth paragraphs and inserting in place thereof the following three paragraphs:-

Such notice of sale in the above form, published in accordance with the provisions of this section, together with such other or further notice, if any, required by the court, shall be deemed a sufficient notice of the sale and the premises shall be deemed to have been sold, and the deed thereunder shall convey the premises, subject to, and with the benefit of, all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, and first mortgages recorded prior to the recording of the complaint, whether or not reference to such restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, or first mortgages is made in the deed; but no purchaser at such sale shall be bound to complete the purchase if there are encumbrances, other than those included in the notice of the sale, which are not stated at the sale and included in the auctioneer's contract with the purchaser.

The person or entity selling, or their attorney, may cause a copy of the notice and an affidavit, stating that the requirements of the court order and of this section have been complied with, to be recorded with a note of reference thereto on the margin of the record of the complaint previously recorded, and such affidavit or a certified copy of the record thereof shall be admitted as evidence that the sale was duly executed.

For the purposes of this section, the term "recorded" shall mean recorded in the registry of deeds or land registration office for the county or district where the land lies.

Approved July 23, 1991.

**Chapter 154.            AN ACT PROVIDING THAT THE CIVIL SERVICE APPOINTMENT OF CERTAIN EMPLOYEES OF THE CITY KNOWN AS THE TOWN OF AGAWAM BE APPROVED.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter thirty-one of the General Laws or any other general or special law or rule to the contrary, the personnel administrator of the commonwealth is hereby authorized and directed to approve the civil service appointments of certain employees of the city known

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as the town of Agawam; provided, however, that any such employee shall be deemed to have been so appointed on the date on which such employee was hired by said city of Agawam; and provided, further, that such employees whose appointments shall be so approved in accordance with the provisions of this act shall include only the following: Angel Ramos, a public works maintenance man, Alonzo Waterman, a building maintenance man, Paul Meunier, a building maintenance man, Richard Reed, a building maintenance craftsman, David Benoit, a building maintenance craftsman, Germaine Fontaine, a cafeteria helper, Judith Zukowski, a cafeteria helper, and Robert Shoemaker, a motor equipment operator. The provisions of this act shall not be deemed to impair any rights, protections or benefits to which any such employee is entitled on the effective date of this act.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 24, 1991.

**Chapter 155.        AN ACT PROVIDING FOR A TOWN MANAGER IN THE  
                         TOWN OF LENOX.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The board of selectmen of the town of Lenox shall consist of five persons elected by the voters of the town. If the effective date of this act shall be prior to October thirty-first, nineteen hundred and ninety-one, a special election shall be held within one hundred days of said effective date at which there shall be two selectmen elected, one for a three year term and one for a two year term. If the effective date of this act is after October thirty-first, nineteen hundred and ninety-one, at the next annual election there shall be elected three selectmen, one for a three year term, one for a two year term, and one for a one year term. At each annual election thereafter, there shall be elected one or two selectmen each for a three year term, such as to maintain a five member board. Those selectmen in office at the time of the approval of this act shall serve until the terms for which they were elected shall have expired.

**SECTION 2.** The board of selectmen of the town of Lenox shall serve as the goal setting, long range planning and policy making body of the town, recommending major courses of action to the town meeting, and adopting policy directives and guidelines which are to be implemented by the town manager and other officers, boards, committees, commissions and employees of the town.

Said board shall have the power to enact rules and regulations to implement policies and to issue interpretations.

Said board shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.

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Said board shall appoint the town manager, the Berkshire county regional planning commission alternate representative, the council on aging, the Berkshire regional transit authority, the zoning board of appeals, the town counsel, registrars of voters, election officers, commissioners of trust funds, CATV commission, compensation commission, conservation commission, historical commission, historic district committee, constables, emergency planning committee, interim finance committee members, arts council, youth drug and alcohol committee, local housing partnership committee, youth commission and scholarship committee.

Said board shall have general administrative oversight of such boards, committees, and commissions appointed by the board of selectmen.

Said board shall have the responsibility and authority for licenses and except as specifically provided herein for other quasi-judicial functions as provided by the General Laws and the town of Lenox by-laws.

Said board shall be responsible for the preparation of all town meeting warrants.

Said board may make investigations and may authorize the town manager or other agents to investigate the affairs of the town and the conduct of any town department, office, or agency, including any doubtful claims against the town, and for this purpose the board of selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of any such investigation shall be placed on file in the office of the town clerk, and a report summarizing such investigation shall be printed in the next annual town report. The board of selectmen shall establish rules of procedure governing the conduct of their investigations which shall be made available in printed form to each witness prior to his testimony.

Said board shall review the annual proposed budget submitted by the town manager and make recommendations with respect thereto as they deem advisable. The town manager shall present the budget, incorporating the recommendations of the selectmen, to the finance committee and the capital improvements committee.

**SECTION 3.** The board of selectmen, by a majority vote of its full membership, shall appoint a town manager who shall be a professionally qualified person especially fitted by education, training and previous full-time experience to perform the duties of the office. The town manager shall be appointed without regard to his political designation. He shall be a citizen of the United States and, although he need not be a resident of the town or the commonwealth when appointed, shall become a resident of the town during the first year of his appointment. He shall have a college degree at the bachelor level and shall have completed courses in the fields of administration, finance, and business, and shall have had three years of full-time paid experience in a supervisory administrative position in municipal government. A master's degree may substitute for not more

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than one year of such paid experience. No person holding elective or appointive office in the town shall, within three years holding such office, be eligible for appointment as town manager. The town manager may be appointed for successive terms of office, no term of which shall be for more than three years. Before entering upon the duties of his office, he shall be sworn, in the presence of a majority of the selectmen, to the faithful and impartial performance thereof by the town clerk or a notary public.

He shall execute a bond in favor of the town for the faithful performance of his duties in such sums and with such sureties as may be fixed or approved by the board of selectmen, the cost for which shall be borne by the town.

**SECTION 4.** Upon the election of a five member board of selectmen, the selectmen shall forthwith advertise for applicants to serve on a committee to be known as the town manager screening committee.

Said committee shall consist of five citizens of the town of Lenox, and shall be to screen all applicants for the town manager post, submitting three applicants to the board of selectmen for their consideration. From this group of applicants the board of selectmen shall appoint the manager. No town employees or elected or appointed officials, nor their immediate families or business associates, shall serve on the screening committee. The committee's duties shall terminate upon the appointment of a manager.

**SECTION 5.** The board of selectmen, by a vote of three or more members of the board, may remove the town manager. At least thirty days before such removal shall become effective, the selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for the proposed removal, a copy of which resolution shall be delivered to the town manager. The manager may reply in writing to the resolution and may request a public hearing. If the manager so requests, the board of selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the preliminary resolution, and after full consideration, the selectmen by a vote of three or more members of the board may adopt a final resolution of removal. In the preliminary resolution the selectmen may suspend the manager from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary and his salary for the next three calendar months following the filing of the preliminary resolution.

The board of selectmen shall set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.

The board of selectmen shall designate a qualified person to serve as acting town manager and to perform the duties of the office during any period of any vacancy exceeding thirty days, caused by the manager's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed

one hundred and eighty days.

In the event of the resignation or removal of a town manager, the board of selectmen shall appoint a new screening committee in accordance with the provisions of section three to assist the board in the hiring of a new manager.

**SECTION 6.** The town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the effective management of all town affairs under his supervision.

The town manager shall be the chief financial officer of the town and shall be responsible for the design and preparation of the municipal budget, filing grant applications, and controlling budget expenditures, including approval of warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws for approval by the board of selectmen. Without limiting the generality of the foregoing the town manager shall have the following specific budgetary powers:

(1) The town manger shall submit to the board of selectmen a written proposed budget for town government for the ensuing fiscal year, including the budget as proposed by the school department. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, department, committee, purpose, and position, together with proposed financing methods; and the proposed budget shall include estimated surplus revenue and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may, by by-law, establish additional financial information and reports to be provided by the town manager. He shall serve as an ex-officio non-voting member of the capital improvements committee.

(2) The town manager shall report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.

(3) The calendar dates on or before which the proposed budget, revenue statement, and tax rate estimate are to be submitted to the board of selectmen, and the budget presented by the town manager to the finance committee and the capital improvements committee, as required by section two, shall be as specified by by-law.

(4) To assist the town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing, a detailed estimate of the appropriations required and available funds.

**SECTION 7.** In addition to specific powers and duties provided in this act, the town manager shall be responsible for coordination of operational and strategic



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planning for the town, supervise all town departments except the school department, and direct the operations of the town. He may choose to retain to advise him boards and committees such as the board of public works, or, from time to time, appoint like committees to advise him on special projects.

The town manager shall have the power to appoint, on the basis of merit and fitness and may remove: the building inspector, sign inspector, wire inspector, gas inspector and assistant, plumbing inspector, director of public works, recreation director, veterans service agent, civil defense director, zoning enforcement officer, animal control officer, town collector, town accountant, town treasurer, town clerk, fire chief and assistants, police chief and officers, parks and recreation board, Kennedy park committee, department of public works advisory board or committees, academy building trustees, insurance committee, and any other officers or members of committees appointed by the manager. The town manager shall hold the aforementioned department heads responsible for the proper staffing of their departments.

All appointments and removals by the town manager shall be subject to ratification by the board of selectmen which shall act upon each appointment and removal within seven days following notification thereof. Failure of the board to act within the seven day period shall constitute assent.

The town manager, subject to any applicable provisions of the General Laws relating thereto, may assume, temporarily, the duties of any office which the manager is authorized to fill by appointment.

The town manager shall have the power to appoint and remove other employees as authorized by General Law, by-law, or town meeting vote and for whom appointment is not otherwise provided.

The town manager is responsible for administration of the personnel plan including personnel evaluation policies, practices, enforcement of labor contracts, labor relations, collective bargaining and state federal equal opportunity law compliance functions of the town.

The town manager shall keep full and complete records of the office and annually submit to the selectmen, unless requested to do so more frequently, a full written report of the operations of the office of town manager. The town manager may also prepare reports to boards and committees and for town meeting.

The town manager shall advise the selectmen of all matters requiring action by them or the town.

The town manager shall attend all meetings of the board of selectmen and all town meetings and shall be permitted to speak when recognized by the moderator.

The town manager shall act as central purchasing agent for all town departments and activities, except the school department, pursuant to chapter thirty B of the General Laws.

The town manager shall manage and be responsible for all town buildings,

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property and facilities, except those under the jurisdiction of the school committee.

The town manager shall be responsible for the negotiation of all contracts, except those under the jurisdiction of the school committee.

The town manager shall administer, either directly or through a person or persons appointed by him in accordance with this act, all provisions of general and special law applicable to said town, all by-laws, and all regulations established by the board of selectmen.

The town manager shall serve as selectmen's liaison to the town counsel.

The town manager shall receive and address citizens' complaints and problems.

The town manager shall be responsible for the management of the town insurance program.

The town manager shall represent the town at local, state and regional meetings and undertake public relations activities under the direction of the board of selectmen.

The town manager, with the approval of the board of selectmen, shall, after a public hearing, set water rates and sewer rates, in accordance with the provisions of the General Laws. The town manager and the board of selectmen shall be required to convene an annual public hearing covering water and sewer utilities between January first and February fifteenth. The public hearing shall include: a stewardship report on water and sewer operations; a presentation of current and projected revenues and expenses, and a forecast of water and sewer rates for the next twelve months. If new rates are proposed at the public hearing, a public comment period of no less than ten days will be observed before final rates are set, no later than March first.

The town manager shall perform such other duties consistent with the office, as may be required of the manager by by-law or by vote of the board of selectmen or town meeting.

The town manager shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town manager. The town manager may, without notice, cause the affairs of any division or department under the manager's supervision or the job-related conduct of any officer or employee thereof to be examined.

**SECTION 8.** During the town's annual audit by an independent accounting firm, auditors shall be required to reconcile all departmental books and records with central accounting books and records maintained by the town accountant, treasurer and collector.

**SECTION 9.** The acceptance of this act shall not affect the term of office of the following elected officials or elected members of such board, committee, or authority: (1) moderator; (2) board of selectmen; (3) school committee; (4) planning board; (5) board of assessors; (6) housing authority; and (7) the board of health. Every other elective office, board, committee, or commission of the town

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shall become appointive as hereinbefore provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board, committee or commission existing as an elected office at the time of the acceptance of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of his successor.

The moderator shall appoint the members of the finance committee except for vacancies which shall be filled by the selectmen. The planning board shall appoint from its members a delegate to the Berkshire county regional planning commission, and the school committee, board of assessors, board of health and housing authority shall appoint their respective agents and employees.

Town officers shall be available to the town manager for consultation, conference and discussion on matters relating to their respective offices.

**SECTION 10.** The position of administrator to the board of selectmen shall be terminated upon assumption of office by the town manager.

**SECTION 11.** This act shall take effect upon its passage.

Approved July 24, 1991.

**Chapter 156.        AN ACT RELATIVE TO THE NUMBER AND TERMS OF  
OFFICE OF TRUSTEES OF THE LAWRENCE ACADEMY AT  
GROTON.**

*Be it enacted, etc., as follows:*

Chapter 23 of the acts of 1793 is hereby amended by striking out the fifth enacting clause, as amended by section 2 of chapter 267 of the acts of 1973, and inserting in place thereof the following enacting clause:-

*Be it further enacted by the authority aforesaid,* that the number of said Trustees shall not at any one time be more than forty, nor less than nine, five of whom shall constitute a quorum for doing business and a majority of the members present at any legal meeting shall decide all questions proper to come before the Trustees - that the major part of them shall consist of persons who are not inhabitants of the town of Groton. The board of Trustees shall determine the terms of office of the Trustees.

Approved July 24, 1991.

**Chapter 157.        AN ACT RELATIVE TO THE FORECLOSURE OF MORT-  
GAGES.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose,

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which is, in part, to immediately clarify with regard to foreclosures of mortgages, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 70 of chapter 185 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Mortgages of registered land may be foreclosed in the same manner as mortgages of unregistered land; but in case of foreclosure by entry and possession, the certificate of entry required by section two of chapter two hundred and forty-four shall be filed and registered by an assistant recorder in lieu of recording.

**SECTION 2.** Chapter 244 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. A mortgagee may, after breach of condition of a mortgage of land, recover possession of the land mortgaged by an open and peaceable entry thereon, if not opposed by the mortgagor or other person claiming it, or by action under this chapter; and possession so obtained, if continued peaceably for three years from the date of recording of the memorandum or certificate as provided in section two, shall forever foreclose the right of redemption.

**SECTION 3.** Section 2 of said chapter 244, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such memorandum or certificate shall after the entry, except as provided in section seventy of chapter one hundred and eighty-five, be recorded in the registry of deeds for the county or district where the land lies, with a note of reference, if the mortgage is recorded in the same registry, from each record to the other.

**SECTION 4.** The first sentence of section 14 of said chapter 244, as so appearing, is hereby amended by inserting after the word "mailed", in line 30, the words:- at least.

**SECTION 5.** Said section 14 of said chapter 244, as so appearing, is hereby further amended by inserting after the first sentence the following sentence:- Any person of record as of thirty days prior to the date of sale holding an interest in the property junior to the mortgage being foreclosed may waive at any time, whether prior or subsequent to the date of sale, the right to receive notice by mail to such person under this section and such waiver shall be deemed to constitute compliance with such notice requirement for all purposes.

**SECTION 6.** Section 15 of said chapter 244, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The person selling, or the attorney duly authorized by a writing or the

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legal guardian or conservator of such person, shall within ninety days after the sale, cause a copy of the notice and his affidavit, fully and particularly stating his acts, or the acts of his principal or ward, to be recorded in the registry of deeds for the county or district where the land lies, with a note or reference thereto on the margin of the record of the mortgage deed, if it is recorded in the same registry; provided, however, that if within such ninety day period a notice of extension executed by the holder of the mortgage, or an officer thereof, stating that a foreclosure sale was conducted and setting forth the date of the sale, is recorded, with a note of reference thereto on the margin of the mortgage deed, such ninety day period shall be extended to one hundred and eighty days.

**SECTION 7.** Said section 15 of said chapter 244, as so appearing, is hereby further amended by striking out the third sentence.

**SECTION 8.** Sections one, two, three, six and seven of this act shall take effect on January first, nineteen hundred and ninety-one, and shall apply to instruments recorded and judgments entered on and after said effective date. Sections four and five shall take effect on January first, nineteen hundred and ninety-one and shall apply to waivers executed or notices given, as the case may be, prior to, on or after said effective date.

Approved July 24, 1991.

**Chapter 158.        AN ACT INCREASING THE MEMBERSHIP OF THE BOARD  
OF TRUSTEES AT AMHERST COLLEGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to permit forthwith an increase in the number of members of Trustees of Amherst College from a maximum of eighteen to a maximum of twenty-one, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of public convenience.

*Be it enacted, etc., as follows:*

Section 1 of chapter 433 of the acts of 1972 is hereby amended by striking out, in line 8, the word "eighteen" and inserting in place thereof the following word: twenty-one.

Approved July 24, 1991.

**Chapter 159.        AN ACT FURTHER REGULATING LIABILITY FOR INJURY  
RESULTING FROM UREA FORMALDEHYDE FOAM INSU-  
LATION.**

*Be it enacted, etc., as follows:*

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Section 9 of chapter 728 of the acts of 1985 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

No real estate agent, broker or salesman licensed under the provisions of chapter one hundred and twelve of the General Laws, and no bank or other lending institution which offers a mortgage on a residential dwelling containing UFFI, shall be liable for any damage to health, impairment of value or other injury resulting from exposure to or the presence of UFFI; provided, however, that the seller of the dwelling has stated to such real estate agent, broker, or salesman, bank or lending institution that there is no UFFI in such dwelling or that he has made, prior to the sale of said dwelling, any disclosure to the purchaser required by section twelve I of chapter two hundred and fifty-five of the General Laws.

Approved July 24, 1991.

**Chapter 160.        AN ACT VALIDATING THE ACTIONS OF CERTAIN TOWNS  
IN THE COUNTY OF DUKES COUNTY APPROVING THE  
ESTABLISHMENT OF A WATER POLLUTION ABATEMENT  
DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section twenty-eight of chapter twenty-one of the General Laws, the towns of Oak Bluffs, West Tisbury, Chilmark, Gay Head, Tisbury, and Edgartown are hereby authorized to approve the establishment of a water pollution abatement district, under the provisions of said section twenty-eight by vote at an annual or special town meeting with or without printed ballots.

**SECTION 2.** All actions taken by any town in section one with regard to approving the establishment of a water pollution abatement district are hereby ratified, validated and confirmed in all respects as though section one had been in full force and effect at the time of such approval.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 24, 1991.

**Chapter 161.        AN ACT FURTHER REGULATING THE RATES OF PILOT-  
AGE FOR THE PORT OF BOSTON.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately further regulate the rate of pilotage for the port of Boston, therefore it is hereby declared to be an emergency law, necessary for the immediate

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preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 103 of the General Laws is hereby amended by striking out section 31, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 31. Rates of pilotage outward and inward for the port of Boston, calculated per foot of draught, shall be as follows:

For vessels 3500 Gross Tons or under               \$34.00 per foot.

For vessels over 3500 to 7000 Gross Tons       \$38.00 per foot.

For vessels over 7000 to 15000 Gross Tons     \$42.50 per foot.

For vessels over 15000 to 25000 Gross Tons   \$44.50 per foot.

For vessels over 25000 to 35000 Gross Tons   \$45.50 per foot.

For vessels over 35000 to 45000 Gross Tons   \$46.50 per foot.

For vessels over 45000 Gross Tons             \$50.00 per foot.

The following charges shall be made for anchoring vessels:

(1) Any inbound vessel subject to pilotage that anchors in an area outside Deer Island Light and inside the demarcation line for Federal Inland Waters for more than six hours shall pay two hundred dollars.

(2) Any inbound vessel from sea subject to pilotage that anchors in anchorage number two or number five shall pay full pilotage.

(3) Any outbound vessel subject to pilotage that anchors in anchorage number one or number two and the pilot remains on board shall be subject to detention fees and shifting charges.

The following charges shall be made for shifting vessels:

(1) Between docks in Boston, one hundred and fifty dollars.

(2) Between any dock in Boston and anchorage number one, one hundred and fifty dollars.

(3) Between any dock in Boston and anchorage number two, one-half pilotage.

(4) Between anchorage number five to Quincy, full pilotage.

(5) Between anchorage number five and Boston, full pilotage.

(6) Between Boston or anchorage number two and Quincy, one and one-half full pilotages.

(7) Between anchorage number two and Boston from one to six hours, two hundred dollars.

(8) Between anchorage number two and Boston in excess of six hours, one-half pilotage.

(9) Between sea and Quincy, full pilotage; if a vessel proceeds to anchorage number two at the request of the master or agent, an additional one and one-half full pilotages.

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(10) Shifting a ship in anchorage number two, two hundred dollars.

Other charges shall be:

(1) For detention of a pilot on board a vessel, there shall be a one hour free period, followed by a fifty dollar charge for the second hour or any portion thereof; for each additional hour or portion thereof there shall be a charge of twenty-five dollars. Detention time shall begin at the ordered sailing time.

(2) Cancellation rate, fifty dollars.

(3) Compass adjusting, fifty dollars.

(4) Calibration rate, fifty dollars.

(5) When a pilot is ordered and dispatched for an arriving vessel and his services are not employed, the vessel shall pay a charge of one hundred dollars.

(6) A pilot shall be considered ordered unless notified; one hour before sailing time in Boston; two hours before sailing time in Quincy, anchorage number two or number five.

(7) No charge shall be made for any vessel detained because of fog or stress of weather.

(8) Pilot carried away, the vessel shall pay his return expenses plus one hundred dollars per day.

(9) Notifying a vessel of his diversion orders, a charge of one hundred dollars may be levied plus any regular charges.

(10) Assisting the master in docking and undocking, a charge of one hundred dollars.

(11) All inbound vessels shall notify the pilot office eight hours before arrival time if that time varies more than two hours from their latest estimated time of arrival report.

(12) A surcharge shall be made on each full pilotage charge for the cost of a suitable replacement vessel for the Boston Pilot when it is deemed advisable by a condition survey of said vessel. The surcharge shall be twenty-five dollars per full pilotage for all vessels under three thousand five hundred gross tons and fifty dollars per full pilotage for all vessels over three thousand five hundred gross tons. Surcharge funds shall be placed in an escrow fund that shall be overseen by the Massachusetts state pilot commissioner's office and shall be used in addition to proceeds realized from the sale of a present pilot vessel. An audited statement of the fund shall be made available to industry representatives on a quarterly basis.

**SECTION 2.** Said section 31 of said chapter 103 is hereby further amended by striking out the first paragraph, as most recently amended by section 1 of this act, and inserting in place thereof the following paragraph:-

Rates of pilotage outward and inward for the port of Boston, calculated per foot of draught, shall be as follows:

For vessels 3500 Gross Tons or under	\$35.00.
For vessels over 3500 to 7000 Gross Tons	\$40.00.



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For vessels over 7000 to 15000 Gross Tons	\$45.00.
For vessels over 15000 to 25000 Gross Tons	\$47.00.
For vessels over 25000 to 35000 Gross Tons	\$48.00.
For vessels over 35000 to 45000 Gross Tons	\$49.50.
For vessels over 45000 Gross Tons	\$53.00.

**SECTION 3.** Section two shall take effect on June first, nineteen hundred and ninety-two.

Approved July 26, 1991.

**Chapter 162.      AN ACT RELATIVE TO ESTABLISHING A SICK LEAVE BANK FOR A CERTAIN PROBATION OFFICER OF THE TRIAL COURT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a sick leave bank for a certain probation officer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law or any rule or regulation to the contrary, the trial court of the commonwealth is hereby authorized and directed to establish a sick leave bank for probation officer Frank C. D'Elia, Jr. Each employee in the bargaining unit represented by Local 254 S.E.I.U. may voluntarily contribute one or more of his personal or vacation days to said bank for use by probation officer D'Elia.

Approved July 31, 1991.

**Chapter 163.      AN ACT AUTHORIZING THE STATE SECRETARY TO AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

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Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Norris L. O'Neill, as he is a justice of the superior court of the state of Connecticut in the town of Framingham on September twenty-second, nineteen hundred and ninety-one, between Shelagh Anne Ellman and Daniel David Pearl both of the town of Ashland, and the state secretary shall issue to said Norris L. O'Neill in his capacity as aforesaid a certificate of such authorization.

Approved July 31, 1991.

**Chapter 164.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Gerald F. O'Neill, Jr., as he is a justice in the superior court department of the trial court in the town of Leicester on August sixth, nineteen hundred and ninety-one between Kevin Meagher and Christine Lucey both of the city of Worcester, and the state secretary shall issue to said Honorable Gerald F. O'Neill, Jr. in his capacity as aforesaid, a certificate of such authorization.

Approved July 31, 1991.

**Chapter 165.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the preservation of the public convenience.

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*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Ronald M. Slate of the town of Milton, in the city of Cambridge on August twenty-fifth, nineteen hundred and ninety-one between Richard M. Rollins and Barbara Gilson both of the city of Portland in the state of Oregon, and the state secretary shall issue to said Ronald M. Slate a certificate of such authorization.

Approved July 31, 1991.

**Chapter 166.      AN ACT EXTENDING CERTAIN PROTECTIVE COVENANTS  
FOR REAL PROPERTY IN THE TOWN OF WARE.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section twenty-seven of chapter one hundred and eighty-four of the General Laws or any other general or special law to the contrary, protective covenants recorded in the Hampshire county registry of deeds in Book 1452, page 17, by Beaver Lake Inc. and by a document authorizing enforcement thereof, recorded in Hampshire county registry of deeds in Book 1537, page 557 by Beaver Lake Club Corporation is hereby authorized to be extended in accordance with paragraph (b) of said section twenty-seven of said chapter one hundred and eighty-four as if a provision for said extension had been included with the original protective covenants.

Approved August 1, 1991.

**Chapter 167.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred

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and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine the solemnization of a marriage by the Honorable Brian Merrick, who is a judge of the district court in the commonwealth in the city of Lynn on August fifth, nineteen hundred and ninety-one, between David G. Walsh and Mary E. Glowacki, both of the town of Nahant, and the state secretary shall issue to said Honorable Brian Merrick in his capacity as aforesaid a certificate of such authorization.

Approved August 2, 1991.

**Chapter 168.        AN ACT PROVIDING FOR THE CERTIFICATION AND  
                         LICENSING OF REAL ESTATE APPRAISERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 13 of the General Laws is hereby amended by adding the following section:-

Section 92. There is hereby established a board of real estate appraisers which shall consist of seven members to be appointed by the governor, two of whom shall be members of the general public, in accordance with the provisions of section nine B, one of whom shall be a member of the banking industry, one of whom shall be a licensed real estate broker, and three of whom shall be real estate appraisers. Each real estate appraiser member of the board appointed after January first, nineteen hundred and ninety-two shall be a state-licensed or state-certified real estate appraiser under the provisions of sections one hundred and seventy-three to one hundred and ninety-five, inclusive, of chapter one hundred and twelve. One of the appraiser members shall be a state-certified general real estate appraiser, one shall be a state-certified residential real estate appraiser, and one shall be a state-licensed real estate appraiser. One of the real estate appraiser members of the board shall be an assessor in a city or town in the commonwealth.

The appraiser members appointed before January first, nineteen hundred and ninety-two shall have seven years full-time experience in the real estate appraisal field; one such appraiser member shall have had primary work experience in commercial appraisals and one such appraiser member in residential appraisals.

The term of each appointed member shall be three years; provided, however, that, of the members first appointed, three shall serve for three years, two for two years and two shall serve for one year.

Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person shall serve as a member of the board for more than two consecutive terms. The appointing authority may remove a member for cause.

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Each member of the board shall be paid for expenses actually incurred in the performance of official duties.

The board shall annually elect a chairperson from among its members.

A quorum of the board shall be five members.

The board shall hold at least six meetings each year and may hold special meetings as required at a time and place determined by the board.

The director of the division of registration, with approval of the board, shall appoint an executive secretary to serve the board. The division of registration shall employ such other clerical and technical assistants as may be necessary to discharge the official duties of the board.

**SECTION 2.** Chapter 112 of the General Laws is hereby amended by adding the following twenty-three sections:-

Section 173. The following terms as used in sections one hundred and seventy-three to one hundred and ninety-five, inclusive, shall have the following meanings:

“Appraisal assignment”, an engagement for which an appraiser is employed or retained to act, or would be perceived by a third party or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate.

“Appraisal” or “real estate appraisal”, a written analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified as a valuation or an analysis, or both. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

“Appraisal Foundation”, the appraisal foundation incorporated as an Illinois nonprofit corporation on November thirtieth, nineteen hundred and eighty-seven and recognized under the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

“Appraisal report”, written report of an appraisal.

“Board”, the board of real estate appraisers established pursuant to the provisions of section ninety-two of chapter thirteen.

“Certified appraisal or certified appraisal report”, a written appraisal or report of a written appraisal given or signed and certified as such by a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser. When identifying an appraisal or appraisal report as certified, the real estate appraiser shall indicate the type of certification or license held by such appraiser. A certified appraisal or appraisal report shall be deemed to represent to the public that it meets the appraisal standards defined in this chapter.

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"Federal Appraisal Subcommittee", a subcommittee of the Federal Financial Institutions Examinations Council which consists of the designees of the heads of the Federal financial institutions regulatory agencies, pursuant to Title XI, and the designee of Secretary of Housing and Urban Development.

"Real estate", an identified parcel or tract of land, including improvements, if any.

"Real estate appraisal trainee", a person who assists state-certified and state-licensed real estate appraisers in real estate appraisals under conditions prescribed by the board and who holds a current, valid license under the provisions of section one hundred and seventy-eight.

"Real property", one or more defined interests, benefits, and rights inherent in the ownership of real estate.

"Specialized services", appraisal services which do not fall within the definition of appraisal assignment. The term specialized services may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser reasonably would be perceived by third party or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services.

"State-certified general real estate appraiser", a person who develops and communicates real estate appraisals and who holds a current, valid certificate as a state-certified general real estate appraiser under the provisions of section one hundred and seventy-eight.

"State-certified residential real estate appraiser", a person who develops and communicates real estate appraisals and who holds a current, valid certificate as a state-certified residential real estate appraiser under the provisions of section one hundred and seventy-eight.

"State-licensed real estate appraiser", a person who develops and communicates real estate appraisals and who holds a current, valid license as a state-licensed real estate appraiser under the provisions of section one hundred and seventy-eight.

"Title XI", Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Section 174. A. No person, other than a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser, shall assume or use that respective title or any title, designation, or abbreviation likely to create the impression of certification or licensing as a real estate appraiser by the commonwealth. A person who is not state-certified or state-licensed shall not describe or refer to any appraisal or other evaluation of real estate located in the commonwealth by the term "certified"; provided, however, that this shall not preclude a person who is not certified as a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser from appraising real estate in connection with non-federally

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related transactions for compensation.

B. The provisions of sections one hundred and seventy-three to one hundred and ninety-nine, inclusive, shall not apply to a real estate broker or salesperson or to a certified public accountant or business broker who, in the ordinary course of business, gives an opinion of the price of real estate for the purpose of a prospective listing, purchase, sale, or business valuation, provided, however, that such opinion of the price shall not be referred to as an appraisal.

C. The certification and licensing provisions of this chapter shall not apply to transactions exempted from the requirements of Title XI.

Section 175. A. The board shall have the following powers and duties:

(1) to define by regulation and with respect to each category of certified or licensed real estate appraiser the type of educational experience, appraisal experience and equivalent experience necessary to carry out the responsibility of such position, consistent with and equivalent to Title XI and guidelines issued thereunder by the Federal Financial Institutions Examination Council or its Federal Appraisal Subcommittee;

(2) to establish the examination specifications for each category of certified and licensed real estate appraiser, to provide or procure appropriate examination questions and answers, and to establish procedures for grading examinations, consistent with and equivalent to Title XI and any guidelines issued thereunder by the Federal Financial Institutions Examination Council or its Federal Appraisal Subcommittee;

(3) to receive applications for certification and licensing;

(4) to approve or disapprove applications for certification and licensing and to issue certificates and licenses;

(5) to establish the administrative procedures for processing applications for certification and licensing;

(6) to maintain a registry of the names and addresses of people registered as state-certified general real estate appraisers, state-certified residential real estate appraisers, state-licensed real estate appraisers and real estate trainees and to transmit a roster of the state-certified and state-licensed appraisers and the registry fees on an annual basis, or more frequently as required to the Federal Appraisal Subcommittee as required by Title XI;

(7) to retain records and all application materials submitted to it in accordance with the public records law;

(8) to define by regulation and with respect to each category of state-certified and state-licensed real estate appraiser, the continuing education requirements for the renewal of certification and licensure, consistent with Title XI and any guidelines issued thereunder by the Federal Financial Institutions Examination Council or its Federal Appraisal Subcommittee;

(9) to review from time to time the standards for the development and

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communication of real estate appraisals provided herein and to adopt regulations explaining and interpreting the standards;

(10) to establish administrative procedures for disciplinary proceedings;

(11) to fine, censure, suspend or revoke certificates and licenses pursuant to the disciplinary proceedings provided for herein;

(12) to perform such other functions and duties as may be necessary to carry out the provisions of this chapter.

B. The board shall adopt a code of professional responsibility consistent with the requirements of Title XI and guidelines issued thereunder by the Federal Financial Institutions Examination Council or its Federal Appraisal Subcommittee.

C. The secretary of consumer affairs shall have the authority to review the rules and regulations proposed by the board to verify that such rules and regulations are consistent with Title XI and other provisions of state law. Such rules and regulations shall be deemed approved unless disapproved within fifteen days of submission to the secretary; provided, however, that any such disapproval shall be in writing setting forth the specific provisions of law leading to such disapproval.

Section 176. The board shall charge and collect fees as determined by the commissioner of administration and finance in accordance with the provisions of section three B of chapter seven. The board shall collect such additional fees as are required by the Federal Appraisal Subcommittee pursuant to Title XI and shall transmit such additional fees to the Federal Appraisal Subcommittee on an annual basis or more frequently as required.

Section 177. An application for original certification and licensing, renewal certification and licensing, and examination shall be made in writing to the board on forms approved by the board.

An appropriate fee, as fixed pursuant to section one hundred and seventy-six, shall accompany an application for original certification and licensing, renewal certification and licensing and examination.

Section 178. There shall be four classes of real estate appraisers as follows:

(1) The state-certified general real estate appraiser classification, which shall consist of persons meeting the requirements for certification relating to the appraisal of all types of real property and passing a state administered examination, which requirements and examination are, at a minimum, consistent with the requirements and examination of the Appraisal Qualifications Board of the Appraisal Foundation for that category.

(2) The state-certified residential real estate appraiser classification, which shall consist of persons meeting the requirements for certification relating to the appraisal of certain residential real property and passing a state administered examination, which requirements and examination are, at a minimum, consistent with the requirements and examination of the Appraisal Qualifications Board of the Appraisal Foundation for that category.



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(3) The state-licensed real estate appraiser classification, which shall consist of persons meeting the requirements established by the board for licensing pursuant to this chapter and passing a state administered examination, which requirements and examination are, at a minimum, consistent with and equivalent to the requirements of Title XI and any guidelines issued thereunder by the Federal Financial Institutions Examination Council or its Federal Appraisal Subcommittee.

(4) Real estate appraisal trainee classification, which shall consist of persons authorized only to assist a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser in the performance of an appraisal assignment. Such real estate appraisal trainee shall obtain a trainee license and shall perform such functions as are consistent with regulations established by the board governing this category of licensure; provided, however, that such regulations are not inconsistent with the requirements of Title XI and any guidelines issued thereunder by the Federal Financial Institutions Examination Council or its Federal Appraisal Subcommittee.

The application for original certification or licensing, renewal certification or licensing and examination shall specify the classification of certification or licensure being applied for and previously granted.

Section 179. An original certification as a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser shall not be issued to any person who has not demonstrated through a written examination process that he possesses the following:

(1) appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;

(2) an understanding of the principles of land economics, real estate appraisal processes, and of problems likely to be encountered in gathering, interpreting, and processing data in carrying out appraisal disciplines;

(3) an understanding of the standards for the development and communication of real estate appraisals as provided herein;

(4) knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of certificate applied for;

(5) knowledge of other principles and procedures as may be appropriate for the respective classifications;

(6) a basic understanding of real estate law; and

(7) understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state-certified or state-licensed real estate appraiser.

Section 180. A. As a prerequisite to taking the examination for certification as a state-certified general or state-certified residential real estate appraiser, an applicant shall present evidence satisfactory to the board that he meets the

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education and experience requirements adopted by the board consistent with and equivalent to the qualification standards adopted in accordance with Title XI by the Appraisal Qualifications Board of the Appraisal Foundation.

B. As a prerequisite to taking the examination for licensing as a state-licensed real estate appraiser, an applicant shall present evidence satisfactory to the board that he meets the education and experience requirements adopted by the board consistent with and equivalent to the qualification standards adopted in accordance with Title XI by the Appraisal Qualifications Board of the Appraisal Foundation.

C. Until January first, nineteen hundred and ninety-three, any person who passes the requisite state administered licensing examination but who lacks either the requisite education or requisite experience required for licensing under subdivision B may apply for and receive a transitional license, valid for two years from the date of issuance, and delay satisfaction of the education or experience requirement until expiration of the transitional license. If, by the time of expiration of such transitional license, such person presents evidence satisfactory to the board that he has satisfied the education and experience requirements, a renewal license as a state-licensed real estate appraiser shall be issued to such person. Any transitional license issued pursuant to this section shall indicate its transitional nature, and shall be recorded and reported in the annual report of the board to the Federal Appraisal Subcommittee.

D. No examination shall be required for real estate appraisal trainees.

E. In establishing criteria for state certification or state licensure and in promulgating any other regulations governing the performance of state-certified or state-licensed real estate appraisers, the board shall not discriminate against any person or entity solely by virtue of membership or lack of membership in any particular appraisal organization. The board shall not discriminate against any person or entity offering education courses meeting the curriculum requirements established by the board.

Section 181. A. The term of a certificate or a license issued under the authority of the board, except a transitional license under subdivision C of section one hundred and eighty, shall be three years from the date of issuance. Notwithstanding the foregoing, each certificate or license originally issued to an individual, except a transitional license under said subdivision C of said section one hundred and eighty, shall be valid until the anniversary of the date of birth of the licensee next occurring more than thirty-six months after the date of issuance. A real estate appraisal trainee shall be eligible for renewal of a trainee license for only one three year period after the original term of the license.

Section 182. A. Every applicant for certification or licensing who is not a resident of the commonwealth shall submit, with the application for certification or licensing, an irrevocable consent that service of process upon him may be made

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by delivery of the process to the state secretary if, in an action against the applicant in a court of the commonwealth arising out of the applicant's activities as a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

B. A nonresident of the commonwealth who has complied with the provisions of subdivision A may obtain a certificate as a state-certified general real estate appraiser, state-certified residential real estate appraiser or license as a state-licensed real estate appraiser by conforming to all of the provisions hereof relating to certification or licensing of real estate appraisers, respectively.

Section 183. A. If, in the determination of the board, another state is deemed to have substantially equivalent certification or licensing requirements, an applicant who is certified or licensed under the laws of such other state may obtain a certificate as a state-certified general real estate appraiser, state-certified residential real estate appraiser or a license as a state-licensed real estate appraiser in the commonwealth upon such terms and conditions as determined by the board.

B. The board shall recognize on a temporary basis the certification or license of an appraiser issued by another state if (i) the property to be appraised is part of a federally-related transaction; (ii) the appraiser's business is of a temporary nature; and (iii) the appraiser registers with the board and pays the requisite registration fee, which fee shall be reasonable in relation to other fees set by the board.

Section 184. A. To obtain a renewal certificate or license, the holder of a current, valid certificate or license shall make application and pay the prescribed fee to the board not earlier than one hundred and twenty days nor later than thirty days prior to the expiration date of the certificate or license then held. With the application for renewal, the real estate appraiser shall present evidence in the form prescribed by the board of having completed required continuing education requirements.

B. (1) If a person fails to renew a certificate or license as a real estate appraiser prior to its expiration or within a period of extension of up to six months granted by the board, such person may obtain a renewal by satisfying all of the requirements for renewal and by the payment of a late renewal fee and any additional requirements set by the board.

(2) If the applicant satisfies the requirements for renewal during the extended term of certification or licensing, the beginning date of the renewal shall be the day following the expiration of the certificate or license previously held by the applicant.

Section 185. A. Each state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser shall advise the board of the address of his principal place of business and all other addresses

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at which he is currently engaged in the business of preparing real property appraisal reports.

B. Whenever a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser changes a place of business, he shall immediately give written notification of the change to the board and apply for an amended certificate or license.

C. Every state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser shall notify the board of his current residence address. Residence addresses on file with the board shall be exempt from disclosure as public records unless the residence address is the mailing address.

Section 186. A. Each certificate or license issued hereunder shall bear a certificate or license number assigned by the board.

B. Each state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser shall place his certificate or license number adjacent to or immediately below the title "State-certified general real estate appraiser", "State-certified residential real estate appraiser" or "State-licensed real estate appraiser" when used in an appraisal report or in a contract or other instrument used by the certificate or license holder in conducting appraisal activities.

Section 187. A. The terms "state-certified general real estate appraiser", "state-certified residential real estate appraiser", and "state-licensed real estate appraiser" may only be used to refer to individuals who hold the certificate and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in such manner that it might be interpreted as referring to a firm, partnership corporation, group, or anyone other than an individual holder of the certificate or license.

B. No certificate or license shall be issued under the provisions hereof to a corporation, partnership, firm or group. This shall not be construed to prevent a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice.

Section 188. A. The board shall adopt regulations for implementation of the continuing education provisions of this act to assure that persons renewing their certifications and licenses as real estate appraisers have current knowledge of appropriate appraisal theories, practices, and techniques, which will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of the certification or license. The regulations shall prescribe the following:

(1) policies and procedures for obtaining board approval of courses of instruction;

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(2) standards, policies and procedures to be applied by the board in evaluating an applicant's claim of equivalency;

(3) standards, monitoring methods, and systems for recording attendance to be employed by a course sponsored as a prerequisite to board approval of courses for credit;

(4) such other requirements or conditions deemed necessary by the board to carry out the provisions of this chapter.

B. No amendment or repeal of a regulation adopted by the board pursuant to this section shall operate to deprive a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser of credit toward renewal of certification or licensing for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation which would have qualified for continuing education credit under the regulation as it existed prior to such repeal or amendment.

C. On and after January first, nineteen hundred and ninety-two, a certification or license as a real estate appraiser that has been revoked as a result of disciplinary action by the board shall not be reinstated unless the applicant presents evidence of completion of the continuing education required by this section and satisfies any other requirements established by the board. This requirement of evidence of continuing education shall not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser as a condition to reinstatement of certification.

Section 189. A. The rights of any applicant or holder under a certificate or license as a state-certified or state-licensed real estate appraiser may be revoked or suspended, or the holder of the certificate or license may be otherwise disciplined in accordance with the provisions of this chapter, upon any of the grounds set forth in this section. The board shall upon a written sworn complaint or may upon its own motion investigate the actions of a state-certified or state-licensed real estate appraiser, and may suspend or revoke the rights or otherwise discipline a state-certified or state-licensed real estate appraiser for any of the following acts or omissions:

(1) procuring or attempting to procure a certificate or license by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensing or through any form of fraud or misrepresentation;

(2) failing to meet the minimum qualifications established herein;

(3) paying money or other consideration other than provided for by this chapter to any member or employee of the board to procure a certificate or license;

(4) a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions,

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and duties of a person developing appraisals and communicating appraisals to others, or convicted of any felony;

(5) an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate or license holder or another person or with the intent to substantially injure another person;

(6) violation of any of the standards for the development or communication of appraisals;

(7) failure, or refusal without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(8) negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(9) willfully disregarding or violating any of the provisions of this chapter, or the regulations of the board;

(10) accepting an appraisal assignment when such assignment is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(11) violating the confidential nature of governmental records to which the appraiser gains access through employment or engagement as an appraiser by a governmental agency; or

(12) entry of a final civil judgment against such appraiser on grounds of fraud, misrepresentation or deceit in the making of any appraisal.

Section 190. A. The hearing on any charge or violation of this chapter shall be at a time and place prescribed by the board and shall be conducted in accordance with the provisions of chapter thirty A.

B. The board shall have the power to sue and be sued in its official name as an agency in the commonwealth; to administer oaths; to take testimony and receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the board may apply to any court of the commonwealth to require the attendance and testimony of witnesses and the production of documentary evidence. The board, its members and agents, shall be immune from personal liability for actions taken in good faith in the discharge of their responsibilities, and the commonwealth shall hold the board, its members and agents, harmless from all costs, damages and attorneys fees arising from claims and suits against them with respect to matters to which such immunity applies.

C. If the board determines that a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser has violated any of the provisions of this chapter, it shall prepare a finding of fact and recommend that the appraiser be reprimanded or that his certification or license be suspended or revoked. The decision and order of the board shall be

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final except as provided in subsection D.

D. Any final decision or order of the board shall be reviewable by the superior court as to questions of law only. Any application for review by said court made by an aggrieved party shall be filed within thirty days after the final decision of the board.

Section 191. A client or employer may retain or employ a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser to act as a disinterested third party in rendering an unbiased estimate of value or analysis. A client or employer may also retain or employ a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser to provide specialized services to facilitate the client's or employer's objectives. In either case, the appraiser and the appraisal report must comply with the provision hereof.

Section 192. A. A state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser shall not accept a fee for an appraisal assignment that is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion or is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment.

B. A state-certified or state-licensed real estate appraiser who enters into an agreement to perform specialized services may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

C. If a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser enters into an agreement to perform specialized services for a contingent fee, this fact shall be clearly stated in each written report of an appraisal. In each written report, this fact shall be clearly stated in a prominent location in such report and also in each letter of transmittal and in the certification statement made by the appraiser in such report.

Section 193. Each state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser shall retain, for at least five years, originals or true copies of all written contracts engaging his services for real property appraisal work and all reports and supporting data assembled and formulated by the appraiser in preparing such reports.

This five year period for retention of records shall be applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within such five year period, the appraiser is notified that the appraisal report is involved in litigation, in which event the five year period for the retention of records shall commence upon the date of the final disposition of such litigation.

All records required to be maintained under the provisions of this section shall be made available by the state-certified or state-licensed real estate appraiser for

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inspection and copying by the board on reasonable notice to the appraiser.

Section 194. A. Any person acting or purporting to act as a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser without first obtaining a certificate or license to practice under this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for a term not to exceed six months, or both such fine and punishment. Upon conviction of a subsequent violation, such person shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or both such fine and punishment. Charges may be initiated by the attorney general.

B. A person who receives any money or the equivalent thereof as a fee, commission, compensation or profit by, or in consequence of, a violation of any provision of this chapter, shall, in addition to any other penalty, be liable for a penalty of not less than the amount of the sum of money so received and not more than three times the sum so received as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by any person aggrieved.

Section 195. Uncertified and unlicensed persons may not maintain an action for a fee on non-exempted transactions. No action or suit shall be instituted, nor recovery had, in any court of the commonwealth by any person for compensation for any act done or service rendered as a state-certified general real estate appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser, unless such person held a certificate or license to practice under this chapter at the time of offering to perform any act or service as a real estate appraiser or procuring any promise to contract for the payment of compensation for any contemplated act or service as a real estate appraiser.

*Emergency Letter: August 5, 1991 @ 8:58 A.M.*

Approved August 2, 1991.

## **Chapter 169. AN ACT RELATIVE TO THE TREE WARDEN AND MOTH SUPERINTENDENT OF THE TOWN OF HINGHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter thirty-eight of the acts of nineteen hundred and forty-eight is hereby repealed.

**SECTION 2.** The duties of tree warden and moth superintendent in the town of Hingham shall be performed by the highway superintendent of said town.

**SECTION 3.** This act shall take effect upon its passage.

Approved August 5, 1991.



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**Chapter 170.           AN ACT PROVIDING FOR THE APPOINTMENT OF THE  
TREASURER-COLLECTOR IN THE TOWN OF HINGHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The treasurer-collector of the town of Hingham shall be appointed by the board of selectmen of said town for a term to be determined by said board not to exceed three years.

**SECTION 2.** This act shall take effect on the date of the annual town election in the year nineteen hundred and ninety-two.

Approved August 5, 1991.

**Chapter 171.           AN ACT RELATIVE TO THE HINGHAM NORTH SEWER  
DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter five hundred and ninety-one of the acts of nineteen hundred and forty-five, section eight of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four or any other general or special law to the contrary, a certain parcel of land located at 221 Central street in the town of Hingham, more particularly described in a deed dated September sixth, nineteen hundred and eighty-eight and recorded in the registry of deeds in the county of Plymouth in Book 8693, Page 060 and such sewer work pipes and facilities connected therewith shall be part of the Hingham North Sewer District.

**SECTION 2.** This act shall take effect upon its passage.

Approved August 6, 1991.

**Chapter 172.           AN ACT RELATIVE TO THE GROUP INSURANCE COVER-  
AGE OF THE TOWN OF WEST TISBURY.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section eight A of chapter thirty-two B of the General Laws, the town of West Tisbury is hereby authorized to refund proportionately to eligible insured members employed by said town between March first, nineteen hundred and eighty-eight and February twenty-eighth, nineteen hundred and eighty-nine in the amount of eighteen thousand nine hundred and forty-eight

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dollars and seventy cents refunds received by said town under said town's group insurance policy.

Approved August 8, 1991.

**Chapter 173.        AN ACT RELATIVE TO THE SUPPORT OF CHILDREN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 28 of chapter 208 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the third sentence the following sentence:- The court may make appropriate orders of maintenance, support and education for any child who has attained age twenty-one but who has not attained age twenty-three, if such child is domiciled in the home of a parent, and is principally dependent upon said parent for maintenance due to the enrollment of such child in an educational program, excluding educational costs beyond an undergraduate degree.

**SECTION 2.** Section 37 of chapter 209 of the General Laws, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- The court may make appropriate orders of maintenance, support and education for any child who has attained age twenty-one but who has not attained age twenty-three if such child is domiciled in the home of a parent, and is principally dependent upon said parent for maintenance due to the enrollment of such child in an educational program, excluding educational costs beyond an undergraduate degree.

Approved August 8, 1991.

**Chapter 174.        AN ACT RELATIVE TO THE FINANCING OF CERTAIN  
INDUSTRIAL PARK IMPROVEMENTS BY THE TOWN OF  
MANSFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The selectmen of the town of Mansfield may levy assessments upon the property owners within the Cabot, Cabot and Forbes (CC&F) Mansfield Industrial Park so-called in accordance with the provisions of chapter eighty of the General Laws in order to pay for all or any portion of the improvements to be financed by the town under the vote passed under article thirty-nine at the annual town meeting held in the year nineteen hundred and ninety, notwithstanding any limitation in chapter eighty-three of the General Laws or any other provisions of

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the General Laws limiting the amount of the costs of any particular improvements that may be paid from such assessments. Such assessments shall be made on the basis of the most recent assessed valuations of the property within the Industrial Park as of the date on which the first bonds or notes are issued for the improvements.

**SECTION 2.** Any bonds or notes issued by the town of Mansfield for the purposes described in section one may be made payable not later than twenty years from their dates, and the maturities of the bonds or notes shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined either shall be as nearly equal as practicable in the opinion of the town treasurer or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. At the option of the selectmen, the costs of the improvements to be paid from the proceeds of the bonds or notes may include interest on the bonds or notes up to the estimated date of completion of the improvements as determined by the treasurer.

**SECTION 3.** This act shall take effect upon its passage.

Approved August 8, 1991.

**Chapter 175.        AN ACT FURTHER EXPANDING THE DISPOSITION OF  
RESIDUAL CAMPAIGN FUNDS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The thirteenth paragraph of section 18 of chapter 55 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last sentence.

**SECTION 2.** Said section 18 of said chapter 55, as so appearing, is hereby further amended by inserting after the thirteenth paragraph the following three paragraphs:-

Such residual funds shall be donated to:

(i) the Local Aid Fund established under the provisions of section two D of chapter twenty-nine or the Categorical Grants Fund established under the provisions of section two N of chapter twenty-nine, whichever is in effect;

(ii) an entity which is subject to chapter sixty-seven or section eight of chapter twelve; provided, however, that the candidate, treasurer or any official of the political committee shall not be related by consanguinity or affinity to any trustee, officer, principal or beneficiary of said entity either at the time of the gift or within ten years from the date of such gift; provided, further, that no entity may employ as a trustee, officer, principal or beneficiary any person related by consanguinity or affinity to the candidate, treasurer or any official of the political committee either

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at the time of the gift or within ten years from the date of such gift;

(iii) a scholarship fund; provided, however, that the candidate, treasurer or any official of the political committee shall not participate in the selection of the beneficiary of any scholarship awarded from such fund; and, provided further, the beneficiary of any scholarship awarded from such fund shall not be related by consanguinity or affinity to the candidate, treasurer or any official of the political committee; or

(iv) the general fund of any city or town in the commonwealth.

The director may petition the supreme judicial court for the dissolution of a political committee, if (i) such political committee fails to comply for two consecutive years with provisions of this section requiring the filing of reports of contributions received and expenditures made; (ii) the candidate on whose behalf such political committee has been organized has died; or (iii) such political committee was organized for the purpose of favoring or opposing the adoption or rejection of a question submitted to the voters and there has been a final determination made as to the adoption or rejection of such question.

By such petition, the director may request the court to authorize the administration of any funds held by such political committee in accordance with the provisions of this section regarding residual funds. The court, after notice by mail or otherwise as it may order, may dissolve such political committee. The director may include more than one political committee in a single application.

Approved August 9, 1991.

**AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-TWO TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one, for the fiscal year ending June thirtieth, nineteen hundred and ninety-two or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.**

Item

**EXECUTIVE.**

0411-1050 For the costs of litigation incurred by the office of the governor or his designee, including the cost of private counsel, resulting from lawsuits which challenge the legality of budgetary or benefit reductions enacted in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one in state programs for medical care; provided that, notwithstanding the provisions of section three of chapter twelve of the General Laws or of any other general or special law to the contrary, the responsibility for the representation of the commonwealth in such cases shall be the responsibility of the governor, or his designee

\$750,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Group Insurance Commission.*

1108-5200 For the commonwealth's share of the group insurance premium and plan costs to be administered by the group insurance commission; provided, that not more than four hundred thousand dollars shall be obligated for the evaluation and audit of said premium and plan costs, provided further, that not more than four hundred and fifty thousand dollars shall be obligated for the development and evaluation of alternatives which may include preferred provider organizations, point of service health maintenance organizations, cafeteria plans, or other such arrangements as will best and most efficiently extend managed care services to all state employees and retirees; provided further, that not more than two hundred thousand dollars shall be obligated for the evaluation and negotiation of premium rates which may include rates for health benefit plans, mail

order prescription drug plans and long-term disability plans; provided further, that not more than one hundred and fifty thousand dollars shall be obligated for claims utilization analysis; provided further, that the budget bureau shall charge the department of employment and training and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of the cost of the program as it determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from several state or other funds, and amounts received in payment of all such charges of such transfer shall be credited to the General Fund; and the group insurance commission shall obtain reimbursement for premium and administrative expenses from other non-state funded agencies and authorities; provided further, that notwithstanding the provisions of section twenty-six of chapter twenty-nine of the General Laws, the commission is hereby authorized to negotiate, purchase and execute contracts prior to July first of each year for a policy or policies of group insurance as authorized by chapter thirty-two A of the General Laws; provided further, that the commonwealth's share of the group insurance premium as provided in section eight of said chapter thirty-two A and for the purposes of section fourteen of said chapter thirty-two A shall be ninety percent of the total monthly premiums and rates as established by the commission; provided further, that employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall pay at least ten percent of the total monthly premium and rates as established by the commission effective July first, nineteen hundred and ninety-one; provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother; provided further, that the commission shall notify the house and senate committees on ways and means by April fifteenth of each year, of the commonwealth's actual cost of its share of group insurance premiums of the next fiscal year; and provided further, that for the purpose of accommodating the delayed receipt of revenues to be retained in item 1108-5300, an amount not to exceed two million dollars may be transferred from item 1108-5200 to item 1108-5300, provided that all excess revenues, if any, shall be returned to item 1108-5200, from retained revenues otherwise authorized to be credited to item 1108-5300, no later than June thirtieth, nineteen hundred and ninety-two

\$64,186,000

#### EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

##### *Hazardous Waste Facility Site Safety Council.*

2050-0300 For a technical assistance grant as authorized in chapter twenty-one D of the General Laws, to the towns of Athol, Erving, New Salem, Royalston, Warwick and Wendell; provided, that the awarding of such a grant shall meet with the prior approval of the secretary of the executive office of environmental affairs

\$18,571

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

- 4406-2000 For a program of general relief; provided, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided further, that a thirty-five dollar per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; and provided further, that no funds from this account shall be expended for homeless shelters, for advance rent or security deposits, for rent or utility arrearage payments, for furniture storage, or for moving expenses \$18,900,000
- 4406-5000 For a program of medical services for general relief recipients; provided, that notwithstanding the provisions of any general or special law to the contrary, said programs shall provide the benefits of care rendered by physicians, community health centers, and of prescription drugs only; provided further, that said program may contract with competitively selected hospitals and community based agencies for the purpose of providing coordinated health care services to certain general relief recipients; provided further, that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother \$3,200,000

**EXECUTIVE OFFICE OF EDUCATIONAL AFFAIRS.***Office of the Secretary.*

- 7005-0001 For the office of the secretary of education, including not less than four positions and one hundred and forty-seven thousand dollars for a compliance unit; provided that not more than fourteen positions, including the compliance unit, shall be funded from the amount appropriated herein \$777,000
- SECTION 2A.** For the purpose of making available in the fiscal year nineteen hundred and ninety-two certain balances of appropriation which would otherwise revert on June thirtieth, nineteen hundred and ninety-one, the unexpended balance of the maintenance appropriation listed below, is hereby reappropriated for the fiscal year nineteen hundred and ninety-two.  
1599-3600

**SECTION 3.** Item 7066-0000 in section 2 of chapter 138 of the acts of 1991 is hereby amended by striking out, in line 2, the words "board of regents" and inserting in place thereof the words:- higher education coordinating council.

**SECTION 4.** Said chapter 138 is hereby further amended by striking out section 294 and inserting in place thereof the following section:-

*Section 294.* It is hereby declared and affirmed that the reserved interests of the public in the land along the coastline of the commonwealth require a public on-foot free right-of-passage along the shore of the coastline between the mean high water line and the extreme low water line subject to the restrictions and limitations as contained in this section and said right

is hereby secured.

Said public on-foot free right-of-passage shall not be exercised: later than one-half hour after sunset nor earlier than sunrise; where the commissioner of the department of environmental management for the purpose of protecting marine fisheries and wildlife or for controlling erosion, designates and posts natural areas of critical ecological significance as areas in which on either a regular or seasonal basis as circumstances in each situation require that the public not exercise the public on-foot free right-of-passage; where there exists a structure, enclosure or other improvements made or allowed pursuant to any law or any license, permit or other authority issued or granted under the General Laws; or where there exist agricultural fences for purposes of enclosing livestock, provided that such area is clearly and conspicuously posted. The exercise of the public on-foot free right-of-passage in violation of the limitations and restrictions of this paragraph shall be punishable by a fine of not less than twenty nor more than fifty dollars.

In any action concerning the exclusion of the public on-foot free right-of-passage, the burden of proof shall be upon the person who seeks to exclude or limit the exercise of said public rights. Whenever it is found that a person seeks to exclude the public on-foot free right-of-passage by unlawfully posting said area, then such person shall be punished by a fine of not less than twenty nor more than fifty dollars.

Any interference with, or any acts making unsafe, the public on-foot free right-of-passage including, but not limited to, the use of force or maintenance of any fence or other obstruction not specifically authorized under the General Laws or a license, permit or other authority issued or granted under the General Laws, is hereby declared to be unlawful. This section may be enforced under section eleven D of chapter twelve of the General Laws or, in an action brought in district court by a person directly affected by a violation of this section, for such monetary and equitable relief as the court deems to be necessary and proper.

Any person who in exercising the public on-foot free right-of-passage deposits or causes to be deposited in the water or on the shore garbage, paper, refuse, bottles, cans, rubbish or trash of any kind or nature shall be punished by a fine of not less than twenty nor more than fifty dollars.

Except as to injuries proximately caused by a violation of this section, the exercise by the public of the public on-foot free right-of-passage shall be considered a permitted use to which the limited liability provisions of section seventeen C of chapter twenty-one of the General Laws shall apply.

It shall be the responsibility of the department of environmental management to implement the provisions of this section. The public on-foot free right-of-passage secured by the provisions of this section shall not become effective with respect to any particular parcel of private property until such time as the commissioner of the department of environmental management has filed an order of taking describing said property in the manner provided for by section three of chapter seventy-nine of the General Laws. Said commissioner shall also comply with all other provisions of said chapter seventy-nine as they apply to a public taking of an interest in private land. With respect to public land, the public on-foot free right-of-passage shall take effect on the effective date of this section and said commissioner need only comply with the notice provisions of chapter seventy-nine. The provisions of this section shall survive the expiration of the fiscal year.

**SECTION 5.** Said chapter 138 is hereby further amended by striking out section 221 and inserting in place thereof the



following section:-

**Section 221.** The secretary of administration and finance is hereby authorized and directed to establish the following fees for services.

Soldiers' Homes in Chelsea and Holyoke.

Hospital Care - Patients

monthly maximum charge of \$465

\$15 per day

The first \$1,000 of a married patient's monthly income shall be exempt and spousal income shall not be used in payment of these charges.

The first \$200 of an unmarried patient's monthly income shall be exempt.

Dormitory - Care Residents

monthly maximum charge of \$155

\$5 per day

The first \$200 of a resident's monthly income shall be exempt.

**SECTION 6.** Chapter 63 of the General Laws is hereby amended by striking out section 38M, inserted by section 130 of chapter 138 of the acts of 1991, and inserting in place thereof the following section:-

Section 38M. (a) A domestic or foreign corporation shall be allowed a credit against its excise due under this chapter equal to the sum of ten percent of the excess, if any, of the qualified research expenses for the taxable year, over the base amount; and fifteen percent of the basic research payments determined under subsection (e)(1)(A) of section forty-one of the Federal Internal Revenue Code. The terms, "qualified research expenses", "base amount", "qualified organization base period amount", "basic research", and any other terms affecting the calculation of said credit shall, unless the context otherwise requires, have the same meanings as under said section forty-one of said Code as amended and in effect on August twelfth, nineteen hundred and ninety-one but shall only apply to expenditures for research conducted in the commonwealth. In determining the amount of the credit allowable under this section, the commissioner of revenue may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by subsection (f)(1)(A) of section forty-one of said Code, and in addition may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined by subsection (f)(1)(B) of section forty-one of said Code.

(b) For purposes of section thirty, the deduction from gross income that may be taken with respect to any expenditures qualifying for a credit under said section forty-one of said Code as amended and in effect on August twelfth, nineteen hundred and ninety-one shall be based upon its cost less the credit allowable hereunder; provided, however, that subsection (c) of section two hundred and eighty C of said Code shall not apply.

(c) The credit allowed hereunder for any taxable year shall not reduce the excise to less than the amount due under subsection (b) of section thirty-two, subsection (b) of section thirty-nine, or section sixty-seven and under any act in addition thereto.

(d) The credit allowed under this section is limited to one hundred percent of a corporation's first twenty-five thousand dollars of excise, as determined before the allowance of any credits, plus seventy-five percent of the corporation's excise, as so determined in excess of twenty-five thousand dollars. The commissioner of revenue shall promulgate regulations similar

to those authorized under section 38(c)(2)(B) of the Internal Revenue Code for purposes of apportioning the twenty-five thousand dollars amount among members of a controlled group. Nothing in this section shall alter the provisions of section thirty-two C, as it affects other credits under this chapter.

(e) In the case of corporations filing a combined return of income under section thirty-two B, a credit generated by an individual member corporation under the provisions of this section shall first be applied against the excise attributable to that company under section thirty-two or thirty-nine, subject to the limitations of paragraphs (c) and (d). A member corporation with an excess research and development credit may apply its excess credit against the excise of another group member, to the extent that such other member corporation can use additional credits under the limitations of said paragraphs (c) and (d). Unused, unexpired credits generated by a member corporation shall be carried over from year to year by the individual corporation that generated the credit. Nothing in this section shall alter the provisions of paragraph (h) of section thirty-one A.

(f) Any corporation entitled to a credit under this section for any taxable year, may carry over and apply to its excise for any one or more of the next succeeding fifteen taxable years, the portion, as reduced from year to year, of its credit which exceeds its excise for the taxable year. Any corporation may carry over and apply to its excise for any subsequent taxable year the portion of those credits, as reduced from year to year, which were not allowed by paragraph (d).

(g) The commissioner of revenue shall promulgate such regulations as are necessary to implement this section.

(h) The provisions of this section shall apply to expenditures incurred on or after January first, nineteen hundred and ninety-one; in the case of any taxable year which begins before January first, nineteen hundred and ninety-one, and ends before December thirty-first, nineteen hundred and ninety-one, the base amount and the qualified organization base period amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount and the qualified organization base period amount for such year, determined without regard to this paragraph, as the number of days in such taxable year on or after January first, nineteen hundred and ninety-one, bears to the total number of days in that taxable year.

**SECTION 7.** This act shall take effect upon its passage.

*This bill was returned on August 14, 1991 by the Governor to the House of Representatives, the branch in which said bill originated, with his objections in writing to the following item:*

Item	Reduce by	Reduce to	Wording Stricken
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0411-1050	550,000	200,000	"provided that, notwithstanding the provisions of section three of chapter twelve of the General Laws or of any other general or special law to the contrary, the responsibility for the representation of the Commonwealth in such cases shall be the responsibility of the governor or his designee..."
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*The remainder of the bill was approved by the Governor on August 14, 1991.*

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**Chapter 177.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Sheldon Isenberg in the town of Dedham on September first, nineteen hundred and ninety-one, between Lisa Wolk of the town of Natick and David Larcenaire of the town of Methuen, and the state secretary shall issue to said Sheldon Isenberg a certificate of such authorization.

Approved August 16, 1991.

**Chapter 178.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Samuel E. Zoll, the chief justice of the district court department of the trial court, in the town of Chatham on August eighteenth, nineteen hundred and ninety-one between William Starr of the city of Newton and Meredith Beaton of the town of Mansfield, and the state secretary shall issue to said Honorable Samuel E. Zoll in his capacity as aforesaid a certificate of such authorization.

Approved August 16, 1991.

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**Chapter 179.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth in said section thirty-nine, the solemnization of a marriage by Thomas E. Connolly in the town of Concord on August seventeenth, nineteen hundred and ninety-one between Siobhan O'Brien and Richard H. DiNatale, both of the town of Dedham and the state secretary shall issue to said Thomas E. Connolly a certificate of such authorization.

Approved August 16, 1991.

**Chapter 180.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine the solemnization of a marriage by Sally P. Kerans as she is a representative in the general court of the commonwealth in the city of Beverly on August seventeenth, nineteen hundred and ninety-one between Lisa Meredith Meyers of the town of Danvers and Sherman William Henderson of the town of Rolla in the state of North Dakota, and the state secretary shall issue to said Sally P. Kerans in her capacity as aforesaid a certificate of such authorization.

Approved August 16, 1991.

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**Chapter 181.           AN ACT RELATIVE TO ELECTIONS IN THE CITY OF  
WORCESTER IN THE CURRENT YEAR.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law or the charter of the city of Worcester to the contrary, if upon the expiration of time for the filing of nomination papers for the office of city councillor at-large in said city for the municipal election to be held in the year nineteen hundred and ninety-one, the number of persons so filing is less than fourteen, there shall be no preliminary election for said office and all persons whose nomination papers are duly certified shall be deemed to have been nominated.

**SECTION 2.** This act shall take effect upon its passage.

Approved August 20, 1991.

**Chapter 182.           AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF  
THE ANNUAL TOWN MEETING IN THE TOWN OF  
WEYMOUTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings of the town of Weymouth at its annual town meeting held on May sixth, nineteen hundred and ninety-one and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if the warrant for such meeting had been published and posted as required by law.

**SECTION 2.** This act shall take effect upon its passage.

Approved August 21, 1991.

**Chapter 183.           AN ACT RELATIVE TO THE FIRE DEPARTMENT OF THE  
TOWN OF NANTUCKET.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section one of chapter three hundred and eighty-eight of the acts of nineteen hundred and thirteen is hereby repealed.

**SECTION 2.** There shall be a fire department established in the town of Nantucket under the direction of the board of selectmen, who shall appoint a chief

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of the fire department. The chief shall have a three year term of office, which may be renewed for succeeding three year terms.

**SECTION 3.** The board of selectmen may make suitable regulations governing the fire department and the officers and firefighters thereof after consideration of the recommendations of the chief, and may remove the chief at any time for cause and after a hearing. The chief shall be in immediate control of all town property used by the department, and of the officers and firemen, who shall obey his orders.

**SECTION 4.** So much of any act as is inconsistent herewith shall not apply to the town of Nantucket and shall not have any force and effect.

**SECTION 5.** This act shall take effect upon its passage.

Approved August 21, 1991.

**Chapter 184.        AN ACT RELATIVE TO THE HOME RULE CHARTER OF  
                         THE CITY KNOWN AS THE TOWN OF METHUEN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 7-1 of article 7 of the charter of the city known as the town of Methuen, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

On the sixth Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates.

**SECTION 2.** This act shall be submitted to the voters of the city known as the town of Methuen in the form of the following question which shall be placed on the ballot for the next regular municipal election:

"Shall an act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act relative to the Home Rule Charter of the City Known as the Town of Methuen' be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

*Emergency Letter: August 21, 1991 @ 4:53 P.M.*

Approved August 21, 1991.

**Chapter 185.        AN ACT RELATIVE TO THE ELECTION OF A SCHOOL  
                         COMMITTEE IN THE CITY OF SALEM IN THE CURRENT  
                         YEAR.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Notwithstanding the provisions of any general or special law or the charter of the city of Salem to the contrary, there shall be no preliminary election for the office of school committee in said city of Salem in the year nineteen hundred and ninety-one and all persons whose nomination papers are duly certified shall be deemed to have been nominated.

**SECTION 2.** This act shall take effect upon its passage.

Approved August 21, 1991.

**Chapter 186.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Peter Katsufakis, as he is a justice in the state of California, in the city of Boston on September eighth, nineteen hundred and ninety-one between Anne Louise Lougee and Roger Duane Colton, both of the town of Belmont, and the state secretary shall issue to said Honorable Peter Katsufakis in his capacity as aforesaid a certificate of such authorization.

Approved August 22, 1991.

**Chapter 187.      AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF  
CARIBBEAN WEEK.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 15PPP, inserted by chapter 432 of the acts of 1990, the following section:-

Section 15QQQ. The governor shall annually issue a proclamation setting apart the last week of August as Caribbean Week and recommending that said week be observed in an appropriate manner by the people.

*Emergency Letter: August 22, 1991 @ 4:58 P.M.*      Approved August 22, 1991.

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**Chapter 188.****AN ACT ESTABLISHING THE U.S.S. LEXINGTON DEVELOPMENT CORPORATION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the establishment of the U.S.S. Lexington Development Corporation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** It is hereby found and declared that a need exists to instill recognition, pride and patriotism in the citizens of the commonwealth, the United States of America and the international community regarding the vital contributions that the city of Quincy and the commonwealth have made to the development of this nation and its national heritage in the fields of shipbuilding, maritime history, national defense efforts, the national economy and other achievements important to the general history of the nation.

In furtherance of the above, it is hereby declared to be the policy of the commonwealth to assist with the acquisition of the U.S.S. Lexington and develop and improve the physical complex area servicing the ship and provide a location for the education and recreation for citizens, guests and visitors. In doing so, the corporation herein established, will acquire, refurbish and maintain the U.S.S. Lexington and the adjacent physical complex in order that it will serve as a major attraction for local citizens and tourists. The corporation will also establish and develop a national museum of shipbuilding history which will maintain records, manuscripts, log books, artifacts, works of art, oral histories and other historical materials and provide exhibitions and displays and otherwise educate visitors as to the importance of the commonwealth's maritime and shipbuilding history and its importance to the United States of America. Said activities will provide a significant impetus to tourism and otherwise stimulate the economy of the commonwealth.

It is hereby further found and declared that the purposes and powers conferred herein constitute a valid public purpose and that the enactment of the provisions hereinafter set forth is in the public interest and is hereby so declared to be such as a matter of determination by the general court.

**SECTION 2.** (a) There is hereby created within the executive office of economic affairs a body politic and corporate to be known as the U.S.S. Lexington Development Corporation which shall not be subject to the supervision or control of the executive office of economic affairs or any other board, bureau, department or agency of the commonwealth except to the extent and in the manner specifically provided in this act. The corporation is hereby constituted a public instrumentality



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and the exercise by the corporation of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function.

(b) The corporation shall be governed and its corporate powers exercised by or under the supervision of a board of directors which shall consist of nine directors. All directors shall be appointed, and a chairman designated, by the mayor of the city of Quincy. Nothing contained herein shall be construed to prevent the mayor of the city of Quincy from appointing himself or his designee as a member of the board of directors. Three members of the board initially appointed shall serve for a term of one year, three members of the board initially appointed shall serve for a term of two years and three members of the board of directors initially appointed shall serve for a term of three years. Persons appointed to terms succeeding the terms of members initially appointed shall be appointed to serve terms of three years. Each member of the board of directors shall serve until his successor is appointed and qualified and each appointed member of the board of directors shall be eligible for reappointment.

Each member of the board of directors appointed to fill a vacancy on the board shall be appointed for the unexpired term of the vacant position. Any member of the board of directors may be removed by the appointing authority for misfeasance, malfeasance or wilful neglect of duty upon the filing by the appointing authority with the secretary of the commonwealth of a statement of facts and circumstances which form the basis for such removal.

(c) Five of the directors shall constitute a quorum and the affirmative vote of five directors shall be necessary for any action to be taken by the board. The members of the board shall serve without compensation, but each member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

(d) The provisions of chapter two hundred and sixty-eight A shall apply to all directors or their designees and employees of the corporation. Employment by the commonwealth, the city of Quincy or service in any agency thereof shall not be deemed to be an interest or involvement for purposes of chapter two hundred and sixty-eight A.

(e) The corporation may employ an executive director and such other employees, full time or seasonal, as the board of directors deems necessary to operate the corporation and carry out its activities.

(f) The corporation shall continue as long as it shall have bonds outstanding and until its existence is terminated by law. Upon the termination of the existence of the corporation, all right, title and interest in all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(g) The corporation shall not receive financial assistance of any kind from the Commonwealth of Massachusetts during its existence.

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**SECTION 3.** The corporation shall have all powers necessary or convenient to carry out and effectuate its purposes, including, without limiting the generality of the foregoing, the powers:

(a) to adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business;

(b) to adopt an official seal;

(c) to sue and be sued, to prosecute and defend actions relating to its properties and affairs, and to be liable in tort in the same manner as a private person; provided, however, that the corporation is not authorized to become a debtor under the United States Bankruptcy Code;

(d) to appoint officers and employees and to engage consultants, agents and advisors;

(e) to enter into contracts and agreements including contracts with the federal government and its agencies and execute all instruments necessary or convenient; such contracts and agreements may include, without limiting the foregoing, construction agreements, purchase or acquisition agreements, loan or lease agreements, partnership agreements, joint ventures, participation agreements or loan agreements;

(f) to acquire personal or real property, or any interest therein, on either a temporary or permanent basis in the name of the corporation by gift, purchase, transfer, foreclosure, lease or otherwise including rights or easements; to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property or any interest therein, or mortgage any interest owned by it or under its control, custody or in its possession; to release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; to take assignments of leases and rentals, proceed with its foreclosure actions or take any other actions necessary or incidental to the performance of its corporate purposes;

(g) to take property by eminent domain under chapter seventy-nine of the General Laws whenever appropriations have been made therefor by the board of directors; provided that the eminent domain powers of the corporation shall be limited to any site not exceeding twenty acres adjacent to the berthing dock for the U.S.S. Lexington, including the docks and related facilities;

(h) to obtain insurance;

(i) to apply for and accept grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes;

(j) to borrow money, issue bonds and apply the proceeds thereof as provided in section four;

(k) to establish and collect fees and charges as the corporation shall determine to be reasonable; and to receive and apply revenues from fees and charges to the

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purposes of the corporation;

(l) to enjoy exclusive jurisdiction over the lands, water, shores, marshes, piers, docks, parking lots, buildings and the U.S.S. Lexington which shall comprise the Lexington Commission Complex, hereinafter referred to as the complex subject only to the rights enjoyed by the United States of America, or the Commonwealth of Massachusetts and any common law rights which the public may have in intertidal land; the complex shall be located in the city of Quincy and shall not exceed twenty acres in size;

(m) to dredge and remove, or replace fill in the water adjacent to the berth of the U.S.S. Lexington subject to all state and federal laws and regulations with respect to dredging and filling;

(n) to establish rules and regulations for the operation of the complex;

(o) to provide services free of charge, at the discretion of the board of directors, to local, state and federal agencies; and

(p) to exercise any other powers of a corporation organized under chapter one hundred and fifty-six B.

**SECTION 4.** (a) In order to raise funds for the acquisition of personal and real property including land acquisition costs, capital expenditures including construction and equipment costs relating to the complex and initial operational expenses, the corporation is authorized to issue bonds in an amount not to exceed ten million dollars. Bonds issued by the corporation shall not constitute a debt or pledge of faith and credit of the commonwealth or of any of its political subdivisions but shall be payable solely from the revenues provided for under a financing document in connection therewith or from reserve funds or other funds of the corporation or from funds derived from the issuing of duly authorized refunding bonds. All bonds issued by the corporation shall suitably state that the bonds are not an obligation of the commonwealth or of any of its political subdivisions but are payable solely from the funds specifically pledged for their payment.

(b) The corporation shall provide for issuance of its bonds from time to time by resolution of the board of directors. An issue of bonds of the corporation may combine more than one of the corporation's authorized purposes for borrowing money. Bonds issued by the corporation may be issued as general obligations of the corporation or as special obligations payable solely from particular revenues or funds, as may be provided for in any financing document pertaining thereto. Bonds of each issue may be dated, may bear interest at such rate or rates, including rates variable from time to time, may be payable in any domestic or foreign currency and at any domestic or foreign location, and may mature or otherwise be payable at such time or times as may be provided for by the corporation and may be made redeemable or determinable before maturity at the option of the corporation or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the corporation. The corporation shall determine

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the manner of execution of such bonds, and shall fix the denomination or denominations of such bonds and the place or places of payment of principal, redemption premium, if any, and interest thereon. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be such officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes of as if such officer had remained in office until delivery. The corporation may provide for authentication of bonds by a trustee, fiscal agent, registrar or transfer agent. Bonds shall be issued in registered form. The corporation may also establish and maintain a system of registration for any bonds whereby the name of the registered owners, the rights evidenced by the bonds, the transfer of the bonds and such rights and other similar matters are recorded in books or other records maintained by or on behalf of the corporation, and no instrument evidencing such bond or rights need be delivered to the registered owner by the corporation. A copy of the books or other records of the corporation pertaining to any bond registered under such registration system certified by an authorized officer of the corporation or by the agent of the corporation maintaining such system shall be admissible in any proceeding without further authentication. The board may by resolution delegate to any director or directors or officer or officers of the corporation or any combination thereof the power to determine any of the matters set forth in this section. In the discretion of the corporation, bonds of the corporation may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The corporation may sell its bonds in the manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount in lieu of interest, as it determines will best effect its corporate purposes.

(c) The corporation may issue interim receipts to temporary bonds exchangeable for definitive bonds when the bonds shall have been executed and are available for delivery. The corporation may also provide for replacement of any bonds which shall have become mutilated or shall have been destroyed or lost. The corporation, by itself or through such agent as it may select, may purchase and invite offers to tender for purchase any bonds of the corporation at any time outstanding, provided, however, that no such purchase by the corporation shall be made at a price, exclusive of accrued interest, if any, exceeding the principal amount thereof or, if greater, the redemption price of such bonds when next redeemable at the option of the corporation, and may resell any bonds so purchased in such manner and for such price as it may determined will best effect its corporate purposes.

**SECTION 5.** (a) Bonds issued by the corporation, their transfer and the income therefrom, including any profit made on the sale thereof, shall, at all times, be exempt from taxation by and within the commonwealth.

(b) The corporation shall be exempt from any corporate or franchise tax under

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chapter sixty-three of the General Laws or any other relevant general or special law.

(c) All real and personal property owned by the corporation shall be exempt from taxes or assessments of the commonwealth, any agency thereof or the city of Quincy.

**SECTION 6.** The books and records of the corporation shall be subject to a biennial audit by the auditor of the commonwealth.

**SECTION 7.** The corporation shall annually submit to the governor, the chairman of the senate ways and means committee, the chairman of the house ways and means committee, the commissioner of administration, the comptroller, the mayor of the city of Quincy and the president of the Quincy city council within ninety days after the end of its fiscal year, a complete and detailed report setting forth its operation and accomplishments, including all projects, loans or bonds; its receipts and expenditures during such fiscal year in accordance with the categories and classifications established by the corporation for its operating and capital outlay purposes; and its assets and liabilities at the end of the fiscal year, including a schedule of its commitments and status of funds.

Approved August 23, 1991.

**Chapter 189.        AN ACT AUTHORIZING THE TOWN OF LUNENBURG TO  
PAY A CERTAIN UNPAID BILL.**

*Be it enacted, etc., as follows:*

The town of Lunenburg is hereby authorized to appropriate money for the payment of and after such appropriation the treasurer of said town is authorized to pay to Kendall Boiler & Tank Co., Inc. a sum not to exceed ten thousand five hundred and eighty-five dollars for certain boiler repairs at the T. C. Passios elementary school in the year nineteen hundred and ninety, notwithstanding the failure of said town to comply with the appropriate provisions of law relative to competitive bidding in the awarding of contracts.

Approved August 26, 1991.

**Chapter 190.        AN ACT DESIGNATING A CERTAIN SKATING RINK AS  
THE THEODORE J. ALEIXO, JR. SKATING RINK.**

*Be it enacted, etc., as follows:*

The skating rink located on Williams street in the city of Taunton shall be designated and known as the Theodore J. Aleixo, Jr. Skating Rink, in honor of

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Theodore J. Aleixo, Jr. and his twenty-two years of service as mayor and state legislator. A suitable marker bearing such designation shall be attached thereto by the department of environmental management.

*The foregoing was laid before the Governor on the 15th of August, 1991 and after ten days it had the force of a law, as prescribed by the Constitution as it was not returned by him with objections thereto within that time.*

**Chapter 191.        AN ACT AUTHORIZING THE GREATER NEW BEDFORD  
REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL  
DISTRICT TO CONVEY A CERTAIN PARCEL OF LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The Greater New Bedford Regional Vocational Technical High School District is hereby authorized to convey a certain parcel of land with buildings thereon to Edward J. Rostocki and Nellie M. Rostocki in conformity with an offer made by them pursuant to chapter thirty B of the General Laws. Said parcel is shown on a plan recorded at the county registry of deeds in the county of Bristol southern district, being Lot "B" in Plan Book 118, Page 34, dated May 7, 1987 by Tibbetts Engineering Corp.

**SECTION 2.** This act shall take effect upon its passage.

Approved August 28, 1991.

**Chapter 192.        AN ACT ESTABLISHING A CERTAIN RESERVE FUND IN  
THE TOWN OF OAK BLUFFS FOR THE CONSTRUCTION  
OF FIRE DEPARTMENT FACILITIES AND CERTAIN DE-  
PARTMENTAL EQUIPMENT.**

*Be it enacted, etc., as follows:*

The town of Oak Bluffs is hereby authorized to establish in the town treasury a fund which shall be kept separate and apart from all other monies by the town treasurer and in which shall be deposited only the receipts from the sale or sales of the Lake street fire station, fire station number three and fire station number four. The principal thereon shall be expended without further appropriation under the direction of said town treasurer and the board of selectmen for the purchase of fire trucks and the repayment of any borrowing incurred as the result of the construction of fire department facilities.

Approved August 28, 1991.

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**Chapter 193.**

**AN ACT TO REORGANIZE THE DIVISION OF ENERGY RESOURCES TO MAKE THE OPERATION OF GOVERNMENT MORE EFFICIENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 9 of chapter 6A of the General Laws, as amended by section 2 of chapter 730 of the Acts of 1989, is hereby further amended by striking out the words "the division of energy resources and all other state agencies within said division;"

**SECTION 2.** Section 17 of said chapter 6A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting in line 8, after the word "office;" the words:- the division of energy resources;.

**SECTION 3.** Chapter 25A of the General Laws, as amended by section 4 of chapter 730 of the Acts of 1989, is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. There shall be within the executive office of economic affairs a division called the Massachusetts division of energy resources, under the supervision of a commissioner of energy resources, hereinafter the commissioner. The duties given to the commissioner in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary of economic affairs. The commissioner shall be appointed by the secretary of economic affairs, with the approval of the governor, and may, with like approval, be removed. Said commissioner shall serve a term coterminous with that of the governor. The position of commissioner shall be classified in accordance with section forty-five of chapter thirty of the general laws and the salary be determined in accordance with section forty-six C of said chapter thirty. The commissioner shall devote full time during business hours to the duties of the office.

**SECTION 4.** Section 2 of chapter 25A of the General Laws, as so appearing in the 1988 Official Edition, is hereby amended by striking out the third paragraph.

**SECTION 5.** Section 3 of said chapter 25A, as amended by section 7 of chapter 730 of the Acts of 1989, is hereby further amended by striking out the definition of "Secretary".

**SECTION 6.** Section 44M of chapter 149 of the General Laws, as amended by sections 34 and 35 of chapter 730 of the Acts of 1989, is hereby amended by striking the third, fourth and fifth paragraphs and inserting in place thereof the following paragraphs:-

Prior to the preparation of plans and specifications for the purposes of bidding requirements of said sections forty-four A to forty-four L inclusive, the awarding authority shall ensure that the life-cycle cost estimates have been completed and

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shall file summaries of said cost estimates with the building code commission and the secretary of economic affairs. No construction project shall be advertised for bids by any such awarding authority, nor shall any contract for construction be awarded by such authority, nor shall any building permit be issued until said summaries of cost estimates have been filed with the building code commission and with the secretary of economic affairs and approved by the secretary of economic affairs.

Any contractor for architectural services necessary to the preliminary design of a new building who fails to obtain life-cycle cost estimates in the performance of a contract containing language which stipulates such, shall be prohibited by the secretary of economic affairs from contracting, directly or indirectly, with the commonwealth or any political subdivision thereof for similar architectural services for a period of one year from the date of determination of said violation.

The secretary of economic affairs may offer to all public awarding authorities and other interested parties assistance and training in the performance of the requirements of this section. The secretary of economic affairs shall promulgate rules and regulations to implement the provisions of this section.

**SECTION 7.** Section 69H of chapter 164 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by adding after the word "cost." in line 5 the following sentence:- Said council shall be an independent agency within the executive office of consumer affairs and business regulation.

**SECTION 8.** Section 69H of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "commissioner of energy resources who shall be the chairman of the council." and inserting in line 8 after the word "affairs," the following words:- who shall be the chairman of the council, the commissioner of energy resources,.

**SECTION 9.** The second paragraph of said section 69H of chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out the fifth sentence in lines 31 and 34 and inserting in place thereof the following sentence:- In the event of the absence or disqualification of the secretary of consumer affairs and business regulation, said secretary shall appoint an acting chair.

**SECTION 10.** All employees of any department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act to the executive office of economic affairs or any such agency thereof, who immediately prior to the effective date of this act, either hold permanent appointment in positions classified under chapter thirty-one of the General Laws or have tenure in their positions by reason of section nine A of chapter thirty of the General Laws, are hereby transferred to the executive office of economic affairs, or any such agency thereof, every such transfer to be without impairment of civil service status, seniority, retirement or other rights of the employee and without interruption of service within the meaning of chapter



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thirty-one or said section nine A and without reduction in compensation or salary grade notwithstanding any change in title or duties resulting from such transfer, subject to the provisions of chapter thirty-one and the rules and regulations adopted thereunder.

All employees of any such department, office, commission, council, board, division, bureau, section, administrative unit or other agency who, immediately prior to said effective date, neither hold permanent appointment in such positions nor have such tenure, are hereby transferred to the executive office of economic affairs or any such agency thereof, every such transfer to be without impairment of seniority, retirement or other rights of such employees, and without interruption of service within the meaning of section nine A of chapter thirty and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to said effective date.

**SECTION 11.** All petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit or other agency transferred by this act to the executive office of economic affairs or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed before or by the executive office or the appropriate agency thereof, as the case may be.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted, and all legal and decisional precedents established, by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit or other agency transferred by this act to the executive office of economic affairs or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law, by the division or the appropriate agency within the executive office or the executive office, as the case may be.

All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, permits, certificates and approvals, and of the agencies to which the completion of enforcement thereof is so transferred, shall be determined by the secretary of the executive office to which the department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act is being

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transferred.

**SECTION 12.** All books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities and other property, both personal and real, which immediately prior to the effective date of this act, are in custody of any department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act to the executive office of economic affairs or any such agency thereof, are hereby transferred to the appropriate agency, that all such property held in trust shall continue to be held in trust by the appropriate agency, or if such agency shall continue to be held in trust by the appropriate agency, or if such agency shall decline such trust, by the trustee appointed by the secretary of administration and finance.

All questions regarding the identification of such property and of the agencies to which custody thereof is transferred shall be determined by the secretary of administration and finance.

**SECTION 13.** All duly existing contracts, memoranda of understanding, leases and obligations of any department, office, commission, committee, council, board, division, bureau, officer, section, administrative unit or other agency transferred by this act of the executive office of consumer affairs and business regulation or any such agency thereof, which are in force immediately prior to the effective date of this act, shall thereafter be performed by the appropriate division, the appropriate agency and/or the appropriate executive office. No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

**SECTION 14.** All monies heretofore appropriated for any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer or other agency transferred by this act to the executive office of economic affairs or any such agency thereof, remaining unexpended on the effective date of this act, are hereby transferred to said executive office and shall be available for expenditure by said executive office or the appropriate agency thereof for the purposes for which such funds were originally appropriated.

All questions regarding the identification of such monies and of the agencies to which they are so transferred shall be determined by the secretary for administration and finance.

**SECTION 15.** Wherever the name of any department, office, committee, commission, council, board, division, bureau, section, administrative unit or agency transferred by this act or the name of any agency which is abolished by this act the functions of which are transferred to the executive office of economic affairs or any such agency thereof, appears in any general or special law, or in any order, rule, regulation or other document, such name shall mean and shall be construed as referring to the division, the executive office or the appropriate agency thereof, as the case may be.

**SECTION 16.** Wherever in any special or general law or in any rule or

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regulation there is provided a right of appeal to any department, office, commission, committee, council, board, division, bureau, section, administrative unit, or officer of other agency transferred by this act to the executive office of economic affairs or any such agency thereof, a right of appeal to the division, the appropriate agency within the executive office, or to the executive office as the case may be, shall exist and such appeal shall be made pursuant to the provisions of any applicable law, rule or regulation or amendments thereto or, in the absence of such applicable law, rule or regulation, pursuant to chapter thirty A of the General Laws.

**SECTION 17.** All functions, rights, obligations, powers, duties and statutory provisions which, prior to the effective date of this act, were assigned to, or exercised by, any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer or other agency transferred by this act to the executive office of economic affairs or any such agency thereof, shall continue to be exercised and performed by, and to be assigned to the division, the appropriate agency or officer within the executive office or any such agency thereof except as such powers, duties or other statutory provisions are modified by this act.

**SECTION 18.** This act shall take effect upon expiration of sixty calendar days following its presentation to the general court pursuant to article LXXXVII of the Massachusetts constitution.

**SECTION 19.** If any provision of this act, or the application to any person or circumstance, shall be declared invalid under the constitution of the commonwealth or of the United States, such invalidity shall not affect the validity of the remaining provisions of this act.

*The foregoing was filed with the General Court and received by the Clerk of the House of Representatives on April 30, 1991. Not having been disapproved in either the House of Representatives or the Senate, under the Provisions of Article LXXXVII of the Amendments to the Constitution it has force of law effective June 30, 1991.*

**Chapter 194.**

**AN ACT AUTHORIZING THE ESTABLISHMENT OF THE POSITION OF COMMISSIONER OF CODE ENFORCEMENT IN THE CITY OF SPRINGFIELD AND THE CREATION OF A DEPARTMENT OF CODE ENFORCEMENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Springfield is hereby authorized to establish by ordinance the position of commissioner of code enforcement, hereinafter called the commissioner. Said commissioner shall have all the powers and duties vested in the building commissioner, housing code enforcement director and the sealer

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of weights and measures of said city. In addition to such duties as may be established, from time to time by ordinance, statute or rule and regulation, the commissioner or his designee shall enforce the provisions of chapter forty A, section one hundred and seventy-six to one hundred and eighty, inclusive, of chapter ninety-four, chapter ninety-eight, chapter ninety-nine, sections one hundred and twenty-seven to one hundred and twenty-seven L, inclusive, of chapter one hundred and eleven, chapter one hundred and forty-three and section thirty-two of chapter one hundred and sixty-six of the General Laws, chapter three hundred and forty-nine of the acts of nineteen hundred and ten and chapter eight hundred and forty-two of the acts of nineteen hundred and sixty-seven.

**SECTION 2.** The commissioner shall be an architect, as defined in section sixty A of chapter one hundred and twelve of the General Laws or professional engineer, as defined in section eighty-one D of said chapter one hundred and twelve and shall be subject to the residency ordinance of the city of Springfield. Said commissioner shall be appointed by the mayor for a term of five years and shall be subject to removal for cause in accordance with the charter of said city. He shall be exempt from the provisions of section nine A of chapter thirty and chapter thirty-one of the General Laws.

**SECTION 3.** Upon the appointment of a commissioner, the positions of building commissioner, housing code enforcement director and sealer of weights and measures in the city of Springfield are abolished. The persons holding said positions at the time of such appointment shall become deputies to the commissioner and shall perform such duties as may be specified by ordinance or assigned by the commissioner. The provisions of this section shall not impair the civil service status of any person holding such positions at the time of appointment of a commissioner.

**SECTION 4.** The city of Springfield is hereby authorized to establish, by ordinance, a department of code enforcement, hereinafter called the department. The department shall have all the powers, duties, rights, liabilities, responsibilities and functions of the building department, housing code enforcement department and the sealer of weights and measures department which shall be abolished upon the establishment of the department and their administrative units shall be transferred to the department. The department shall have such other powers, duties, rights, responsibilities and functions as may from time to time be assigned thereto by ordinance, statute, rule or regulation of said city.

**SECTION 5.** All officers and employees of any department abolished who have tenure in these positions by reason of section nine of chapter thirty of the General Laws or hold permanent appointment in positions classified under chapter thirty-one of the General Laws are hereby transferred to the department, every such transfer to be without impairment of civil service status, seniority, retirement or other rights of the employee without interruption of service within the meaning of

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section nine A of said chapter thirty and said chapter thirty-one and without reduction in compensation and salary grade, notwithstanding any change in title or duties as a result of such transfer subject however to the provisions of said chapter thirty-one and the rules and regulations established thereunder. All officers and employees of any such department abolished who do not hold permanent appointment in such positions, or do not hold such tenure, are hereby transferred to said department without impairment of seniority, retirement, and other rights, without interruption of service within the meaning of said section nine A of said chapter thirty, and without reduction in compensation and salary grade. Nothing in this section shall be construed to confer upon any officer or employee any rights not held prior to such transfer or to prohibit any subsequent reduction in compensation or salary grade not prohibited prior to such transfer.

**SECTION 6.** This act shall take effect upon its passage.

Approved August 29, 1991.

**Chapter 195.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Robert Epsteiner in the town of Brookline on September first, nineteen hundred and ninety-one between Amy Werbin and William M. Morgante, both of the city of Boston, and the state secretary shall issue to said Robert Epsteiner a certificate of such authorization.

Approved August 29, 1991.

**Chapter 196.        AN ACT RELATIVE TO LICENSING OF REAL ESTATE  
BROKERS AND SALESMEN.**

*Be it enacted, etc., as follows:*

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Notwithstanding any general or special law to the contrary, the Real Estate Board is hereby authorized to issue, within the next twelve months, without examination, a license to George Clayman of Puritan Road, Swampscott, Massachusetts, subject to the payment of the appropriate licensing fee.

Approved September 5, 1991.

**Chapter 197.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by James W. Cashman of Newton, in the town of Amesbury, on October fifth, nineteen hundred and ninety-one, between Julie B. Hume and Marc M. Deschenes, both of the town of Amesbury, and the state secretary shall issue to said James Cashman a certificate of such authorization.

Approved September 5, 1991.

**Chapter 198.      AN ACT AUTHORIZING THE PARK AND RECREATION  
COMMISSION OF THE TOWN OF BROOKLINE TO SET  
CERTAIN FEES, SUBJECT TO THE APPROVAL OF THE  
BOARD OF SELECTMEN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, unless otherwise provided by by-law, the park and recreation commission of the town of Brookline shall have the authority to set the fees and charges for all park and recreation programs, activities, facilities and services, subject to the approval of the board of selectmen.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 12, 1991.

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**Chapter 199.           AN ACT RELATIVE TO THE MEMBERSHIP OF THE SOUTH-EASTERN REGIONAL PLANNING AND ECONOMIC DEVELOPMENT DISTRICT.**

*Be it enacted, etc., as follows:*

Section 12 of chapter 40B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 9, the word "shall", the first time it appears, and inserting in place thereof the words:- need not.

Approved September 12, 1991.

**Chapter 200.           AN ACT ESTABLISHING A RECEIVERSHIP FOR THE CITY OF CHELSEA.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The general court hereby finds that:

(1) The city of Chelsea has a projected structural deficit for fiscal year nineteen hundred and ninety-two of nine million five hundred thousand dollars, which is twenty-one percent of its total expenditures.

(2) Without significant changes said city will have a structural deficit in fiscal year nineteen hundred and ninety-three greater than that of fiscal year nineteen hundred and ninety-two.

(3) As a result of such structural deficits, said city is unable to obtain an approved balanced budget and is in fiscal crisis.

(4) Without an approved balanced budget, said city is unable to make annual contracts to provide essential services, including the hiring of teachers to work in its schools.

(5) Said city will be unable to provide other essential services, including fire and police protection.

(6) Said fiscal crisis poses an imminent danger to the safety of the citizens of said city and their property.

(7) Said city will be unable to collect property taxes for the second half of fiscal year nineteen hundred and ninety-two.

(8) Said city will be unable to obtain reasonable access to credit markets.

(9) The Chelsea finance control board established in nineteen hundred and eighty-six to secure the financial stability of said city has been unable to establish financial stability.

(10) Said city has received emergency assistance from the commonwealth of one million four hundred seventeen thousand dollars and nine hundred sixty

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thousand dollars in fiscal years nineteen hundred and ninety and nineteen hundred and ninety-one, respectively.

(11) More than forty-four percent of the revenue of said city for the last five fiscal years has been in the form of financial aid from the commonwealth.

(12) Said city failed to meet its payroll on June seventh, nineteen hundred and ninety-one, and does not have an approved budget to meet its payroll for September, nineteen hundred and ninety-one.

(13) The secretary of administration and finance has issued a statement of findings verifying the facts set forth in this section and has recommended the establishment of a receivership for the city.

(14) In order to institute a comprehensive long-term solution to the city's financial problems, it is necessary to dissolve the Chelsea finance control board, and establish a receivership for the city, giving to a receiver the powers necessary to carry out the provisions of this act.

(15) The governor has recommended to the general court pursuant to Section 8 of Article LXXXIX of the Articles of Amendment to the Constitution that legislation be enacted to resolve the financial emergency in said city and to restore fiscal stability to said city.

**SECTION 2.** As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:-

"Board of aldermen", the board of aldermen for the city of Chelsea established under its charter.

"Charter", the charter of the city of Chelsea as provided in chapter six hundred and eighty of the acts of nineteen hundred and eleven.

"Chelsea finance control board", the board established pursuant to chapter one hundred and forty-seven of the acts of nineteen hundred and eighty-six.

"City", the city of Chelsea.

"Constitution", the Constitution of the Commonwealth of Massachusetts.

"Receivership", the form of governance headed by a receiver as established by this act.

"School committee", the school committee of the city of Chelsea established under its charter.

"Secretary", the secretary of the executive office for administration and finance.

"Structural deficit", a negative balance in revenues as compared with expenditures which cannot be controlled by reducing expenditure without changing the structure of government.

**SECTION 3.** Notwithstanding the provisions of any general or special law, any provision of the charter or any city ordinance to the contrary, a receivership is hereby established in the city of Chelsea.

(1) Said receivership shall continue until June thirtieth, nineteen hundred and ninety-four; provided, however, that thereafter the secretary may extend the



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receivership for additional one year terms; and provided, further, that in no case shall the receivership continue after December thirty-first, nineteen hundred and ninety-six. At least one month before any decision to extend said receivership, the secretary shall hold a public hearing in the city for the purpose of determining whether the continuation of said receivership is necessary to accomplish the purposes of this act. The secretary shall hold the hearing at a time and place which offers the residents of the city convenient access to the hearing.

(2) Said receiver shall be the chief executive officer of the city and shall be responsible for the overall operation and administration of the city.

(3) Said receiver shall be a person especially suited by education, training, and experience to perform the duties of the receiver and shall not be either an elected or appointed official of the city.

(4) Said receiver shall be appointed by the governor for an initial term of one year.

(5) Said receiver shall report to the secretary, who shall have authority to reappoint the receiver for additional one-year terms; provided, however, that in no case shall the receivership continue after December thirty-first, nineteen hundred and ninety-six. The secretary may also terminate the receiver for cause at any time. If the secretary does not reappoint the receiver, the governor shall appoint a new receiver who shall carry out and be subject to the provisions of this act.

(6) Upon the appointment of the receiver, the powers and authority of the receiver shall supersede the powers and authority of the Chelsea finance control board, which shall thereupon cease to exist. Upon the effective date of this act, the mayor of said city shall cease to hold the office of mayor and shall not thereafter exercise official acts or perform official duties. The office of mayor shall remain vacant during the receivership established by this act. During the period of said receivership all city elections shall take place as provided in the city charter with the exception of the office of the mayor. All elected officials shall serve in an advisory capacity to said receiver.

(7) The secretary shall determine the salary of the receiver and shall approve other costs of the office of the receiver, which shall be paid by the commonwealth from an account established within the executive office for administration and finance.

(8) The receiver shall be immune from civil liability arising from the exercise of his duties.

**SECTION 4.** The receiver shall be responsible for formulating and implementing a city recovery plan with the following objectives:

(1) to secure the fiscal stability of the city, including the establishment of a balanced annual budget, a five year operating and capital outlay plan, and the implementation of prudent financial management techniques, including generally accepted accounting principles;

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(2) to establish a stable balance of revenue sources, including fees, taxes, special assessments and local aid;

(3) to enhance and promote opportunities for economic development, including particularly the expansion of the property tax base;

(4) to reduce costs, including the restructuring of services, if necessary; and

(5) to maintain and strengthen local services.

**SECTION 5.** Notwithstanding the provisions of any general or special law, the charter or any city ordinance to the contrary, all powers vested in the mayor prior to the effective date of this act shall be vested in said receiver upon his appointment. The board of aldermen shall be vested only with the power to advise said receiver concerning matters previously within its jurisdiction under the charter of said city. Said receiver shall have supervision and control of all financial affairs of said city, and no appropriations shall be made, no debt incurred, except with the approval or upon the recommendation or requisition of said receiver, which approval, recommendation, or requisition shall be in writing and signed by said receiver. Said receiver may delegate or otherwise assign these powers with the approval of the secretary. The powers of said receiver shall include, but not be limited to, the following:

(1) to formulate and establish for each fiscal year during his term, the annual budget of the city and the school committee, including the establishment of appropriations and spending authority for such fiscal year for all departments, boards, committees, agencies or other units of the city and the school committee; provided, however, that, notwithstanding the provisions of section thirty-four of chapter seventy-one of the General Laws, this paragraph shall be fully applicable to the school department and all school spending purposes;

(2) to implement and maintain uniform budget guidelines and procedures for all departments;

(3) to authorize, direct and otherwise make provision for the issuance of bonds, notes or certificates of indebtedness for any purpose enumerated in chapter forty-four of the General Laws or for operating purposes for a term of not more than ten years. Bonds, notes or certificates of indebtedness issued under authority of this act shall be general obligation bonds backed by the full faith and credit of the city; provided, however, that the receiver may pledge future distributions of state aid for the purpose of retiring such bonds, notes or certificates of indebtedness. If any state aid is so pledged, the receiver shall execute on behalf of the city a trust agreement with a corporate trustee, which may be any bank or trust company having the powers of a trust company within the commonwealth, and any state aid so pledged shall be paid by the state treasurer directly to the trustee to be held in trust and applied to the payment of principal and interest on such bonds, notes or certificates of indebtedness; any earnings derived from the investment of such pledged aid shall be applied as needed to the payment of that principal and interest

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and for trustee's fees and related expenses, with any excess to be paid to the city. Bonds, notes or certificates of indebtedness authorized under authority of this act shall be executed on behalf of the city by the receiver and, except as provided for in this act, shall be subject to the provisions of chapter forty-four of the General Laws; provided, however, that bonds, notes or certificates of indebtedness issued for operating purposes shall not be subject to the debt limitations of section ten of chapter forty-four of the General Laws. Upon a determination by the receiver that it is in the best interest of the city, the maturities of bonds, notes or certificates of indebtedness authorized under authority of this act may be established so as to allow the city to pay, as nearly as practicable, level debt service on said bonds, notes or certificates of indebtedness, and the interest on such bonds, notes or certificates of indebtedness may be provided for a fixed, variable or adjustable rate basis;

(4) notwithstanding the provisions of any general or special law to the contrary, said city, acting by and through said receiver, is hereby authorized to borrow at one time or from time to time from the commonwealth for the purpose of maintaining and operating the city, in such amounts and upon such terms as the secretary approves;

(5) to formulate and execute capital budgets;

(6) to amortize operational deficits in an amount and for such term as the secretary approves on an annual basis;

(7) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the city's government, including the school department;

(8) to review and approve or disapprove all proposed contracts for goods or services; and

(9) to initiate federal bankruptcy proceedings, upon written notice to and with the approval of the secretary. The authority to initiate federal bankruptcy proceedings shall rest exclusively with said receiver with the approval of the secretary.

**SECTION 6.** Notwithstanding the provisions of any general or special law to the contrary, said receiver shall have authority to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city.

**SECTION 7.** Notwithstanding the provisions of the charter or any city ordinance to the contrary, the receiver shall be the appointing authority and have supervision and control over all city employees and all personnel matters; the receiver shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; the receiver shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; and no city employee or officer shall hire, fire, transfer or alter the compensation or

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benefits of any employee except with the written approval of the receiver. The receiver may delegate or otherwise assign these powers with the approval of the secretary.

**SECTION 8.** Notwithstanding any general or special law, any provision of the charter, or any other ordinance to the contrary, said receiver or his designee shall have the following additional powers regarding personnel and employment matters:

(1) The power to alter the compensation of elected officials of said city to reflect the fiscal emergency and changes in the responsibilities of said officials as provided by this act.

(2) The power to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out his responsibilities, with the approval of the secretary. Said receiver, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions of employment of such staff. All personnel hired under the authority of this paragraph, except such employees as the receiver formally designates independent contractors, shall be deemed employees of the commonwealth; provided, however, that the provisions of chapters thirty-one and one hundred and fifty-one E of the General Laws shall not apply to such employees.

(3) The power to reorganize, consolidate or abolish departments, commissions, boards, offices or functions of said city, in whole or in part, and to establish such new departments, commissions, boards, offices or functions as he deems necessary, and to transfer the duties, powers, functions and appropriations of one department, commission, board or other unit to another.

(4) The power to appoint in consultation with said secretary persons to fill vacancies on any board, committee, department, or office acting in an advisory capacity to said receiver.

**SECTION 9.** Notwithstanding the provisions of any general or special law, the charter or any city ordinance to the contrary, in order to achieve the objectives of section four, particularly clause (3) of said section four, said receiver shall have the following powers:

(1) To order the laying out, locating anew or discontinuing of streets and ways within the city.

(2) To regulate the construction of buildings.

(3) To implement such changes to the city's zoning ordinance as are necessary; provided, however, that the zoning ordinance continues to promote public safety, health, and welfare; and provided further, that no zoning change shall affect or interfere with the integrity of existing residential districts. No such proposed zoning changes shall apply to structures or uses lawfully existing or lawfully begun prior to the effective date of the zoning change.

(4) The procedure for implementing changes in zoning ordinances as provided

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in section five of chapter forty A of the General Laws shall not govern such changes in said city during the time said receivership is in effect.

(ii) Said receiver shall not implement any zoning change until a public hearing has been held at which interested persons shall have an opportunity to be heard. The public hearing shall be held within sixty days after the date on which said receiver originally proposed the zoning change. Notice of the time and place of the public hearing, of the subject matter sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in said city once in each of two successive weeks; provided, however, that the first publication shall be not less than fourteen days before the day of the hearing; and, provided, further, that notice shall also be posted in a conspicuous place in city hall for a period of not less than fourteen days before the day of the hearing.

(iii) Notice of such proposed zoning change shall be sent to any nonresident property owner who files an annual request for such notice with the city clerk no later than January first of each year; provided, however, that said receiver shall establish a reasonable fee to cover the cost of providing said notices.

**SECTION 10.** Notwithstanding any general or special law, the charter, or any city ordinance to the contrary in order to carry out the purposes of this act, the receiver shall have the following additional powers:

(1) To sell, lease, or otherwise transfer real property and other assets of the city with the approval of the secretary.

(2) To purchase, lease, or otherwise acquire property or other assets on behalf of the city with the approval of the secretary.

(3) To promulgate rules and regulations governing the operation and administration of the city during the period of such receivership.

**SECTION 11.** Notwithstanding the provisions of any general or special law, the charter or any city ordinance to the contrary, for the period from his appointment until June thirtieth, nineteen hundred and ninety-four, the receiver shall have the following additional authority:

(1) To seek voter approval of such general override, debt exclusion or capital expenditure exclusion ballot questions as are provided for in section twenty-one C of chapter fifty-nine of the General Laws.

(2) To suspend in consultation with the secretary such rules and regulations of said city necessary to carry out the provisions of this act.

**SECTION 12.** Said receiver shall annually prepare a report summarizing the actions taken by said receiver during the prior fiscal year and stating the progress made toward the objectives established in section four. Upon review and approval of said secretary, said receiver shall submit the report to the general court by filing the same with the clerk of the senate and house of representatives.

**SECTION 13.** Before June thirtieth, nineteen hundred and ninety-four, said

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receiver shall recommend to the general court a form of governance for said city which will ensure long term fiscal stability and the delivery of local services. In the event that no new form of governance for said city is approved prior to the expiration of the receivership the provisions of the charter of said city shall be re-established through new elections for all offices.

**SECTION 14.** No official board, committee or officer of said city, except in the case of an emergency involving the health and safety of the people or their property, shall knowingly expend or cause to be expended in any fiscal year any sum in excess of such official's departmental or other governmental unit's budget. An official who intentionally violates the provisions of this section shall be personally liable to said city for any amount expended in excess of an appropriation to the extent that the city does not recover such amount from the person to whom such amount was paid.

**SECTION 15.** The provisions of this act shall be deemed severable, and if any part of this act shall be adjudged unconstitutional or invalid, such judgment shall not affect the validity of other parts thereof.

**SECTION 16.** This act shall take effect upon its passage.

Approved September 12, 1991.

**Chapter 201.        AN ACT FURTHER REGULATING THE OPERATION OF  
MOTOR VEHICLES AT RAILROAD CROSSINGS.**

*Be it enacted, etc., as follows:*

Chapter 90 of the General Laws is hereby amended by striking out section 15, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 15. Except as hereinafter otherwise provided, every person operating a motor vehicle, upon approaching a railroad crossing at grade, shall reduce the speed of the vehicle to a reasonable and proper rate before proceeding over the crossing, and shall proceed over the crossing at a rate of speed and with such care as is reasonable and proper under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red

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lights which flash as a warning, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said lights stop flashing. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a lowered automatic gate, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said automatic gate is raised. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a railroad employee waving a red flag or white lantern, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said railroad employee signals that it is safe to do so. A railroad train approaching within approximately one thousand five hundred feet of a highway crossing shall emit a warning signal audible from such distance. Whoever violates any provision of this section shall be punished by a fine of not less than one hundred nor more than two hundred dollars.

Approved September 13, 1991.

**Chapter 202.        AN ACT RELATIVE TO THE LICENSING OF OPEN AIR  
PARKING LOTS.**

Be it enacted, etc., as follows:

Section 56 of chapter 148 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 23, the word "one" and inserting in place thereof the word:- three.

Approved September 13, 1991.

**Chapter 203.        AN ACT RELATIVE TO VOTER REGISTRATION HOURS IN  
TOWNS WITH LESS THAN ONE THOUSAND VOTERS.**

*Be it enacted, etc., as follows:*

Section 28 of chapter 51 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the words "three hundred" and inserting in place thereof the words:- one thousand.

Approved September 13, 1991.

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**Chapter 204.           AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN  
OF WINTHROP FROM THE PROVISIONS OF THE CIVIL  
SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The positions of cafeteria employee in the town of Winthrop shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding such position on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved September 13, 1991.

**Chapter 205.           AN ACT EXEMPTING POSITIONS IN THE DEPARTMENT  
OF FINANCE IN THE CITY OF SPRINGFIELD FROM THE  
PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section fifty-one of chapter thirty-one of the General Laws or any other special or general law to the contrary, all positions in the department of finance in the city of Springfield shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding a position in the department of finance in the city of Springfield on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved September 13, 1991.

**Chapter 206.           AN ACT RECOGNIZING EMERGENCY MEDICAL TECHNI-  
CIANS FOR THEIR YEARS OF DEDICATED SERVICE BY  
ESTABLISHING THE HONORARY CATEGORY OF  
EMT-EMERITUS.**

*Be it enacted, etc., as follows:*

Chapter 111C of the General Laws is hereby amended by adding the following section:-

Section 15. The department may promulgate regulations to recognize those



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emergency medical technicians who have been employed for a period of at least twenty years and who have been certified under section six of chapter one hundred and eleven C and who have retired from a local emergency medical technician service system, to designate such persons as "EMT-Emeritus". Such persons may not be used to operate an ambulance or be an attendant thereon.

Approved September 13, 1991.

**Chapter 207.        AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF  
DESTROYER ESCORT DAY.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 12SS, as appearing in the 1990 Official Edition, the following section:-

Section 12TT. The governor shall annually issue a proclamation setting apart the third Saturday in June as Destroyer Escort Day in recognition of the proud history of these ships and recommending that said day be observed in an appropriate manner by the people.

Approved September 13, 1991.

**Chapter 208.        AN ACT AUTHORIZING THE MAYOR OF THE CITY OF  
SPRINGFIELD TO TRANSFER OR DISPOSE OF A CERTAIN  
PARCEL OF OPEN SPACE LAND IN SAID CITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The mayor of the city of Springfield, with the approval of the Springfield city council, is hereby authorized to transfer or dispose of a certain parcel of open space land currently under the control of the city of Springfield park department, for the purpose of development. Said property is bounded and described as follows:

Bounded Westerly by the New York, New Haven & Hartford Railroad Company, about eighty (80) feet; Northerly by land of the Heirs of William B. Walker, about one hundred sixty three (163) feet; Easterly by land now or formerly of Michele Garrafia and land now or formerly of Patrick J. and Bridget Slattery, about eighty seven (87) feet; and Southerly by land now or formerly of Ellen Hayes, land now or formerly of Watson Tryon and land now or formerly of Albert J. Lane, about one hundred seventy five (175) feet.

Bounded Northerly by Walker Street, about six hundred thirty one and 89/100

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(631.89) feet; Easterly by Water Street, one hundred fifteen and 47/100 (115.47) feet; Southerly by land now or formerly of Arthur J. Goyette, by land now or formerly of John and Katherine Moriarty, by land now or formerly of Michele Garrafia, and by land of the Heirs of Edward M. Walker, six hundred fifty six and 74/100 (656.74) feet; Westerly by land of the New York, New Haven & Hartford Railroad, one hundred seventeen and 91/100 (117.91) feet.

Together with any rights in Gardner Street avenue, so-called, which may be appurtenant thereto.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 13, 1991.

**Chapter 209.           AN ACT RELATIVE TO THE POSITION OF GAS AND  
PLUMBING INSPECTOR FOR THE TOWN OF SOUTH  
HADLEY.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section eleven of chapter one hundred and forty-two of the General Laws or any other general or special law to the contrary, the position of gas and plumbing inspector in the town of South Hadley shall be under the control of the board of health which control shall include, without limitation, the power of appointment and the administration of duties and responsibilities; provided, however, that the salary for such position shall be established and governed by the personnel by-laws of said town.

Approved September 13, 1991.

**Chapter 210.           AN ACT VALIDATING CERTAIN APPROPRIATION VOTES  
PASSED AT THE TOWN OF MAYNARD ANNUAL TOWN  
MEETING.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, any appropriation vote passed at the annual town meeting in the town of Maynard held in the year nineteen hundred and ninety-one and required to be submitted to the voters pursuant to section twenty-one C of chapter fifty-nine of the General Laws shall be valid if a corresponding ballot question under said section twenty-one C is approved at an election no later than September sixteenth, nineteen hundred and ninety-one.

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**SECTION 2.** This act shall take effect upon its passage.

Approved September 13, 1991.

**Chapter 211.        AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF  
THE ANNUAL TOWN MEETING IN THE TOWN OF  
WESTFORD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings of the town of Westford at its annual town meeting held on May eleventh, nineteen hundred and ninety-one and all actions taken pursuant thereto are hereby ratified, validated, and confirmed to the same extent as if the warrant for such meeting had been published and posted as required by law.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 13, 1991.

**Chapter 212.        AN ACT PROVIDING THAT AN ANNUAL TOWN REPORT  
MAY REPORT THE PRECEDING FISCAL YEAR.**

*Be it enacted, etc., as follows:*

Section 49 of chapter 40 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "calendar", in line 3, the words:- or fiscal.

Approved September 13, 1991.

**Chapter 213.        AN ACT FURTHER REGULATING THE FINANCIAL MAN-  
AGEMENT STRUCTURE OF THE CITY OF SPRINGFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The first paragraph of section 1 of chapter 656 of the acts of 1989 is hereby amended by striking out, in line 6, the word "five" and inserting in place thereof the following word:- ten.

**SECTION 2.** The second paragraph of said section 1 of said chapter 656 is hereby amended by striking out the second sentence and inserting in place thereof

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the following sentence:- Under the conditions imposed herein, the assessors of the city of Springfield may similarly deduct for each fiscal year from fiscal year nineteen hundred and ninety-one to fiscal year two thousand, inclusive, a percentage of the amortization amount not greater than those shown in the following table from the amount to be assessed for each respective fiscal year pursuant to section twenty-three of chapter fifty-nine of the General Laws:

<u>FISCAL YEAR</u>	<u>PERCENTAGE</u>	<u>MAXIMUM DEFICIT</u>
1991	60%	\$5,040,000.00
1992	48%	\$4,032,000.00
1993	38.4%	\$3,225,600.00
1994	30.72%	\$2,580,480.00
1995	24.58%	\$2,064,384.00
1996	19.66%	\$1,651,507.00
1997	15.73%	\$1,321,206.00
1998	12.58%	\$1,056,965.00
1999	10.07%	\$ 845,572.00
2000	8.05%	\$ 676,547.00.

**SECTION 3.** The fourth paragraph of said section 1 of said chapter 656 is hereby amended by striking out, in line 2, the words "nineteen hundred and ninety-three" and inserting in place thereof the following words:- two thousand.

**SECTION 4.** The fifth paragraph of section 7 of said chapter 656 is hereby amended by inserting after the first sentence the following sentence:- Notwithstanding the foregoing, the commissioner of revenue may waive any penalty adjustment which may arise from the city expending an amount in excess of fifty percent of the amount required to be allocated to such fund for such fiscal year or incurring a deficit with respect to such fiscal year in excess of the amounts authorized by section one of this act.

**SECTION 5.** Said section 7 of said chapter 656 is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the foregoing, the mayor, with the approval of the commissioner of revenue, may for any fiscal year, reduce the amount otherwise required to be raised for the special reserve fund of such fiscal year, which decreases shall be of a permanent nature and be fully effective with respect to the special reserve fund requirements of all succeeding fiscal years.

**SECTION 6.** This act shall take effect upon its passage.

Approved September 16, 1991.

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**Chapter 214.        AN ACT FURTHER REGULATING PHYSICAL THERAPISTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 23E of chapter 112 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 26 and 27, the words "section, or" and inserting in place thereof the word:- section.,- and by striking out clause (f).

**SECTION 2.** Said section 23E of said chapter 112, as so appearing, is hereby further amended by striking out the last paragraph.

Approved September 16, 1991.

**Chapter 215.        AN ACT REGULATING THE SALE OF RETAIL MOTOR FUEL TO HANDICAPPED PERSONS.**

*Be it enacted, etc., as follows:*

Section 295CC of chapter 94 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first sentence the following two sentences:- Any such retail motor fuel dealer shall display in a prominent location one or more signs stating its compliance with the provisions of this section. The division of standards shall develop standards for such signs including, but not limited to, size, text, legibility and location.

Approved September 16, 1991.

**Chapter 216.        AN ACT AUTHORIZING A CERTAIN INDIVIDUAL TO TAKE THE JOURNEYMAN'S ELECTRICIAN EXAMINATION.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law or rule to the contrary, Philip Marks III of the town of Nantucket shall be eligible to take the examination for journeyman electrician.

Approved September 16, 1991.

**Chapter 217.        AN ACT RELATIVE TO ELECTIONS IN THE CITY OF LOWELL IN THE CURRENT YEAR.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Notwithstanding the provisions of any general or special law or the charter of the city of Lowell to the contrary, if upon the expiration of time for the filing of nomination papers for the office of city councillor in said city for the municipal election to be held in the year nineteen hundred and ninety-one, the number of persons so filing is less than twenty, there shall be no preliminary election for said office and all persons whose nomination papers are duly certified shall be deemed to have been nominated.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 16, 1991.

**Chapter 218.        AN ACT RELATIVE TO ELECTIONS IN THE CITY OF  
MARLBOROUGH IN THE CURRENT YEAR.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provision of any general or special law or the charter of the city of Marlborough to the contrary, there shall be no preliminary election as otherwise required on October eighth, nineteen hundred and ninety-one for the office of school committee member for a two-year term and the three candidates whose nomination papers have been duly certified shall be deemed to have been nominated.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 16, 1991.

**Chapter 219.        AN ACT AUTHORIZING THE REIMBURSEMENT OF THE  
FEDERAL HIGHWAY CONSTRUCTION PROGRAM CAPITAL  
PROJECTS FUND DEFICIENCY AND CERTAIN OTHER  
DEFICIENCIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To meet a portion of the expenditures necessary in carrying out the provisions of section one of chapter six hundred and seventy-nine of the acts of nineteen hundred and sixty-five, section one of chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, section one of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine, section one of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, section six of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, sections one and one A of chapter three

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hundred and fifty-six of the acts of nineteen hundred and seventy-seven, sections one and two of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, sections fifteen and sixteen of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, section one of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two, sections one and two of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, sections one and two of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, and sections one and two of chapter fifteen of the acts of nineteen hundred and eighty-eight, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of one hundred seventy-nine million dollars to be in addition to those bonds previously authorized for projects and programs pursuant to the provisions of any of the acts of the commonwealth set forth in this section and in addition to those bonds previously authorized for projects and programs pursuant to the provisions of chapter thirty-three of the acts of nineteen hundred and ninety-one.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1991, and shall be issued for such maximum term of years, not exceeding thirty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-six. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section may be issued as special obligations pursuant to section two O of chapter twenty-nine of the General Laws, provided, further, that in deciding whether to issue bonds as special obligations the treasurer shall take into account (i) generally prevailing financial market conditions, (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O; provided, further, that the aggregate amount of special obligation bonds and general obligation bonds issued pursuant to this section shall not exceed one hundred seventy-nine million dollars. Bonds issued pursuant to this section shall be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section sixty A of said chapter twenty-nine,

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and debt service with respect to such bonds shall be included in any computation of the limit imposed by section sixty B of said chapter twenty-nine.

The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this section and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time or times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one.

Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided however, that the state treasurer may determine to issue any notes as special obligations pursuant to section two O of chapter twenty-nine of the General Laws if the notes, or renewals thereof, are to be paid from the proceeds of special obligation bonds to be issued pursuant to said section two O. All payments on account of principal on the notes allocable to the Federal Highway Construction Program Fund shall be repaid from said fund.

**SECTION 2.** To defray the cost of charges made by the comptroller against certain capital funds in carrying out the provisions of section five D of chapter twenty-nine of the General Laws and to eliminate the deficit balances in such funds, including without limitation the General Capital Fund, the Highway Capital Fund, the Lockup Capital Fund, the Suffolk Jail Capital Fund, the County Correctional Capital Fund, the Environmental Challenge Fund, the Intercity Bus Capital Fund and the Metropolitan Parks Capital Fund, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the sum of fifteen million dollars, to be in addition to bonds previously authorized to finance projects and programs associated with such capital funds.

All bonds issued by the commonwealth as aforesaid shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and sixteen. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this section and may issue and renew from time



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to time notes of the commonwealth therefor bearing interest payable at such time or times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 3.** Section 8 of chapter 669 of the acts of 1960 is hereby amended by striking out, in lines 21 and 22, the words "nineteen hundred and seventy-five" and inserting in place thereof the words:- two thousand.

**SECTION 4.** Section 3 of chapter 520 of the acts of 1961 is hereby amended by striking out, in line 20, the words "nineteen hundred and eighty-six" and inserting in place thereof the words:- two thousand and ten.

**SECTION 5.** Said chapter 520 is hereby further amended by inserting after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 6.** Section 10 of chapter 571 of the acts of 1962 is hereby amended by striking out, in lines 21 and 22, the words "nineteen hundred and seventy-seven" and inserting in place thereof the words:- two thousand.

**SECTION 7.** Said chapter 571 is hereby further amended by inserting after section 10 the following section:-

*Section 10A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the

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governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 8.** Section 3 of chapter 507 of the acts of 1964 is hereby amended by striking out, in lines 20 and 21, the words "nineteen hundred and eighty-seven" and inserting in place thereof the words:- two thousand and ten.

**SECTION 9.** Said chapter 507 is hereby further amended by inserting after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 10.** Section 7 of chapter 846 of the acts of 1965 is hereby amended by striking out, in line 12, the words "nineteen hundred and sixty-eight" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 11.** Section 3 of chapter 687 of the acts of 1966 is hereby amended by striking out, in lines 12 and 13, the words "nineteen hundred and seventy-five" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 12.** Section 7 of chapter 682 of the acts of 1967 is hereby amended by striking out, in lines 14 and 15, the words "nineteen hundred and seventy-three" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 13.** Chapter 786 of the acts of 1967 is hereby amended by inserting after section 3 the following section:-

*Section 3A 1/2.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not

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exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 14.** Said chapter 786 is hereby further amended by inserting after section 3A the following section:-

*Section 3A 1/2.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one A of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 15.** Section 4 of chapter 266 of the acts of 1968 is hereby amended by striking out, in line 12, the words "nineteen hundred and seventy-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 16.** Section 7 of chapter 476 of the acts of 1968 is hereby amended by striking out, in line 12, the words "nineteen hundred and seventy-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 17.** Chapter 608 of the acts of 1968 is hereby amended by inserting after section 2 the following section:-

*Section 2A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall,

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notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 18.** Section 6 of chapter 634 of the acts of 1968 is hereby amended by striking out, in line 21, the words "nineteen hundred and eighty-three" and inserting in place thereof the words:- two thousand.

**SECTION 19.** Said chapter 634 is hereby further amended by inserting after section 6 the following section:-

*Section 6A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments for the commonwealth's share of the cost of the project authorized by sections one and two of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 20.** The second paragraph of section 5 of chapter 651 of the acts of 1968 is hereby amended by striking out, in lines 14 and 15, the words "nineteen hundred and eighty-three" and inserting in place thereof the words:- two thousand.

**SECTION 21.** Said chapter 651 is hereby further amended by inserting after section 5 the following section:-

*Section 5A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments for the commonwealth's share of the cost of the project authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 22.** The second paragraph of section 1 of chapter 678 of the acts of 1968 is hereby amended by striking out, in line 20, the words "nineteen hundred and eighty-three" and inserting in place thereof the words:- two thousand.

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**SECTION 23.** Said chapter 678 is hereby further amended by inserting after section 1 the following section:-

*Section 1A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 24.** Chapter 834 of the acts of 1969 is hereby amended by inserting after section 2A the following section:-

*Section 2B.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section two A of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 25.** Section 6 of chapter 906 of the acts of 1969 is hereby amended by striking out, in line 20, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- two thousand.

**SECTION 26.** Said chapter 906 is hereby further amended by inserting after section 6 the following section:-

*Section 6A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not

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exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 27.** The second sentence of section 3 of chapter 694 of the acts of 1970, as most recently amended by section 2 of chapter 477 of the acts of 1976, is hereby further amended by striking out, in line 7, the words "nineteen hundred and eighty-two" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 28.** Chapter 725 of the acts of 1970 is hereby amended by inserting after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 29.** Chapter 727 of the acts of 1970 is hereby amended by inserting after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the

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commonwealth.

**SECTION 30.** Chapter 742 of the acts of 1970 is hereby amended by inserting after section 4 the following section:-

*Section 4A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections one, three and six of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 31.** Section 3 of chapter 743 of the acts of 1970 is hereby amended by striking out, in lines 19 and 20, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- two thousand.

**SECTION 32.** Said chapter 743 is hereby further amended by striking out section 4 and inserting in place thereof the following section:-

*Section 4.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting a portion of the expenditures authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 33.** Section 2 of chapter 747 of the acts of 1970 is hereby amended by striking out, in lines 12 and 13, the words "nineteen hundred and seventy-eight" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 34.** Said chapter 747 is hereby further amended by inserting after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of

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the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 35.** Section 4 of chapter 767 of the acts of 1970 is hereby amended by striking out, in lines 19 and 20, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- two thousand.

**SECTION 36.** Said chapter 767 is hereby further amended by inserting after section 4 the following section:-

*Section 4A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 37.** Section 5 of chapter 976 of the acts of 1971 is hereby amended by striking out, in line 12, the words "nineteen hundred and seventy-seven" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 38.** Chapter 584 of the acts of 1972 is hereby amended by inserting after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with



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Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 39.** Chapter 765 of the acts of 1972 is hereby amended by inserting after section 9 the following section:-

*Section 9A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 40.** Section 13 of said chapter 803 is hereby amended by striking out, in line 20, the words "nineteen hundred and eighty-seven" and inserting in place thereof the words:- two thousand.

**SECTION 41.** Said chapter 803 is hereby further amended by inserting after section 13 the following section:-

*Section 13A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section twelve of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 42.** Said chapter 803 is hereby further amended by inserting after section 4 the following section:-

*Section 4A.* The state treasurer may borrow from time to time on the credit of

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the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section two of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 43.** Section 4 of chapter 803 of the acts of 1972 is hereby amended by striking out, in lines 19 and 20, the words "nineteen hundred and eighty-seven" and inserting in place thereof the words:- two thousand.

**SECTION 44.** Chapter 822 of the acts of 1973 is hereby amended by inserting after section 2 the following section:-

*Section 2A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 45.** Section 5 of chapter 884 of the acts of 1973 is hereby amended by striking out, in lines 12 and 13, the words "nineteen hundred and seventy-eight" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 46.** Chapter 1225 of the acts of 1973 is hereby amended by inserting after section 4 the following section:-

*Section 4A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not

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exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 47.** The second sentence of section 10 of chapter 519 of the acts of 1974, as inserted by section 2 of chapter 34 of the acts of 1982, is hereby amended by striking out, in lines 6 and 7, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 47A.** Section 13 of chapter 859 of the acts of 1975 is hereby amended by striking out, in line 13, the words "nineteen hundred and eighty" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 48.** The second sentence of section 9 of chapter 481 of the acts of 1976, as inserted by section 3 of said chapter 34, is hereby amended by striking out, in line 7, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 49.** Section 10 of chapter 356 of the acts of 1977 is hereby amended by striking out, in lines 14 and 15, the words "nineteen hundred and eighty-two" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 50.** Chapter 356 of the acts of 1977 is hereby amended by inserting after section 14 the following section:-

*Section 14A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section four of chapter one hundred and sixty-one C of the General Laws and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 51.** The second sentence of section 9 of chapter 920 of the acts of 1977, as inserted by section 4 of chapter 34 of the acts of 1982, is hereby further amended by striking out, in line 7, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 52.** Chapter 147 of the acts of 1978 is hereby amended by inserting

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after section 3 the following section:-

*Section 3A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 53.** The first paragraph of section 2 of chapter 406 of the acts of 1978 is hereby amended by striking out, in line 12, the words "nineteen hundred and eighty-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 54.** The second sentence of section 10 of chapter 513 of the acts of 1978, inserted by section 5 of chapter 34 of the acts of 1982, is hereby amended by striking out, in line 7, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 55.** The first paragraph of section 10 of chapter 480 of the acts of 1979, as amended by section 6 of chapter 34 of the acts of 1982, is hereby further amended by striking out, in lines 12 and 13, the words "nineteen hundred and eighty-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 56.** Chapter 740 of the acts of 1981 is hereby amended by inserting after section 7 the following section:-

*Section 7A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section five of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

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**SECTION 57.** The second paragraph of section 29 of chapter 796 of the acts of 1979 is hereby amended by striking out, in lines 13 and 14, the words "nineteen hundred and eighty-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 58.** The second sentence of section 9 of chapter 798 of the acts of 1979, inserted by section 7 of chapter 34 of the acts of 1982, is hereby amended by striking out, in line 7, the words "nineteen hundred and eighty-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 59.** The second paragraph of section 15 of said chapter 798 is hereby amended by striking out, in line 15, the words "nineteen hundred and eighty-nine" and inserting in place thereof the words:- two thousand and four.

**SECTION 60.** The second paragraph of section 16 of said chapter 798 is hereby amended by striking out, in line 15, the words "nineteen hundred and eighty-nine" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 61.** The first paragraph of section 3 of chapter 805 of the acts of 1979 is hereby amended by striking out, in line 12, the words "nineteen hundred and eighty-four" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 62.** Chapter 490 of the acts of 1980 is hereby amended by inserting after section 13 the following section:-

*Section 13A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section twelve of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 63.** The second sentence of section 8 of chapter 578 of the acts of 1980, as inserted by section 8 of chapter 34 of the acts of 1982, is hereby amended by striking out, in line 7, the words "nineteen hundred and eighty-five" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 64.** Chapter 578 of the acts of 1980 is hereby amended by inserting after section 14 the following section:-

*Section 14A.* To meet the cost of expenditures necessary in carrying out the provisions of section seven of chapter seven hundred and ninety-eight of the acts

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of nineteen hundred and seventy-nine the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth, to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate the sum of three million dollars.

All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Highway Improvement Loan, Act of 1979, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided however, that all such bonds shall be payable not later than June thirtieth, two thousand and eleven. All interest and payment on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 64A.** Chapter 784 of the acts of 1981 is hereby amended by inserting after section 6 the following section:-

*Section 6A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section five of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 65.** Chapter 313 of the acts of 1982 is hereby amended by inserting after section 14 the following section:-

*Section 14A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections nine, ten, eleven, twelve and thirteen of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred

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and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 66.** Section 4 of chapter 347 of the acts of 1982 is hereby amended by striking out, in line 13, the words "nineteen hundred and eighty-seven" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 67.** Section 3 of chapter 659 of the acts of 1982 is hereby amended by striking out, in line 13, the words "nineteen hundred and ninety" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 68.** Section 7 of chapter 7 of the acts of 1983 is hereby amended by striking out, in line 13, the words "nineteen hundred and ninety" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 69.** The second paragraph of section 3 of chapter 325 of the acts of 1983 is hereby amended by striking out, in line 8, the words "nineteen hundred and eighty-nine" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 70.** Section 42 of chapter 589 of the acts of 1983 is hereby amended by striking out, in line 4, the words "section nineteen" and inserting in place thereof the words:- sections nineteen and nineteen A,- and by striking out, in line 13, the words "nineteen hundred and eighty-eight" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 71.** Chapter 637 of the acts of 1983 is hereby amended by inserting after section 37 the following section:-

*Section 37A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section thirty-six of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 72.** Item 8000-8841 of section 3B of chapter 723 of the acts of 1983 is hereby amended by striking out, in lines 3 and 4, the words "at the Institute of Laboratories".

**SECTION 73.** Chapter 233 of the acts of 1984 is hereby amended by inserting after section 33 the following section:-

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*Section 33A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections thirty, thirty-one and thirty-two of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 74.** Section 2 of chapter 614 of the acts of 1985 is hereby amended by striking out, in line 12, the words "nineteen hundred and ninety" and inserting in place thereof the words:- nineteen hundred and ninety-five.

**SECTION 75.** Chapter 772 of the acts of 1987 is hereby amended by inserting after section 8 the following section:-

*Section 8A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 76.** Chapter 15 of the acts of 1988 is hereby amended by inserting after section 18 the following section:-

*Section 18A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section seventeen of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether



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original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 77.** Said chapter 15 is hereby further amended by inserting after section 25 the following section:-

*Section 25A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section twenty-four of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 78.** Said chapter 15 is hereby further amended by inserting after section 27 the following section:-

*Section 27A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section twenty-six of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 79.** Said chapter 15 is hereby further amended by inserting after section 20 the following section:-

*Section 20A.* The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section nineteen of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such

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notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five. Notes and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 80.** Notwithstanding the provisions of any general or special law to the contrary, the total amount of bonds issued pursuant to the provisions of this act shall not exceed one hundred and twenty million dollars during fiscal year nineteen hundred and ninety-two; provided, however, that the foregoing restriction shall not be construed to limit the authority of the treasurer to issue any notes authorized pursuant to the provisions of this act.

*Emergency Letter: September 17, 1991 @ 10:41A.M. Approved September 17, 1991.*

**Chapter 220.           AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS  
AND NOTES TO BE ISSUED BY THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section one of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued for a term not to exceed thirty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-six, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 2.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section one of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 3.** Notwithstanding any provision of law to the contrary, the bonds

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which the state treasurer is authorized to issue under section two of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and sixteen, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 4.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 5.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section sixty-four of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and eleven, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 6.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section eight of chapter six hundred and sixty-nine of the acts of nineteen hundred and sixty shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 7.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter five hundred and twenty of the acts of nineteen hundred and sixty-one shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and ten, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 8.** Notwithstanding any provision of law to the contrary, the notes

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which the state treasurer is authorized to issue under section three A of chapter five hundred and twenty of the acts of nineteen hundred and sixty-one, inserted by section five of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 9.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section ten of chapter five hundred and seventy-one of the acts of nineteen hundred and sixty-two shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 10.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten A of chapter five hundred and seventy-one of the acts of nineteen hundred and sixty-two, inserted by section seven of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 11.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter five hundred and seven of the acts of nineteen hundred and sixty-four shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and ten, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 12.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A of chapter five hundred and seven of the acts of nineteen hundred and sixty-four, inserted by section nine of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms

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not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 13.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section seven of chapter eight hundred and forty-six of the acts of nineteen hundred and sixty-five shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 14.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section seven of chapter six hundred and eighty-two of the acts of nineteen hundred and sixty-seven shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 15.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three 1/2 of chapter seven hundred and eighty-six of the acts of nineteen hundred and sixty-seven, inserted by section thirteen of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 16.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A 1/2 of chapter seven hundred and eighty-six of the acts of nineteen hundred and sixty-seven, inserted by section fourteen of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred

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and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 17.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred and sixty-six of the acts of nineteen hundred and sixty-eight shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 18.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section seven of chapter four hundred and seventy-six of the acts of nineteen hundred and sixty-eight shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 19.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two A of chapter six hundred and eight of the acts of nineteen hundred and sixty-eight, inserted by section seventeen of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 20.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section six of chapter six hundred and thirty-four of the acts of nineteen hundred and sixty-eight shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

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**SECTION 21.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section six A of chapter six hundred and thirty-four of the acts of nineteen hundred and sixty-eight, inserted by section nineteen of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 22.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section five of chapter six hundred and fifty-one of the acts of nineteen hundred and sixty-eight shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 23.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section five A of chapter six hundred and fifty-one of the acts of nineteen hundred and sixty-eight, inserted by section twenty-one of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 24.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section one of chapter six hundred and seventy-eight of the acts of nineteen hundred and sixty-eight shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 25.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section one A of chapter six hundred and seventy-eight of the acts of nineteen hundred and sixty-eight, inserted

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by section twenty-three of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 26.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two B of chapter eight hundred and thirty-four of the acts of nineteen hundred and sixty-nine, inserted by section twenty-four of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 27.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section six of chapter nine hundred and six of the acts of nineteen hundred and sixty-nine shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 28.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section six A of chapter nine hundred and six of the acts of nineteen hundred and sixty-nine, inserted by section twenty-six of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 29.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three of chapter six hundred and ninety-four of the acts of nineteen hundred and seventy shall be issued and may be renewed one or more times for terms not exceeding one year



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and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 30.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A of chapter seven hundred and twenty-five of the acts of nineteen hundred and seventy, inserted by section twenty-eight of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 31.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A of chapter seven hundred and twenty-seven of the acts of nineteen hundred and seventy, inserted by section twenty-nine of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 32.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four A of chapter seven hundred and forty-two of the acts of nineteen hundred and seventy, inserted by section thirty of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 33.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter seven hundred and forty-three of the acts of nineteen hundred and seventy shall be issued

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for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 34.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter seven hundred and forty-three of the acts of nineteen hundred and seventy, inserted by section thirty-two of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 35.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two of chapter seven hundred and forty-seven of the acts of nineteen hundred and seventy shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 36.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A of chapter seven hundred and forty-seven of the acts of nineteen hundred and seventy, inserted by section thirty-four of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 37.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section four of chapter seven hundred and sixty-seven of the acts of nineteen hundred and seventy shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor

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in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 38.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four A of chapter seven hundred and sixty-seven of the acts of nineteen hundred and seventy, inserted by section thirty-six of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 39.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section five of chapter nine hundred and seventy-six of the acts of nineteen hundred and seventy-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 40.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A of chapter five hundred and eighty-four of the acts of nineteen hundred and seventy-two, inserted by section thirty-eight of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 41.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section nine A of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, inserted by section thirty-nine of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred

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and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 42.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirteen of chapter eight hundred and three of the acts of nineteen hundred and seventy-two shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 43.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section thirteen A of chapter eight hundred and three of the acts of nineteen hundred and seventy-two, inserted by section forty-one of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 44.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four A of chapter eight hundred and three of the acts of nineteen hundred and seventy-two, inserted by section forty-two of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 45.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section four of chapter eight hundred and three of the acts of nineteen hundred and seventy-two shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the

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Constitution of the Commonwealth.

**SECTION 46.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two A of chapter eight hundred and twenty-two of the acts of nineteen hundred and seventy-three, inserted by section forty-four of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 47.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section five of chapter eight hundred and eighty-four of the acts of nineteen hundred and seventy-three shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 48.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four A of chapter one thousand two hundred and twenty-five of the acts of nineteen hundred and seventy-three, inserted by section forty-six of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 49.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten of chapter five hundred and nineteen of the acts of nineteen hundred and seventy-four shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

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**SECTION 50.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section nine of chapter four hundred and eighty-one of the acts of nineteen hundred and seventy-six shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 51.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 52.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section fourteen A of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven, inserted by section fifty of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 53.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section nine of chapter nine hundred and twenty of the acts of nineteen hundred and seventy-seven shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 54.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three A of chapter one hundred and forty-seven of the acts of nineteen hundred and seventy-eight,

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inserted by section fifty-two of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 55.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two of chapter four hundred and six of the acts of nineteen hundred and seventy-eight shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 56.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten of chapter five hundred and thirteen of the acts of nineteen hundred and seventy-eight shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 57.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 58.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section seven A of chapter seven hundred and forty of the acts of nineteen hundred and eighty-one, inserted by section fifty-six of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether

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original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 59.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty-nine of chapter seven hundred and ninety-six of the acts of nineteen hundred and seventy-nine shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 60.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section nine of chapter seven hundred and ninety-eight of the acts of nineteen hundred and seventy-nine shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 61.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section sixteen of chapter seven hundred and ninety-eight of the acts of nineteen hundred and seventy-nine shall be issued for a term not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 62.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section fifteen of chapter seven hundred and ninety-eight of the acts of nineteen hundred and seventy-nine shall be issued for a term not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and four, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 63.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three of chapter eight



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hundred and five of the acts of nineteen hundred and seventy-nine shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 64.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section thirteen A of chapter four hundred and ninety of the acts of nineteen hundred and eighty, inserted by section sixty-two of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 65.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eight of chapter five hundred and seventy-eight of the acts of nineteen hundred and eighty shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 66.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section six A of chapter seven hundred and eighty-four of the acts of nineteen hundred and eighty-one, inserted by section sixty-four A of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 67.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section fourteen A of chapter three hundred and thirteen of the acts of nineteen hundred and eighty-two, inserted

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by section sixty-five of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 68.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter three hundred and forty-seven of the acts of nineteen hundred and eighty-two shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 69.** Notwithstanding any provision of law to the contrary, the bonds and notes which the state treasurer is authorized to issue under section three of chapter three hundred and twenty-five of the acts of nineteen hundred and eighty-three shall be issued for a term not to exceed five years; provided, however, that all such bonds and notes shall be payable not later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 70.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section forty-two of chapter five hundred and eighty-nine of the acts of nineteen hundred and eighty-three shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 71.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section thirty-seven A of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, inserted by section seventy-one of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such

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notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 72.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section thirty-three A of chapter two hundred and thirty-three of the acts of nineteen hundred and eighty-four, inserted by section seventy-three of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 73.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eight A of chapter seven hundred and seventy-two of the acts of nineteen hundred and eighty-seven, inserted by section seventy-five of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 74.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eighteen A of chapter fifteen of the acts of nineteen hundred and eighty-eight, inserted by section seventy-six of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 75.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty-five A of chapter fifteen of the acts of nineteen hundred and eighty-eight, inserted by section seventy-seven of chapter two hundred and nineteen of the acts of nineteen

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hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 76.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty-seven A of chapter fifteen of the acts of nineteen hundred and eighty-eight, inserted by section seventy-eight of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 77.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty A of chapter fifteen of the acts of nineteen hundred and eighty-eight, inserted by section seventy-nine of chapter two hundred and nineteen of the acts of nineteen hundred and ninety-one shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 78.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section two of chapter six hundred and fourteen of the acts of nineteen hundred and eighty-five shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 79.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three of chapter six hundred and fifty-nine of the acts of nineteen hundred and eighty-two shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later

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than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 80.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section seven of chapter seven of the acts of nineteen hundred and eighty-three shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 81.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section three of chapter six hundred and eighty-seven of the acts of nineteen hundred and sixty-six shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 82.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section nine of chapter four hundred and eighty-one of the acts of nineteen hundred and seventy-six shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 83.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section thirteen of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 84.** Notwithstanding any provision of law to the contrary, the notes

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which the state treasurer is authorized to issue under section four of chapter seven hundred and forty-three of the acts of nineteen hundred and seventy shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five, as recommended by the governor in a message to the general court dated September sixteenth, nineteen hundred and ninety-one, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

*Emergency Letter: September 17, 1991 @ 2:38 P.M.* Approved September 17, 1991.

**Chapter 221.           AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Roger F. Sullivan who is a judge of the district court department of the trial court in the city of Fall River on September twentieth, nineteen hundred and ninety-one between Arlene Barbara Pereira and Einar Thomas Klausen both of the town of Swansea, and the state secretary shall issue to said Honorable Roger F. Sullivan in his capacity as aforesaid a certificate of such authorization.

Approved September 17, 1991.

**Chapter 222.           AN ACT RELATIVE TO PUBLIC EDUCATION IN MASSA-  
CHUSETTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify certain provisions of the public education law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

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**SECTION 1.** The first paragraph of section 4 of chapter 15A of the General Laws, inserted by section 7 of chapter 142 of the acts of 1991, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The higher education coordinating council, hereinafter referred to as the council, shall consist of the secretary and ten members appointed by the governor.

**SECTION 2.** The second paragraph of said section 4 of said chapter 15A, as so inserted, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Members of the council shall be appointed to serve five year terms, except that the undergraduate student members shall be appointed annually to serve a term of one year's duration commencing initially upon the appointment by the governor and expiring on April thirtieth and every year thereafter commencing on May first and expiring on April thirtieth, for as long as he remains a full-time undergraduate; provided, however, that within three consecutive years said student appointee shall in the first year be a student attending the state university, and in the second year be a student attending a community college, and in the third year be a student attending a state college.

**SECTION 3.** The fourth paragraph of section 1A of chapter 75 of the General Laws, inserted by section 17 of said chapter 142, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- No more than one-third of the voting members of the board of trustees shall be principally employed by the commonwealth.

**SECTION 4.** Section 30 of chapter 142 of the acts of 1991 is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) Four persons appointed by the governor prior to September first, nineteen hundred and ninety-one from among members of the board of trustees of the University of Lowell; provided, however, that the governor shall select from existing board members the alumnus to be appointed from the Lowell campus, as provided in said section one A.

**SECTION 5.** The second paragraph of said section 30 of said chapter 142, as so inserted, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Any term of office served by a member of the board of trustees of Southeastern Massachusetts University, the board of trustees of the University of Lowell, or the board of trustees of the University of Massachusetts prior to September one, nineteen hundred and ninety-one shall not be considered for purposes of qualification and appointment as provided in said section thereafter.

**SECTION 5A.** Section 2 of chapter 145 of the acts of 1991 is hereby amended by inserting after item 9749-0100 the following item:-

9749-0200 For the expenses of the study authorized by section forty-three of chapter one hundred and forty-two of the acts of nineteen hundred and ninety-one; provided, however, that the expenditure of funds

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appropriated herein shall be contingent on the prior receipt of private donations equal to or greater than said expenditure; and, provided further, that said donations shall be deposited into the general fund \$100,000

**SECTION 5B.** Section 43 of chapter 142 of the acts of 1991 is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Said joint committee shall report the results of its study by filing the same with the clerks of the senate and house of representatives.

**SECTION 6.** The provisions of this act shall take effect as of August ninth, nineteen hundred and ninety-one.

Approved September 18, 1991.

**Chapter 223. AN ACT RELATIVE TO DEFERRING THE COMPENSATION OF CERTAIN TEACHERS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify the law relating to deferring of certain teachers' compensation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 44 of the General Laws is hereby amended by striking out section 56, as amended by section 228 of chapter 138 of the acts of 1991, and inserting in place thereof the following section:-

Section 56. The fiscal year of all towns of the commonwealth shall begin with July first and end with the following June thirtieth, and the returns made to the director under section forty-three shall show the financial condition of the town at the close of business on June thirtieth; provided, however, that the treasurer shall, until July fifteenth, enter in his books all items for the payment of bills incurred and salaries and wages earned during the previous fiscal year, excepting payment of school teachers' salaries which have been deferred under the provisions of section forty of chapter seventy-one, and expenditures thereof shall be deemed to be as of June thirtieth preceding.

**SECTION 2.** Said chapter 44 is hereby further amended by striking out section 56A, as amended by section 229 of said chapter 138, and inserting in place thereof the following section:-

Section 56A. The fiscal year of all cities of the commonwealth shall begin with July first and end with the following June thirtieth, notwithstanding the provisions of their respective charters, and the returns made to the director under section



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forty-three shall show the financial condition of the city at the close of business on June thirtieth; provided, however, that the treasurer shall, until July fifteenth, enter in the books all items for the payment of bills incurred and the salaries and wages earned during the previous fiscal year, excepting payment of school teachers' salaries which have been deferred under the provisions of section forty of chapter seventy-one, and the expenditures therefor shall be deemed to be as of June thirtieth preceding:

**SECTION 3.** Section 40 of chapter 71 of the General Laws is hereby amended by striking out the first paragraph, as amended by section 230 of said chapter 138, and inserting in place thereof the following paragraph:-

The compensation of each teacher, except a person in training and except a person employed as a temporary substitute, upon a majority vote of the respective school committee and the appropriating authority or, in the case of a regional school district, upon acceptance as provided hereafter, shall be at a rate of not less than eighteen thousand dollars or at a rate not less than twenty thousand dollars, as designated by said vote, for the school year commencing after July first, nineteen hundred and eighty-seven. In the case of a regional school district, acceptance shall require the approval of the regional school district committee and two-thirds of the appropriating authorities of the municipalities in such regional school district. The compensation paid to such teachers shall be deemed to be fully earned at the end of the school year, and proportionately earned during the school year. Payment of such compensation may be deferred to the extent that equal payments may be established for a twelve month period including amounts payable in July and August subsequent to the end of the school year. Educational collaboratives, formed under the provisions of section four E of chapter forty, may accept the provisions of this section by a majority vote of the collaborative board and the approval by a vote of the majority of the appropriating authorities of the member cities and towns.

**SECTION 4.** Chapter 138 of the acts of 1991 is hereby amended by striking out section 231 and inserting in place thereof the following section:-

*Section 231.* In any city, town or regional school district which accepts or declines to reject the provisions of this section, teachers' compensation shall be deemed to be fully earned by August thirty-first and proportionately earned during the contract year. In such fiscal year, payment of such compensation for July and August may be deferred to the end of said months at the election of such teachers; provided, however, that teachers may elect, to receive as an accelerated payment, one-tenth of such compensation each of the ten months from September to June of the contract year; and provided, further, that teachers so receiving accelerated payments shall receive one-twentieth of such compensation on July second. Compensation in any such fiscal year shall be treated as an expenditure for the fiscal year in which the compensation is paid, provided, however, no city, town or

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regional school district may defer more than one-twelfth of the compensation due to any teacher in any year under the provisions of this section.

Notwithstanding the provisions of the first paragraph, for the contract year beginning September first, nineteen hundred and ninety-one and ending August thirty-first, nineteen hundred and ninety-two, payments to teachers for compensation earned for the months September through July, inclusive, of said contract year shall be made on or before June thirtieth, nineteen hundred and ninety-two, and payments to teachers for compensation for the month of August of said contract year must be made on July second, nineteen hundred and ninety-two; provided, however, that teachers may elect to receive such August payments after such date; and provided, further, that teachers that receive one-tenth of their salaries each month from September to June of said contract year shall have one-twentieth of their salaries paid on July second, nineteen hundred and ninety-two.

Notwithstanding the provisions of any general or special law to the contrary, for the contract year beginning on September first, nineteen hundred and ninety-one and ending on August thirty-first, nineteen hundred and ninety-two, in such city, town or regional school districts where the manner of compensation described in this section would violate collective bargaining agreements in effect as of June fifteenth, nineteen hundred and ninety-one, actual payments shall be made in accordance with the terms of the collective bargaining agreement unless such payments are changed through the collective bargaining process; provided, however, that any such payments which are made in accordance with such contracts and which deviate from such payments which would otherwise be made pursuant to this section shall not be considered a budget liability to said city, town or regional school district making such payments until July second, nineteen hundred and ninety-two.

Notwithstanding the provisions of any general or special law to the contrary, for fiscal year nineteen hundred and ninety-two, the school committee of each regional school district shall, by August first, nineteen hundred and ninety-one, reduce the budget of each regional school district to reflect the reduction in expenditures that result from the provisions of this section, shall not increase any other expenditures of such regional school district, and shall proportionately reduce the assessments on the member cities and towns of the regional school district.

Notwithstanding the foregoing provisions of this section, no reduction shall be made in the budget of any regional school district until such budget has been adopted and approved in accordance with the provisions of section sixteen B of chapter seventy-one of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, for fiscal year nineteen hundred and ninety-two, any amount of reduction in expenditures for the budget of a city or town that results from this section, including

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reductions in regional school assessments, if any, shall not be used to increase any other expenditures of such budgets and the budget for every city and town shall be reduced by the amount of reduction in teachers' salary payments that result from the provisions of this section, including reductions in regional school district assessments, if any. In order to reduce such budgets, the school superintendent in each city and town is hereby authorized and directed to calculate the amount of the reduction in teachers' salaries and to report the amount of such reduction to the town accountant, or to the city auditor, or to any other municipal official with authority over the municipal budget, whichever is appropriate. Such municipal official shall forthwith reduce the budget by such amount and by an amount equal to the reduction in regional school district assessments, if any.

Nothing in this section shall prohibit a city or town that has had its school budget or regional school district assessment reduced in accordance with this section from increasing its budget for any municipal purpose by appropriation.

The provisions of this section shall take effect for fiscal year nineteen hundred and ninety-two in a city upon a vote of the city council with the approval of the mayor, in a town by a vote of the board of selectmen, in a town having a town council form of government by a vote of the town council by October fifteenth, nineteen hundred and ninety-one.

The provisions of this section shall take effect for the fiscal year nineteen hundred and ninety-two in a regional school district unless the regional school district committee and a majority of the city councils, boards of selectmen, and town councils in the district vote to reject by October fifteenth, nineteen hundred and ninety-one.

In any city or town whose tax rate has been approved by the commissioner of revenue in accordance with section twenty-three of chapter fifty-nine of the General Laws before the enactment of this act, and the calculation of whose tax rate included a reduction in the amount of its local school budget or any regional school assessment on the basis of a deferral of teachers' pay in accordance with section two hundred and thirty-one of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one; the provisions of this chapter shall be deemed to have been accepted with respect to the amount of any such reduction in the local school budget, unless the city or town reduces appropriations by the amount of the deferral used to calculate its tax rate and the city's or town's appropriation for its regional school assessment shall be deemed to be increased by the amount of any regional school assessment that is increased on account of the regional school district's rejection of this section. To the extent that such a deemed increase in an appropriation for a regional school district assessment results in a deficit for the fiscal year ending June thirtieth, nineteen hundred and ninety-two, the city or town shall raise the amount of such deficit in the fiscal year ending June thirtieth, nineteen hundred and ninety-three.

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**SECTION 5.** This act shall take effect as of July first, nineteen hundred and ninety-one.

*Emergency Letter: September 18, 1991 @ 4:40 P.M.* Approved September 18, 1991.

**Chapter 224.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Patti Saris in the town of Needham on October twelfth, nineteen hundred and ninety-one between Keith Robert Wolfe and Sandra Marie Zimmer both of the town of Ashland, and the state secretary shall issue to said Patti Saris a certificate of such authorization.

Approved September 23, 1991.

**Chapter 225.        AN ACT RELATIVE TO THE REPORTING OF CERTAIN  
SEXUAL CRIMES.**

*Be it enacted, etc., as follows:*

Chapter 112 of the General Laws is hereby amended by inserting after section 12A, as appearing in the 1990 Official Edition, the following section:-

Section 12A 1/2. Every physician attending, treating, or examining a victim of rape or sexual assault, or, whenever any such case is treated in a hospital, sanatorium or other institution, the manager, superintendent or other person in charge thereof, shall report such case at once to the commissioner of public safety and to the police of the town where the rape or sexual assault occurred but shall not include the victim's name, address, or any other identifying information. The report shall describe the general area where the attack occurred.

Whoever violates any provision of this section shall be punished by a fine of

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not less than fifty dollars nor more than one hundred dollars.

Approved September 26, 1991.

**Chapter 226.        AN ACT RELATIVE TO THE PENALTY FOR TENDING  
CERTAIN INSUFFICIENT FUNDS CHECKS.**

*Be it enacted, etc., as follows:*

Section 69 of chapter 44 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

If any check in payment of any municipal service, fee or charge imposed by any city or town for any municipal service rendered or fee or charge imposed is not duly paid, there may, in addition to any other penalty provided by law, be imposed on the person who tendered such check, upon notice and demand by the city or town treasurer, a penalty in an amount equal to one percent of the amount of such check; provided, however, that if such check is for less than one thousand five hundred dollars, the penalty under this section shall be twenty-five dollars.

Approved September 26, 1991.

**Chapter 227.        AN ACT ABOLISHING THE POSITION OF CITY MESSENGER  
IN THE CITY OF SOMERVILLE.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, the position of the city messenger in the city of Somerville is hereby abolished.

Approved September 26, 1991.

**Chapter 228.        AN ACT RELATIVE TO CERTAIN BONDS TO BE ISSUED  
BY THE QUABOAG REGIONAL SCHOOL DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The provisions of section twenty-two A of chapter forty-four of the General Laws shall apply to any bonds or notes issued by the Quaboag Regional School District pursuant to the votes adopted by its regional district school committee on December nineteenth, nineteen hundred and eighty-eight and on

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April tenth, nineteen hundred and eighty-nine, if the regional district school committee so determines by a two-thirds vote; provided, however, that the powers granted by said section twenty-two A to the mayor of a city shall be exercised by the chairman of the regional district school committee. Said bonds shall in all other respects be subject to the applicable provisions and limitations of chapters forty-four and seventy-one of the General Laws.

**SECTION 2.** In order to secure any such bonds or notes, the treasurer of the district, with the approval of the chairman of the regional district school committee, may enter into one or more trust agreements with a bank or trust company doing business in the commonwealth. Each such trust agreement shall be in such form and with such terms as the treasurer and chairman determine to be necessary or appropriate. Any funds deposited and held in trust by the trustee as provided in sections three and four may be invested in accordance with the provisions of section fifty-four of chapter forty-four of the General Laws, and the trust agreement may provide that any investment earnings shall be applied without appropriation to pay project costs, to pay principal of or interest on the bonds or notes described in section one or to pay trustee's fees and other related expenses.

**SECTION 3.** Upon certification to the state treasurer by the district secretary that an issue or issues of the bonds or notes described in section one has been issued and a trust agreement entered into in accordance with section two, the state treasurer shall annually pay the proceeds of the school construction grant approved by the state board of education pursuant to chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight for the project for which the bonds or notes were authorized directly to the trustee under said trust agreement and said grant proceeds shall be held in trust and applied by the trustee solely to pay the principal of and interest on the bonds or notes issued by the district.

**SECTION 4.** At least five days prior to each date on which a payment of principal or interest is due on any bonds or notes described in section one, the district treasurer shall deposit with the trustee the amount necessary to make such a payment, after taking account of all other funds held by the trustee that are available for such purpose.

**SECTION 5.** This act shall take effect upon its passage.

Approved September 26, 1991.

**Chapter 229.           AN ACT RELATIVE TO CERTAIN DOCUMENT FILINGS BY CORPORATIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Paragraph (c) of section 13 of chapter 156B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause

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(1) and inserting in place thereof the following clause:-

(1) the street address of the initial principal office of the corporation in the commonwealth.

**SECTION 2.** Said chapter 156B is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. The directors of a corporation may at any time, and from time to time, change the principal office of the corporation in the commonwealth; provided, however, that no such change shall be effective until a certificate of such change specifying the street address of its new principal office in the commonwealth signed under penalties of perjury by the clerk or assistant clerk of the corporation, or an annual report specifying the street address of its new principal office in the commonwealth, has been filed with the state secretary.

**SECTION 3.** Subsection (d) of section 78 of said chapter 156B, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) the street address of the initial principal office of the resulting or surviving corporation in the commonwealth.

**SECTION 4.** Said subsection (d) of said section 78 of said chapter 156B, as so appearing, is hereby further amended by striking out clause (4).

**SECTION 5.** Subsection (c) of section 100 of said chapter 156B, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) the name of the corporation and the street address of the principal office in the commonwealth.

**SECTION 6.** Section 109 of said chapter 156B, as so appearing, is hereby amended by striking out paragraph (5).

**SECTION 7.** Section 6 of chapter 180 of the General Laws, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following two paragraphs:-

Indemnification of directors, officers, employees and other agents of a corporation and persons who serve at its request as directors, officers, employees or other agents of another organization or who serve at its request in a capacity with respect to any employee benefit plan may be provided by it to whatever extent shall be specified in or authorized by (i) the articles of organization or (ii) a by-law adopted by the incorporators pursuant to section three or by the members or (iii) a vote adopted by a majority of the members entitled to vote on the election of directors.

The provisions of this section shall apply to by-laws adopted by the incorporator regardless of whether such by-laws were authorized or adopted at any time prior to the effective date of this act.

**SECTION 8.** Said chapter 180 is hereby further amended by inserting after

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section 6C the following section:-

Section 6D. Following any change in the board with the power of directors, and presiding financial and recording officers with the powers of president, treasurer, and clerk, the corporation may file in the office of the state secretary a certificate of such change signed under penalties of perjury by the recording officer.

**SECTION 9.** Chapter 181 of the General Laws is hereby amended by striking out section 4, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 4. Every foreign corporation doing business in the commonwealth shall file with the state secretary, within ten days after it commences doing business in the commonwealth, a certificate signed under penalties of perjury by its president or a vice-president and its clerk or an assistant clerk, or secretary or an assistant secretary, in such form as the state secretary shall require, stating:

(1) the exact name of the foreign corporation, including any words or abbreviations indicating incorporated or limited liability, and if the name of the corporation does not comply with the provisions of section five, the name to be assumed by the corporation for use in transacting business in the commonwealth pursuant to section five A;

(2) the location of its principal office;

(3) the location of its local office, if any, and the name and street address of its resident agent;

(4) a brief description of the activities of the foreign corporation within the commonwealth;

(5) the location of its local office, if any, and the name and street address in the commonwealth of its resident agent;

(6) the name and business addresses of its president, treasurer, clerk or secretary and directors;

(7) the fiscal year of the corporation;

(8) the date of its organization and the jurisdiction under the laws of which it is organized;

(9) the duration of its existence; and

(10) a statement of the fees imposed, by the laws of the jurisdiction under whose laws the foreign corporation has been established, organized or chartered, on corporations organized under the laws of the commonwealth or their agents doing business in that jurisdiction.

Attached to said certificate shall be a certificate of legal existence of such foreign corporation issued by an officer or agency properly authorized in the state or country in which such foreign corporation was organized or other evidence of legal existence acceptable to the secretary. If such certificate or other evidence of such legal existence is in a language other than English, a translation thereof, under oath of the translation, shall also be attached.



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Every foreign corporation doing business in the commonwealth shall file with the state secretary an amended certificate signed under penalties of perjury by its president or a vice president and its clerk or assistant clerk, or its secretary or assistant secretary, in such form as the state secretary shall require, setting forth any change in information concerning the name, principal office location, description of corporate activities, the name or street address of its resident agent, its fiscal year end, or the jurisdiction under the laws of which it is organized or governed, within sixty days of the effective date of such change.

If the amendment involves a change of name or jurisdiction, a certificate of such change issued by an officer or agency properly authorized in the state or country in which such foreign corporation is organized and acceptable to the state secretary shall be attached to the amended certificate.

Following any change in the information concerning the location of its local office, the names and business address of its president, treasurer, clerk or secretary and director, or the duration of its existence, the corporation may file an amended certificate specifying such change with the state secretary. The certificate shall be signed under penalties of perjury by the clerk or assistant clerk or the secretary or assistant secretary.

Every such corporation shall annually, on or before the fifteenth day of the third month following the close of its fiscal year, prepare and submit to the state secretary a report signed under penalties of perjury by an officer of the corporation in such form as the state secretary shall require stating:

(1) the exact name of the foreign corporation including any words or abbreviations indicating incorporated or limited liability, and if the name of the corporation does not comply with provisions of section five, the name to be assumed by the corporation for use in transacting business in the commonwealth pursuant to section five A;

(2) the location of its principal office;

(3) the location of its local office, if any, and the name and street address of its resident agent;

(4) the name and business address of its president, treasurer, and clerk or secretary and of all the directors of the foreign corporation, and the date upon which the term of office of each expires; and

(5) the amount of its capital stock, authorized and issued, including the number and par value, if any, of its shares.

**SECTION 10.** Said chapter 181 is hereby further amended by inserting after section 4, as so appearing, the following section:-

Section 4A. Each resident agent appointed by a foreign corporation pursuant to section four shall be either an individual who is resident of and has a business address in the commonwealth, a domestic corporation or a corporation organized under the laws of any other state of the United States, which has complied with

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the provisions of this section and which has an office in the commonwealth.

Any resident agent of a corporation may resign as such agent by filing with the state secretary a certificate signed under penalties of perjury by such agent setting forth the fact of his resignation and the effective date thereof, which shall be not less than thirty days after the date of the filing of such certificate, and stating that a copy of such certificate has been mailed, postage prepaid, to the corporation at the address of the principal office of the corporation.

**SECTION 11.** Said chapter 181 is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. Foreign corporations shall be liable to be sued and to have their property attached in the same manner and to the same extent as individuals who are residents of other states.

Every foreign corporation doing business in the commonwealth which has not complied with the provisions of section four and every foreign corporation which has complied with such provisions but whose resident agent cannot, after a diligent search by an officer authorized to serve legal process, be found at the business address of such resident agent stated in its most recent certificate filed with the state secretary pursuant to this chapter and every foreign corporation whose resident agent refuses to act as such, shall be deemed to have appointed the state secretary and his successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding may be served so long as any liability incurred in the commonwealth while it was doing business shall remain outstanding.

Service of process in all actions and proceedings in the commonwealth against such a foreign corporation may be made upon the state secretary. Service of process in all actions and proceedings in the commonwealth against a foreign corporation formerly doing business in the commonwealth that has not complied with the provision of section four, or against a foreign corporation formerly doing business in the commonwealth that has withdrawn from the commonwealth pursuant to this chapter, may be made upon the state secretary if the action or proceeding involves a liability alleged to have been incurred by the foreign corporation while it was doing business in the commonwealth.

When lawful process in any action or proceeding against any foreign corporation which pursuant to this section may be made upon the state secretary is served upon the state secretary, the state secretary shall immediately forward the process by mail, postage prepaid, directed to such corporation at its last known principal office or, in the case of a foreign corporation established in a foreign country, to the resident manager, if any, in the United States. A fee of ten dollars shall be paid by the plaintiff to the state secretary at the time of the service and such fees shall be taxed in his costs, if he prevails in the suit. The state secretary shall keep a record of all such processes, which shall show the day of service.

In the case of service of process on a foreign corporation that has not complied

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with section four, the notice herein provided for shall be mailed by the state secretary to the proper address of the foreign corporation furnished to him by the plaintiff or his attorney.

Service of process upon a foreign corporation for violation of any criminal law of the commonwealth may be made in the manner hereinabove provided except that no fee shall be paid to the state secretary.

**SECTION 12.** Said chapter 181 is hereby further amended by adding the following section:-

Section 17. (1) The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the state secretary if:

(a) the corporation fails to comply with the provisions of law requiring the filing of reports with the state secretary or tax returns with the commissioner of revenue for two or more consecutive years; or

(b) the corporation has failed to file an amended certificate as required by section four.

(2) No certificate of authority of a foreign corporation shall be revoked by the state secretary until he has given the corporation not less than ninety days notice thereof by mail addressed to its principal office as stated in its foreign corporation certificate. If the corporation fails to file such reports or pay any fees, changes or penalties or file the required amended certificate, upon the expiration of ninety days after the mailing of notice by the state secretary, the authority of the foreign corporation to conduct affairs in the commonwealth shall cease.

**SECTION 13.** Every foreign corporation which shall have complied with the provisions of section four of chapter 181 of the General Laws prior to the effective date of this act, shall within one hundred and eighty days after such effective date, comply with the provision of said section four, as amended by section nine of this act.

Approved September 26, 1991.

**Chapter 230.           AN ACT PROHIBITING ADDITIONAL CHARGES BY HOSPITALS OR NURSING FACILITIES AS A PRECONDITION FOR ADMISSION OF MEDICAID RECIPIENTS.**

*Be it enacted, etc., as follows:*

Chapter 118E of the General Laws is hereby amended by striking out section 21D, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 21D. Whoever knowingly and wilfully charges, solicits, accepts or receives, in addition to any amount otherwise required to be paid under this chapter, any gift, money, donation or other consideration as a precondition or

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guarantee of admitting a recipient of services under this chapter whether or not presently certified or otherwise lawfully approved for long term care, to a hospital or nursing facility or to expedite the admission of such recipient or as a requirement for such recipient's continued stay in such a facility shall be punished by a fine of not more than ten thousand dollars or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by both such fine and imprisonment.

Approved September 26, 1991.

**Chapter 231.        AN ACT DESIGNATING A CERTAIN BRIDGE IN THE  
TOWNS OF SWANSEA AND SOMERSET AS THE DAVID M.  
ANTHONY MEMORIAL BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge extending over the Lees River on state highway Route 103 in the towns of Swansea and Somerset shall be designated and known as the David M. Anthony Memorial Bridge. The department of public works shall erect a suitable marker bearing said designation in compliance with the standards of said department.

Approved September 26, 1991.

**Chapter 232.        AN ACT AUTHORIZING THE TOWN OF SPENCER TO  
TRANSFER A PARCEL OF LAND PRESENTLY BEING USED  
AS PARK LAND TO BE USED FOR HIGHWAY PURPOSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Spencer is hereby authorized to use a certain parcel of park land in said town for highway purposes. Said parcel is shown as Parcel No. 2 on plan H-4522-R entitled "Plan of Smithville Road in the Town of Spencer portion of Powder Mill Park to be transferred to highway purposes", dated March 1991.

Said plan is on file with the engineer's office of the county commissioners of the county of Worcester.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 26, 1991.

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**Chapter 233.        AN ACT AUTHORIZING THE TOWN OF DANVERS TO  
ESTABLISH AN EDUCATIONAL RESERVE FUND.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, the town of Danvers is hereby authorized to appropriate in any year money to establish a fund to be known as the Danvers Educational Reserve Fund, which shall be kept separate and apart from all other monies by the treasurer, to provide for the payment of school related emergencies and extraordinary expenses including special education costs, provided however, no salary increases shall be paid from said fund.

Expenditures from said fund shall be made upon recommendation of the school committee with the approval of town meeting. All monies in said fund in excess of six hundred thousand dollars including accrued interest shall be transferred to the general fund of said town.

Approved September 26, 1991.

**Chapter 234.        AN ACT FURTHER REGULATING ELECTIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 41 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- If a town votes to reduce a board of three members to a single officer, such vote shall take effect at the following annual town meeting, and upon election and qualification of such officer the term of said board shall terminate; provided, however, that in towns where official ballots are used, unless the vote thus passed is more than sixty days before the annual town election, it shall not take effect until the next annual town election.

**SECTION 2.** The first paragraph of section 42A of chapter 51 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the second sentence.

**SECTION 3.** The second paragraph of said section 42A of said chapter 51, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The application shall be made, not later than the third day before the last day for registration of voters under section twenty-six, to the registrars of voters of the city or town in which the applicant resides.

**SECTION 4.** Section 8 of chapter 52 of the General Laws, as so appearing, is

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hereby amended by striking out, in line 2, the word "governor" and inserting in place thereof the following words:- any office to be filled by all the voters of the commonwealth.

**SECTION 5.** Section 18A of chapter 53 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "thirtieth" and inserting in place thereof the word:- thirty-fifth.

**SECTION 6.** Said section 18A of said chapter 53, as so appearing, is hereby further amended by striking out, in line 26, the word "thirty" and inserting in place thereof the word:- thirty-five.

**SECTION 7.** Section 34A of said chapter 53, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Envelopes conforming substantially to subsections (c) and (d) of section eighty-seven of said chapter fifty-four.

**SECTION 8.** Said chapter 53 is hereby further amended by striking out section 38A, as so appearing, and inserting in place thereof the following section:-

Section 38A. The board of registrars of voters of every city or town shall submit to the state secretary a count for each precinct of the number of voters enrolled in each political party or political designation and the number of unenrolled voters. The count shall be correct as of the last day to register voters under section twenty-six of chapter fifty-one before every regular state and presidential primary and biennial state election, and in an even-numbered year in which no presidential primary is held, also as of February first. The secretary shall receive the count in writing not later than ten days after each such date, and shall issue a report thereof.

**SECTION 9.** Section 24 of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- When a polling place in a voting precinct is changed from one location to another, the board of election commissioners in the city of Boston, the aldermen in any other city or the selectmen in any town shall cause printed descriptions of such polling place to be posted in such public places in such precinct as they determine and shall give notice by mail to each residence of one or more registered voters therein.

**SECTION 10.** Section 42 of said chapter 54, as so appearing, is hereby amended by striking out, in line 60, the word "city" and inserting in place thereof the words:- electoral district, city.

**SECTION 11.** Sections fifty-five to fifty-eight, inclusive, of said chapter fifty-four are hereby repealed.

**SECTION 12.** Section 58A of said chapter 54, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

The provisions of this section, including the provision for a fair, concise summary determined by the city solicitor or town counsel, shall also apply

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whenever any special act is submitted for acceptance to the voters of a city or town, except to the extent that the special act expressly provides otherwise.

**SECTION 13.** Said chapter 54 is hereby further amended by striking out section 93, as so appearing, and inserting in place thereof the following section:-

Section 93. All absent voting ballots voted as provided in section ninety-two shall be received by the city or town clerk before the hour fixed for closing the polls.

**SECTION 14.** The second paragraph of section 95 of said chapter 54, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following two sentences:- Such ballots from outside the United States, received on or after the day of a state election in accordance with section ninety-nine, and which are counted at the office of the registrars, shall be counted at a public meeting of the board of registrars of voters. The registrars may hold this meeting as soon as they have received all absent voting ballots mailed to such voters outside the United States, but shall hold it in any event after five o'clock in the afternoon on the tenth day following such state election.

Approved September 26, 1991.

**Chapter 235.        AN ACT RELATIVE TO FORECLOSURES ON CERTAIN  
RESIDENTIAL PROPERTY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to clarify certain provisions relative to the moratorium on the foreclosure of certain mortgages, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 138 of the acts of 1991 is hereby amended by striking out section 284 and inserting in place thereof the following section:-

**Section 284.** Notwithstanding the provisions of any general or special law to the contrary, no foreclosure sale pursuant to a power of sale in any mortgage deed of real estate located in the commonwealth having thereon a dwelling house with accommodations for four or less separate households and occupied in whole or in part by an obligor on the mortgage debt which secures, in whole or in part, any loan made for personal, family or household purposes shall be conducted in the commonwealth for a period of one hundred and twenty days, commencing July eleventh, nineteen hundred and ninety-one and terminating November seventh, nineteen hundred and ninety-one, if any note secured by a fixed rate mortgage on such real estate recorded at least thirty days prior to said foreclosure sale in the registry of deeds or the registry district for the county and district in which the real

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estate is located, bears an interest rate in excess of fifteen percent or in the case of a variable rate mortgage likewise recorded at least thirty days prior to said foreclosure sale any such note bears an interest rate that exceeds fifteen percent at any time prior to default, and the proceeds of any such mortgage loan were used, in whole or in part, for home improvement purposes. For the purposes of this section, the term "home improvement purposes" shall include, but not be limited to, the improvement, repair, alteration or rehabilitation of such real estate, or the purchase and installation of fixtures to be affixed thereto, including the purchase and installation of a solar or wind-powered system or heat pump system.

No register of deeds or assistant recorder of the land court shall accept for recording or filing for registration any foreclosure deed pursuant to a foreclosure sale conducted under a power of sale during said one hundred and twenty day period, as aforesaid, unless the same is accompanied by (1) an affidavit under the pains and penalties of perjury signed by the record holder of the mortgage deed being foreclosed, or a duly authorized officer thereof, certifying compliance with the requirements of this section and (2) a certified copy of any and all notes secured by a mortgage on said real estate; provided, however, that certified copies of such notes need not be recorded or filed for registration if said real estate does not have thereon a dwelling house with accommodations for four or less separate households and a statement affirming the same is contained in said affidavit. For the purposes of this section, the term "foreclosure sale" refers to the conclusion of a sale at public auction pursuant to the provisions of chapter two hundred and forty-four of the General Laws.

Any party, other than the holder of the mortgage being foreclosed, acquiring an interest in said real estate from such holder or its successors, heirs and assigns, for value and without notice shall be entitled to rely conclusively on the facts set forth in such affidavit without further inquiry when such affidavit is duly recorded or filed for registration in the registry of deeds or the registry district within which the mortgage is recorded or filed.

**SECTION 2.** This act shall take effect as of July first, nineteen hundred and ninety-one.

Approved September 27, 1991.

**Chapter 236.      AN ACT ESTABLISHING A FUNDING SCHEDULE FOR  
THE CITY OF LYNN RETIREMENT SYSTEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lynn retirement system is hereby deemed to have accepted the provisions of section twenty-two D of chapter thirty-two of the



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General Laws; provided, however, that notwithstanding the provisions of the first sentence of subdivision (1) of said section twenty-two D, said retirement system may adopt a funding schedule established under said subdivision (1) of said section twenty-two D which would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; and provided further, that said retirement system shall not be subject to the provisions of paragraph (e) of subdivision (4) of said section twenty-two D.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws or any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety as the required payments into the pension fund of the Lynn Retirement System for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one of this act and has been approved by said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided however, that any such schedule shall be submitted to said actuary on or before October first, nineteen hundred and ninety-one and the resulting revised appropriation shall be issued by said actuary no later than November fifteenth, nineteen hundred and ninety-one.

**SECTION 3.** This act shall take effect upon its passage.

*This Bill, returned by the Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate, September 4, 1991, and in concurrence, by the House of Representatives, September 23, 1991, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and thereby has "the force of law".*

**Chapter 237.        AN ACT ESTABLISHING A TWO YEAR TERM FOR THE  
OFFICE OF MAYOR IN THE CITY OF BROCKTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The mayor of the city of Brockton shall be elected by and from the qualified voters of the city and shall be the executive officer of the city. He shall hold office for the term of two years from the first Monday in January following his election and until his successor is qualified.

**SECTION 2.** This act shall be submitted to the voters of the city of Brockton at the next city election in the form of the following question, which shall be placed

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upon the official ballot to be used for the election of city officers at said election: "Shall an act passed by the general court, entitled 'An Act establishing a two year term for the office of the mayor in the city of Brockton', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative then this act shall take full effect for all regular mayoral elections held after the election at which this question is submitted to the voters of the city of Brockton.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 3, 1991.

**Chapter 238.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Roger F. Sullivan, as he is a justice of the district department of the trial court, in the city of Fall River on October fourth, nineteen hundred and ninety-one between Leslie Eng and Jason Newton, both of the city of Providence in the state of Rhode Island and the state secretary shall issue to said Honorable Roger F. Sullivan in his capacity as aforesaid, a certificate of such authorization.

Approved October 3, 1991.

**Chapter 239.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

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Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Catherine P. Sabaitis in the town of Plymouth on October sixth, nineteen hundred and ninety-one, between Helyn A. Harkins and Thomas F. Whalen, both of the town of Wareham, and the state secretary shall issue to said Catherine P. Sabaitis a certificate of such authorization.

Approved October 3, 1991.

**Chapter 240.        AN ACT RELATIVE TO INCREASING THE SPEED LIMIT  
ON THE MASSACHUSETTS TURNPIKE.**

*Be it enacted, etc., as follows:*

Unless otherwise prohibited by federal law, the maximum speed for motor vehicles travelling on interstate highway route 90, the Massachusetts Turnpike, between the New York state border and the Westfield interchange, and from the Ludlow interchange to the Auburn interchange, shall be sixty-five miles per hour.

Approved October 7, 1991.

**Chapter 241.        AN ACT EXEMPTING CERTAIN POSITIONS IN THE PO-  
LICE DEPARTMENT OF THE CITY OF CAMBRIDGE FROM  
THE PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

The positions of superintendent and deputy superintendent of police in the city of Cambridge shall be exempt from the provisions of chapter thirty-one of the General Laws. Persons holding such positions shall be deemed to be managerial employees for purposes of chapter one hundred and fifty E of the General Laws.

Approved October 7, 1991.

**Chapter 242.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Michael Fredrickson in the town of North Andover on October twelfth, nineteen hundred and ninety-one, between Penny A. Groshen and Ian R. Clark, both of the city of Cambridge, and the state secretary shall issue to said Michael Fredrickson a certificate of such authorization.

Approved October 8, 1991.

**Chapter 243.        AN ACT AUTHORIZING THE CITY OF BOSTON TO SELL  
AND CONVEY A CERTAIN PARCEL OF PARK LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Boston is hereby authorized to sell and convey a certain parcel of park land in said city as bounded and described as follows:

Commencing at the Southeasterly corner of the parcel of land known as 140-150 Shirley Street and running N38° 42' 16" W a distance of 17.79 feet to the point of beginning;

Thence running N35° 15' 43" W a distance of 56.90 feet to a point;

Thence turning and running S69° 46' 05" W a distance of 124.44 feet to a point;

Thence turning and running S21° 03' 52" E a distance of 1.25 feet to a point;

Thence turning and running N70° 00' 00" E distances of 1.40 feet and 120 feet, the last mentioned distance being along the present property line; to the present property corner;

Thence turning and running S38° 42' 16" E along the present property line, a distance of 56.11 feet to the point of beginning.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 8, 1991.

**Chapter 244.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate

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preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Catherine A. White as she is an associate justice of the superior court department of the trial court of the commonwealth, in the city of Boston on November ninth, nineteen hundred and ninety-one between Kathleen A. Scruton of the city of Boston, and Keith S. Halpern of the city of Somerville, and the state secretary shall issue to said Catherine A. White in her capacity as aforesaid, a certificate of such authorization.

Approved October 8, 1991.

**Chapter 245.        AN ACT RELATIVE TO THE NEW ENGLAND EDUCATION  
LOAN MARKETING CORPORATION.**

*Be it enacted, etc., as follows:*

Chapter 356 of the acts of 1982 is hereby amended by inserting after section 12 the following section:-

*Section 12A.* This charter, consisting of sections one to twelve A, inclusive, may be amended by a two-thirds vote of the board, provided that no amendment of this charter which is inconsistent with the purposes expressed in chapter one hundred and eighty of the General Laws or which eliminates or curtails the obligation of the corporation to make reports as provided in section eleven shall be made without amendment of this act. After any meeting at which an amendment of this charter has been adopted, articles of amendment signed and sworn to by the president and clerk of the corporation, setting forth such amendment and due adoption thereof, shall be filed in the office of the secretary of the commonwealth, and no such amendment shall take effect until such articles of amendment shall have been filed as aforesaid.

Approved October 8, 1991.

**Chapter 246.        AN ACT EXEMPTING THE CLERICAL POSITIONS IN THE  
ASSESSORS OFFICE IN THE TOWN OF BILLERICA FROM  
THE PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** The clerical positions in the assessors office in the town of Billerica shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any incumbents holding clerical positions in the assessors office in the town of Billerica on the effective date of this act.

Approved October 8, 1991.

**Chapter 247.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Mary E. Hurley as she is the mayor of the city of Springfield, in the city known as the town of Agawam on October twelfth, nineteen hundred and ninety-one between Joseph Edward Smith and Cynthia Lynn Karlic, both of Wolcott, Connecticut, and the state secretary shall issue to said Mary E. Hurley in her capacity as aforesaid, a certificate of such authorization.

Approved October 8, 1991.

**Chapter 248.        AN ACT FURTHER REGULATING THE SURVEYING OF  
LAND.**

*Be it enacted, etc., as follows:*

Chapter 97 of the General Laws is hereby amended by striking out sections 8, 9, 10, 11, 12, and 13 and inserting in place thereof the following ten sections:-

Section 8. The system of plane rectangular coordinates shall be the North American Datum of 1983 as established by the National Ocean Services/National Geodetic Survey (NOS/NGS), or its successors for defining and stating the geographic positions or locations of points on the surface of the earth within the

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commonwealth and shall be known as the Massachusetts Coordinate System North American Datum (NAD), 1983.

For the purposes of the use of said system the commonwealth is hereby divided into a mainland zone and an island zone.

The area now included in the following counties shall constitute the mainland zone: Barnstable, Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk and Worcester.

The area now included in the counties of Dukes County and Nantucket shall constitute the island zone.

Section 9. As established for use in the mainland zone, said system shall be named, and in any land description in which it is used it shall be designated, the "Massachusetts Coordinate System, NAD 1983, Mainland Zone".

As established for use in the island zone, said system shall be named, and in any land description in which it is used it shall be designated, the "Massachusetts Coordinate System, NAD 1983, Island Zone".

Section 10. The plane rectangular coordinates of a point on the earth's surface, shall be used in expressing the position or location of such point in the appropriate zone of said system, and shall consist of two distances, either expressed in meters and decimals of meters or in the United States survey feet and decimals of a foot. One of these distances, to be known as the easting or "X" coordinate shall give the position in an east-west direction; the other to be known as the northing or "Y" coordinate shall give the position in a north-south direction. Such coordinates shall be made to depend upon and conform to the plane rectangular metric coordinates values for the horizontal control stations of the North American Horizontal, Geodetic Control Network as published by said National Ocean Service, National Geodetic Survey or its successors, and whose plane coordinates have been computed on the systems defined in this chapter.

Section 11. Nothing contained in this chapter shall prohibit the conversion of the coordinates on the metric system to the United States Survey Foot nor shall the use of distances in feet and decimals of a foot be prohibited from any map, report of survey, deed, or other document. For conversion of meters to United States survey feet, the meters shall be multiplied by 39.37 and divided by 12 which results in a constant multiplier having a value of 3.28083333333 to 12 significant figures.

Section 12. For the purpose of more precisely defining said system:

1. The Massachusetts Coordinate System, NAD, 1983, Mainland Zone, Federal Zone Code M2001, is a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 41° (degrees) 43' (minutes), and 42° (degrees) 41' (minutes), along which parallels the scale shall be exact. The origin of coordinates is at the intersection of meridian 71° (degrees) 30' (minutes), west of Greenwich and the parallel 41° (degrees) 00' (minutes), north latitude. This origin shall have the coordinates: North (Y) = 750,000 meters and

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East (X) = 200,000 meters.

2. The Massachusetts Coordinate System, NAD 1983, Island Zone, Federal Zone Code I 2002 is a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes  $41^{\circ}$  (degrees) 17' (minutes) and  $41^{\circ}$  (degrees) 29' (minutes), along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian,  $70^{\circ}$  (degrees) 30' (minutes), west of Greenwich and the parallel  $41^{\circ}$  (degrees) 00' (minutes), north latitude. This origin shall have the coordinates North (Y) = 0 meters and East (X) = 500,000 meters.

Section 13. The use of the term "Massachusetts Coordinate System" on any map, report of survey, or deed or other document, shall be limited to coordinates based on the Massachusetts State Plane Coordinate System as defined in sections eight to thirteen, inclusive.

Section 14. The coordinate system based upon the North American Datum of 1927 which prior to the enactment of this statute was defined as the Massachusetts Coordinate System shall be now designated the Coordinate System, North American Datum of 1927, (NAD 1927), and can continue in use for the preparation of any maps, reports of survey, or other documents, until such time as the Board of Registration of Professional Engineers and Land Surveyors declares, with the concurrence of the chief engineer of the Massachusetts department of public works, by regulation that said Coordinate System, (North American Datum of 1927), shall no longer be used except for interpreting existing maps, reports of surveys, deeds or other documents. For the Coordinate System, North American Datum, 1927 the commonwealth is divided into the same two zones defined in section eight.

Section 15. The plane rectangular coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone of said system, shall consist of two distances, expressed in feet and decimals of a foot. One of these distances, to be known as the "X coordinate", shall give the position in an east-west direction; the other to be known as the "Y coordinate", shall give the position in a north-south direction. Such coordinates shall be referred to the appropriate origin as defined in section sixteen, and shall be made to depend upon and conform to the plane rectangular coordinates of the triangulation and traverse stations of the former United States Coast and Geodetic Survey within the commonwealth, as these coordinates had been determined by said survey.

Section 16. The Coordinate System, North American Datum of 1927, Mainland Zone, consists of a Lambert conformal projection of the Clarke spheroid of eighteen hundred and sixty-six, having the standard parallels at north latitude  $41^{\circ}$  (degrees) 43' (minutes) and  $42^{\circ}$  (degrees) 41' (minutes), along which parallels the scale shall be exact. The origin of coordinates for this zone is at the intersection of the meridian  $71^{\circ}$  (degrees) 30' (minutes) west longitude and the parallel  $41^{\circ}$  (degrees)



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00' (minutes) north latitude. This origin is given the coordinates: X=600,000 feet; Y=0 feet.

The NAD 1927 Coordinate System, North American Datum of 1927, Island Zone, consists of a Lambert conformal projection of the Clarke spheroid of eighteen hundred and sixty-six, having the standard parallels at north latitudes 41° (degrees) 17' (minutes) and 41° (degrees) 29' (minutes), along which parallels the scale shall be exact. The origin of coordinates for this zone is at the intersection of the meridian 70° (degrees) 30' (minutes) west longitude and the parallel 41° (degrees) 00' (minutes) north latitude. This origin is given the coordinates: X=200,000 feet; Y=0 feet.

The position of said system shall be as marked on the ground by triangulation of traverse stations established in conformity with the standards adopted by the former United States Coast and Geodetic Survey for first-order and second-order work, whose geodetic positions had been rigidly adjusted on the North American Datum of nineteen hundred and twenty-seven, and whose plane coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with said NAD 1927 coordinate system.

Section 17. For the purpose of describing the location of any survey station or land boundary point in the commonwealth it shall be a complete, legal and satisfactory description of such location to give the position of said survey station or land boundary point on the Massachusetts Coordinate System. Nothing contained in sections eight to seventeen, inclusive, shall be interpreted as requiring any purchaser or mortgagee to rely exclusively on a description based on said system.

Approved October 8, 1991.

**Chapter 249.            AN ACT RELATIVE TO PERSONS DESIGNATED TO SOLEMNIZE MARRIAGE IN THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

Section 39 of chapter 207 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

In addition to the foregoing, the governor may designate any other person to solemnize a particular marriage on a particular date and in a particular city or town, and may for cause at any time revoke such designation. The state secretary, upon the payment to him of twenty-five dollars by said other person, shall issue to said person a certificate of such designation. Such certificate shall expire upon completion of such solemnization.

*Emergency Letter: October 8, 1991 @ 4:48 P.M.*      Approved October 8, 1991.

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**Chapter 250.           AN ACT RELATIVE TO THE MEMBERSHIP OF THE  
FALMOUTH HISTORICAL DISTRICT COMMISSION.**

*Be it enacted, etc., as follows:*

Section 2 of chapter 654 of the acts of 1975 is hereby amended by adding the following paragraph:-

In addition to the five members designated above, the board of selectmen may appoint two alternate members who may attend and participate in meetings and other matters. Said alternates may not vote on an application unless they are sitting as a designated substitute.

Approved October 8, 1991.

**Chapter 251.           AN ACT AUTHORIZING THE TOWN OF SOUTH HADLEY  
TO PAY A CERTAIN UNPAID BILL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter thirty B of the General Laws or any other general or special law to the contrary, the town of South Hadley is hereby authorized to pay from available funds to Southworth Machinery, Inc., the sum of eight thousand seven hundred and seventy-five dollars for the rental of equipment.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 9, 1991.

**Chapter 252.           AN ACT RELATIVE TO CHARTER ENFORCEMENT IN  
THE TOWN OF PROVINCETOWN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The charter of the town of Provincetown which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 5-2-3 and inserting in place thereof the following section:-

*Section 5-2-3.* The commission shall take action only after receiving a written petition filed by a voter or voters alleging a violation of this charter by reason of an act or failure to act of the town manager, the acting town manager, the moderator, the board of selectmen, the school committee, or the finance

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committee, or members of those committees.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 9, 1991.

**Chapter 253.        AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF  
PROVINCETOWN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The charter of the town of Provincetown which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-1-2 and inserting in place thereof the following section:-

*Section 3-1-2.* The chairman of any town board shall notify the appointing authority in writing when a vacancy occurs on the town board. The appointing authority shall fill the vacancy within sixty days of the receipt of the notice of vacancy. In the event of the failure of the appointing authority to fill the vacancy within the allowed time, the moderator shall then be charged with filling the vacancy within sixty days. In the event of the failure of the moderator to fill the vacancy within the allowed time, the town board shall fill the vacancy.

**SECTION 2.** Said charter of said town of Provincetown is hereby further amended by striking out section 3-4-3 and inserting in place thereof the following section:-

Section 3-4-3. A paid town employee with supervisory duties shall not be a member of a town board which is in any way related to his employment during his or her term of office or for at least one year after leaving office.

**SECTION 3.** Said charter of said town of Provincetown is hereby further amended by striking out section 3-4-4 and inserting in place thereof the following section:-

Section 3-4-4. A member of a town board shall not serve on that town board for more than three consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to that board after two years have elapsed from the ending date of his or her previous service.

**SECTION 4.** Said charter of said town of Provincetown is hereby further amended by striking out section 4-4-4 and inserting in place thereof the following section:-

Section 4-4-4. The board of selectmen shall appoint a town manager, a

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secretary to the board of selectmen, and members of those town boards designated in chapter 6 of this charter, subject to the provisions of section 3-1-2 of this charter.

**SECTION 5.** Said charter of said town of Provincetown is hereby further amended by striking out section 7-2-4 and inserting in place thereof the following section:-

Section 7-2-4. The town manager shall hire all town employees, except the secretary to the board of selectmen.

**SECTION 6.** Said charter of said town of Provincetown is hereby further amended by striking out section 10-4-2 and inserting in place thereof the following section:-

Section 10-4-2. The town manager may suspend with pay any non-union paid town employee for up to fifteen days for good cause or if the town manager deems the suspension to be necessary to protect the interests of the town.

The town manager may, after a hearing, suspend without pay any non-union paid town employee for good cause.

(a) Within fourteen days of the conclusion of the period of suspension, an employee who has been suspended may request a hearing before the personnel board, which hearing shall take place within forty days of the request.

(b) The employee may be represented by counsel at the hearing, and shall be entitled to present evidence, to call witnesses, and to question any witness appearing at the hearing.

(c) Within ten days after the public hearing is adjourned the personnel board shall render its opinion as to whether the suspension was justified, and in the case of a suspension without pay may, by at least a two-thirds vote, restore any or all lost pay.

**SECTION 7.** Said charter of said town of Provincetown is hereby further amended by striking out section 10-4-3 and inserting in place thereof the following section:-

Section 10-4-3. The town manager may, after a hearing, discharge any non-union paid town employee for good cause, subject to the following provisions:

(a) The town manager shall deliver a written notice of the discharge and a statement of the reasons therefor by registered mail to the last known address of the employee. The employee shall be discharged as of the time of the mailing of said notice.

(b) Within fourteen days of mailing of the notice the employee may request a public hearing before the personnel board, which hearing shall take place within forty days of the request.

(c) The employee may be represented by counsel at the hearing, and shall be entitled to present evidence, to call witnesses, and to question any witness appearing at the hearing.

(d) Within ten days after the public hearing is adjourned the personnel board,

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by at least a two-thirds vote, may reinstate the employee and may restore any or all lost pay, but the employee shall otherwise be removed.

**SECTION 8.** Said charter of said town of Provincetown is hereby further amended by striking out section 11-2-8 and inserting in place thereof the following section:-

*Section 11-2-8.* The provisions of section 3-4-4 shall not apply to any service on a town board prior to July first, nineteen hundred and ninety.

**SECTION 9.** This act shall take effect upon its passage.

Approved October 9, 1991.

**Chapter 254.            AN ACT DESIGNATING A CERTAIN BRIDGE IN THE  
TOWN OF RAYNHAM AS THE ALBERT F. PORTER BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge on state highway route 44 over state highway route 24 in the town of Raynham shall be designated and known as the Albert F. Porter bridge, in honor of Albert F. Porter who served the town of Raynham in public office for over fifty years. Suitable markers bearing such designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved October 9, 1991.

**Chapter 255.            AN ACT ESTABLISHING A PROGRAM AND FUNDING  
FOR EMERGENCY AID TO THE ELDERLY, DISABLED  
AND CHILDREN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The sum set forth in section two for the several purposes and subject to the conditions specified in said section two and section four is hereby appropriated from the General Fund, subject to the provisions of law regulating the disbursement of public funds and the approval thereof, for the fiscal year ending June thirtieth, nineteen hundred and ninety-two.

**SECTION 2.**

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

**DEPARTMENT OF PUBLIC WELFARE.**

4408-1000 For a program of cash assistance to certain residents of the commonwealth entitled emergency aid to the elderly, disabled and children found by the department of public welfare to be eligible for such aid,

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pursuant to regulations promulgated by said department and subject to the limits of appropriation therefor; provided, however, that said program may include a program of medical benefits as defined by regulations of the department of public welfare; provided, further, that the department may provide benefits to persons over the age of sixty-five who have applied for benefits under chapter one hundred and eighteen A of the General Laws, to persons suffering from those physical or mental incapacities designated by the department, and which have been verified by a medical practitioner designated by the department, and to certain persons caring for a disabled person; provided, further, that the costs of verifying disability may be paid from this item; provided, further, that in designating those physical or mental incapacities which are disabling, the department may include those impairments listed in 20 C.F.R. 404, Subpart P, Appendix I; provided, further, that the department may apply age, educational and vocational standards to those individuals who have a medical disability which does not meet the medical standards established by regulations of the department; provided, further, that the payment standard shall not exceed the payment standard in effect for the General Relief program in fiscal year nineteen hundred and ninety-one; provided, further, that a thirty-five dollar rent benefit, to the extent determined to be possible within the appropriation by the department, shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided, further, that families with dependent children, whose sole reason for ineligibility under chapter one hundred and eighteen is either an inability to satisfy the work history requirement of said program or an inability to satisfy the relationship requirement, may be eligible under this program; provided, further, that the department may provide participants in the Vocational Rehabilitation program of the Massachusetts rehabilitation commission, as defined in 106 CMR 312, benefits under this program if otherwise eligible; provided, further, that benefits may be provided to an otherwise eligible student under age twenty-one who is regularly attending full-time a grade, high school, technical or vocational school not beyond the secondary level; provided, further, that the department is authorized to promulgate emergency regulations pursuant to section three of chapter thirty A of the General Laws to implement this program promptly and within the appropriation; provided, further, that the department may begin the eligibility determination process prior to the effective date of regulations

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hereunder; provided, further, that no ex-offender, person over age forty-five without a prior work history, or person in a residential treatment facility shall be eligible for benefits under this program unless said person otherwise meets the eligibility criteria described herein and defined by regulations of the department; provided, further, that benefits under this program shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens, provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits, and any other benefits, under this program, the department shall take into account the amounts available to it for expenditure under this chapter so as not to exceed the appropriation, and may, in its discretion, depart from prior practices in accordance with the provisions of this item; provided, further, that notwithstanding the provisions of any special or general law to the contrary, or this line item, thirty days before implementing eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerk of the house of representatives and the clerk of the senate a report setting forth such proposed changes; provided, further, that the report shall contain detailed information concerning the current and proposed operation of the program, including categories of eligibility, number of eligible persons in each category, demographic information regarding said persons, services rendered to said persons, direct service costs, administrative costs, and an explanation of the need for the proposed changes in eligibility requirements or benefit levels or both which shall be implemented and a determination by the secretary of human services that available appropriations for said program will be insufficient to meet projected expenses; provided, further, that the department is authorized to promulgate emergency regulations pursuant to chapter thirty A of the General Laws to implement these eligibility or benefit changes or both, provided, further that in establishing the initial program only, the department shall include all eligibility categories permitted herein at the payment standard in effect for the former general relief program in fiscal year nineteen hundred and ninety-one; provided, further that nothing herein shall be construed as creating any right accruing to recipients of the former general relief program; provided, further, that any

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person incarcerated in a correctional institution shall not be eligible for benefits under said program; provided, further, that the secretary of health and human services shall report on December first, nineteen hundred and ninety-one, and every three months thereafter to the house and senate committees on ways and means for the preceding three months on the numbers of persons applying for benefits under this program, by category, age, and disability, if any, and the number of persons receiving and denied benefits under this program by category, age, and disability, if any; provided, further, that notwithstanding any general or special law to the contrary, that the funds made available herein shall be the only funds available for said program, and the department shall not spend funds for said program in excess of the amount made available herein, and subject to the condition that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother

\$102,517,000

**SECTION 3.** Chapter one hundred and seventeen of the General Laws is hereby repealed.

**SECTION 4.** The General Laws are hereby further amended by inserting after chapter 117 the following chapter:-

CHAPTER 117A.

**Support By the Commonwealth.**

Section 1. There is hereby established within the department of public welfare a program of emergency aid for elderly and disabled residents of the commonwealth found by the department to be eligible for such aid, pursuant to regulations promulgated by said department and subject to appropriation. In promulgating, amending, or rescinding its eligibility regulations from time to time, the department may take into account the amounts available to it for expenditure under this chapter. The department shall by regulation provide that an applicant or recipient who lives with one or more family members who receives assistance pursuant to chapter one hundred and eighteen and who is legally obligated to support such family member shall receive assistance, pursuant to this chapter, which, when combined with the assistance being received by the family member of the applicant or recipient pursuant to chapter one hundred and eighteen, does not exceed the assistance available under chapter one hundred and eighteen to an assistance unit of the same household size as the applicant or recipient and such family member.

Any person (i) who is eligible for assistance under the provisions of this chapter, (ii) who is not maintaining his or her own home, and (iii) who is receiving care in a licensed nursing home, a licensed chronic hospital, a licensed rest home or an approved public medical institution, shall retain the first sixty dollars of monthly income for clothing, personal needs allowance, and leisure time activities. If there



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is no such income, or if such income is less than sixty dollars, the recipient shall be paid the difference between such income and sixty dollars.

Section 2. No employable person shall be eligible for aid or assistance under this chapter who willfully fails without good cause, as determined by the department, to maintain his registration for work or to accept a referral to or offer of suitable employment. He shall be required to report to the department information with respect to any job to which he has been referred. The department shall, not less frequently than once every three months, request verification from the department of employment and training of an applicant's record with that agency.

No individual shall be considered ineligible for aid or assistance because of failure to comply with the provisions of this section, if such failure is due to illness or disability. In no event shall such failure affect the eligibility of minor children for assistance under this chapter.

No recipients of assistance under chapter one hundred and eighteen A or recipients of assistance with dependent children under age three years, shall be subject to the provisions of this section; provided, however, that in a two parent household, only one parent shall be exempt from the provisions of this section.

Section 3. A person shall not be eligible for assistance under the provisions of this chapter if said person is eligible to receive assistance under chapter one hundred and fifteen or one hundred and eighteen or who would be eligible under chapter one hundred and eighteen but for income or assets, or who is eligible to receive unemployment compensation under chapter one hundred and fifty-one A.

The department shall not consider ex-offenders, persons over the age of forty-five with no recent work history, or persons in residential treatment facilities as eligible solely by virtue of such status.

Section 4. A person who is neither a citizen of the United States nor lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law shall be ineligible for assistance under the provisions of this chapter.

Section 5. No person dependent on public support shall be placed by the department or by any veteran's agent, board of health, or other public authority, in any hospital, nursing home, infirmary or institution not operated by the commonwealth which is not licensed as required by chapter one hundred and eleven. Any person violating the provisions of this section shall be punished by a fine of not less than twenty-five or more than one hundred dollars.

Section 6. A person shall be liable in contract to the commonwealth for expenses incurred by it under this chapter for his support to which he was not entitled, and action may be taken by the commonwealth to compel payment at any time within six years after the date when said person last received support or assistance under this chapter or chapter one hundred and eighteen A. The executor

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or administrator of such person shall likewise be liable for such expenses.

Section 7. The parents of such poor persons, if of sufficient ability, shall be bound to support such poor persons in proportion to their ability; provided, however, that said parents shall not be required to support or contribute to the support of any of their children eighteen years of age or over.

Section 8. A treasurer of a savings bank, national bank, trust company, co-operative bank, state-chartered or federally-chartered credit union, benefit association, insurance company or safe deposit company authorized to do business in the commonwealth who, upon written request, signed by an officer of the department, unreasonably refuses to inform him of the amount deposited in the corporation or association to the credit of a person named in such request as a charge upon the commonwealth, or as an applicant to the commonwealth for public assistance under chapter one hundred and seventeen A, one hundred and eighteen, one hundred and eighteen A or one hundred and eighteen D, or who willfully renders false information in reply to such request, shall forfeit fifty dollars to the use of the commonwealth. Upon such request, a treasurer, as aforesaid shall furnish the records on deposits and withdrawals during the past five years, concerning any applicant for or recipient of public assistance under chapter one hundred and seventeen A, one hundred and eighteen, one hundred and eighteen A or one hundred and eighteen D to any officer of the department.

Section 9. The department shall provide for the decent burial of all deceased persons who are at the time of death recipients of aid or assistance under this chapter, all deceased persons who, although without means of support at the time of death, did not apply for such aid or assistance; and all unknown persons found dead. It shall also provide for the grave of each such deceased person a suitable marker bearing the name and dates of birth and death of such deceased person, if known, and for the opening of such grave. The expense thereof may be recovered of their kindred, if any, chargeable by law for their support in the manner provided in this chapter; and if the expense of their funeral and burial is not paid by such kindred, an amount not exceeding eleven hundred dollars; provided, however, that the total expense of the funeral and burial does not exceed fifteen hundred dollars; and provided, further, that any payment made by the department shall be reduced by whatever resources may exist in the estate of said person.

Section 10. In case of the decease of a poor and indigent person the commonwealth shall pay for the expense of the funeral and burial of such person a sum not exceeding eleven hundred dollars; provided, however, that the total expense of the funeral and burial does not exceed fifteen hundred dollars; and provided, further, that any payment made by the commonwealth shall be reduced by whatever resources may exist in the estate of said person. The funeral director engaged in conducting the funeral and burial of said deceased person shall perform the services and furnish the materials in connection therewith as follows:- removal

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of body; procuring of death certificate and burial permit; embalming and dressing of body; furnishing suitable burial garment; furnishing suitable casket, bearing metal plate with name of deceased engraved thereon; furnishing outer case of pine wood; furnishing hearse for transporting body of the deceased to a cemetery; furnishing conveyance for transporting to such cemetery the immediate family of the deceased; procuring of a clergyman, of the religion that the deceased professed, to officiate at the funeral; procuring a burial place for the body of the deceased; opening the grave, and obtaining the use of interment devices.

**SECTION 5.** On the effective date of this act, items 4406-2000 and 4406-5000 in section two of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one are hereby repealed; item 4406-5000 in section two of chapter one hundred and forty-five of the acts of nineteen hundred and ninety-one is hereby repealed; and item 4406-2000 in section two of chapter one hundred and seventy-six of the acts of nineteen hundred and ninety-one is hereby repealed, and any unexpended balances in said items are hereby transferred to item 4406-5000 in section two of chapter one hundred and seventy-six of the acts of nineteen hundred and ninety-one.

**SECTION 6.** Item 4406-5000 of said section 2 of said chapter 176 is hereby amended by inserting after the word "mother", in line 14, the words:- ; and provided, further, that payment be made only for services rendered on or before October twelfth, nineteen hundred and ninety-one.

**SECTION 7.** This act shall take effect on October thirteenth, nineteen hundred and ninety-one.

Approved October 10, 1991.

**Chapter 256.            AN ACT AUTHORIZING THE TOWN OF HULL TO ENTER  
                             INTO CERTAIN LONG TERM CONTRACTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Hull is hereby authorized to enter into a twenty year contract with producers of leachate, ground water, waste water and septage for the treatment and disposal of same at the wastewater treatment plant operated by said town.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 10, 1991.

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**Chapter 257.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth in said section thirty-nine, the solemnization of a marriage by Darwin Tuttle of the state of Minnesota, in the town of Duxbury on October thirteenth, nineteen hundred and ninety-one between Lysbeth Chamberlain and E. Joseph O'Hayer both of the town of Duxbury, and the state secretary shall issue to said Darwin Tuttle a certificate of such authorization.

Approved October 10, 1991.

**Chapter 258.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Andrew S. Hunt in the town of Marshfield on October twelfth, nineteen hundred and ninety-one, between Dianne E. Hunt and James Moores, both of the town of Plymouth, and the state secretary shall issue to said Andrew S. Hunt a certificate of such authorization.

Approved October 10, 1991.

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**Chapter 259.        AN ACT AUTHORIZING THE TOWN OF ASHLAND TO  
ISSUE ADDITIONAL LICENSES FOR THE SALE OF ALL  
ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE  
PREMISES.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority of the town of Ashland is hereby authorized to issue one additional license for the sale of all alcoholic beverages not to be drunk on the premises under the provisions of section fifteen of said chapter one hundred and thirty-eight. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen.

Approved October 10, 1991.

**Chapter 260.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Ann York McNamara, as she is a justice of the peace in the state of New Jersey, in the town of Belmont on October thirteenth, nineteen hundred and ninety-one between Sara Christine Tracy and James Robert Arone, both of the town of Belmont, and the state secretary shall issue to said Ann York McNamara in her capacity as aforesaid, a certificate of such authorization.

Approved October 11, 1991.

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**Chapter 261.      AN ACT REQUIRING THE MASSACHUSETTS WATER RESOURCES AUTHORITY TO REIMBURSE CERTAIN CITIES AND TOWNS FOR CERTAIN WATER PURIFICATION WORK.**

*Be it enacted, etc., as follows:*

Paragraph (d) of section 8 of chapter 372 of the acts of 1984 is hereby amended by adding the following paragraph:-

The Authority shall reimburse any community serviced by the waterworks division of the Authority for the cost incurred in carrying out measures ordered by the department of environmental protection to remedy total coliform level violations in their water distribution systems, for up to ten thousand dollars per community per calendar year, if it is determined by the director of the waterworks division and approved by the executive director, that there is a strong likelihood that activities conducted by the Authority in its system contributed to the cause of the total coliform level violation in the water distribution system. Such determination shall not be considered an assumption of any liabilities by the Authority.

Approved October 11, 1991.

**Chapter 262.      AN ACT ESTABLISHING A REVOLVING FUND IN THE TOWN OF SANDWICH.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws, the town of Sandwich is hereby authorized to establish in the town treasury a revolving fund which shall be kept separate and apart from all other monies by the town treasurer and in which shall be deposited monies received from the operation of the East Boat basin. The principal and interest thereon shall be expended without further appropriation by the board of selectmen for the operation and maintenance of said East Boat basin.

Approved October 11, 1991.

**Chapter 263.      AN ACT RELATIVE TO THE LICENSING OF BICYCLE MESSENGERS IN THE CITY OF BOSTON.**

*Be it enacted, etc., as follows:*

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Notwithstanding the provisions of section eleven B of chapter eighty-five of the General Laws or any other general or special law to the contrary, the city of Boston is hereby authorized to adopt ordinances providing for the licensing of commercial bicycle messengers and the registration of commercial messenger bicycle services. For the purpose of this act, "commercial bicycle messenger service" shall mean any individual, firm, association, corporation, partnership, or joint venture whose primary business includes the local pick-up, transport, and delivery of any article by bicycle, and "commercial bicycle messenger" shall mean any person compensated for using a bicycle to carry or transport any article over the public ways in the city of Boston.

Approved October 11, 1991.

**Chapter 264.            AN ACT RELATIVE TO BICYCLE TRAFFIC ON COMMERCIAL STREET IN THE TOWN OF PROVINCETOWN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section eleven B of chapter eighty-five of the General Laws or any other general or special law to the contrary, the town of Provincetown is hereby authorized to adopt rules providing for the operation of bicycle traffic on Commercial street in said town relative to the direction of travel and passing.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 11, 1991.

**Chapter 265.            AN ACT RELATIVE TO CERTAIN AGGREGATE LOAN LIMITATIONS APPLICABLE TO A BANK OR CREDIT UNION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Paragraph 1 of subsection A of section 14 of chapter 167E of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause (e).

**SECTION 2.** Paragraph 1 of subsection B of said section 14 of said chapter 167E, as so appearing, is hereby amended by striking out clause (d).

**SECTION 3.** Said section 14 of said chapter 167E, as so appearing, is hereby further amended by striking out subsection D, and inserting in place thereof the following subsection:-

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(D) A mortgage loan secured by a first lien on real estate improved with a dwelling to be occupied by not more than four families and occupied or to be occupied in whole or in part by the borrower shall not be calculated against the total obligations of such borrower for the purposes of the limitations under the provisions of subsection A or subsection B.

**SECTION 4.** Section 58 of chapter 171 of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

In computing the total liability of a member hereunder, there shall be included the direct liability of the member and his liability as endorser, guarantor or surety on the obligation of others which are held by the credit union; provided, however, there shall be excluded from such computation the amount of any mortgage loan secured by a first lien on real estate improved with a dwelling to be occupied by not more than four families and occupied or to be occupied, in whole or in part, by such member.

**SECTION 5.** Sections three and four of this act shall not be construed to affect or alter the validity of any investment or any amount loaned or invested under the provisions of any applicable chapters of the General Laws in effect prior to the effective date of this act or any written commitment for such a loan or investment entered into, executed or contracted for prior to such effective date.

Approved October 11, 1991.

**Chapter 266. AN ACT RELATIVE TO INVESTMENTS BY CREDIT UNIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Paragraph (q) of section 67 of chapter 171 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The limitations imposed by clause (i) of this paragraph shall not apply to an aggregate investment of not in excess of one hundred thousand dollars in certificates of deposit of a banking corporation, the deposits of which banking corporation are insured by the Federal Deposit Insurance Corporation.

**SECTION 2.** Section 75 of said chapter 171, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

A credit union, with the approval of the commissioner, may expend for any one parcel of real estate, improved with a dwelling designed to be occupied by not more than four families and to which it has acquired title by exercise of a power of sale contained in a mortgage held by it on said real estate and foreclosure thereof, such sums as determined by the directors for repairs thereto for the purpose of the



sale of said real estate.

Approved October 11, 1991.

**Chapter 267. AN ACT RELATIVE TO GRANT LOANS BY CREDIT UNIONS ON RECREATIONAL VEHICLES.**

*Be it enacted, etc., as follows:*

Chapter 171 of the General Laws is hereby amended by striking out section 62, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 62. A credit union may make a loan for the purpose of financing the purchase of a boat, camper or trailer to an amount not exceeding, on each loan, one percent of its assets, or forty thousand dollars, whichever is less. Loans on such vehicles shall be required to be repaid in substantially equal weekly or monthly installments within a period of not more than fifteen years from the date of such purchase and such loans shall be secured by a security interest on such recreational vehicle.

The credit union shall promptly, upon making any such loan, take all action necessary to perfect its security interest.

Approved October 11, 1991.

**Chapter 268. AN ACT REDUCING THE TIME LIMITS OF TERM SHARE AND DEPOSIT ACCOUNTS FOR CREDIT UNIONS.**

*Be it enacted, etc., as follows:*

The second paragraph of section 32 of chapter 171 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause (b) and inserting in place thereof the following clause:-

(b) the minimum amount, if any, and the maximum amount of share or deposit balances and the minimum period, which shall not be less than three months, of maintenance of such balances to which such specified rates shall apply.

Approved October 11, 1991.

**Chapter 269. AN ACT RELATIVE TO THE PROCEEDS OF CERTAIN BONDS OR NOTES ISSUED AND TO BE ISSUED FOR SEWERAGE PURPOSES BY THE TOWN OF BOURNE.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Notwithstanding the provisions of section twenty of chapter forty-four of the General Laws or any other general or special law to the contrary, project costs financed by the proceeds of the bonds or notes issued by the town of Bourne for the purposes of constructing sewers, sewerage systems and sewage treatment and disposal facilities may include interest on temporary notes in anticipation of bonds or notes or of federal or state aid, that has been paid or is payable during the period of design and construction of the project and for not more than one year after completion of such construction, as shall be determined by the board of selectmen of the town.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 11, 1991.

**Chapter 270.        AN ACT REQUIRING THAT CERTAIN MEASURES IN THE  
TOWN OF MANCHESTER-BY-THE-SEA BE APPROVED AT  
A TOWN ELECTION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, in the Town of Manchester-by-the-Sea, no incurrence of indebtedness or other action that the town's general by-law, as from time to time in effect, provides should be authorized pursuant to this Act, and no other action that a town meeting determines should be so authorized, shall be valid unless (i) with respect to such indebtedness or other action specified in the general by-law, the town meeting determines by majority vote that the incurrence of the indebtedness or the other action shall be submitted to the voters as a ballot question at a town election, and (ii) the ballot question as to such incurrence or as to the other action that is specified in the general by-law or that a town meeting has determined should be authorized pursuant to this Act is approved by a quantum of vote sufficient to authorize it at a town meeting. The election at which voters act on the question by ballot may be the annual election or a special election which the selectmen shall promptly call, held in either case not less than thirty and not more than sixty days after the dissolution of the meeting.

The question submitted to voters as a ballot question shall appear on the ballot in the following form: "Do you approve of the measure summarized below?" A fair, concise summary of the measure, as determined by the town counsel, shall follow. The polls at such election shall be open as required by section sixty-four of the General Laws for the election of town officers, and all other provisions of the General Laws pertaining to town elections shall apply. No quorum shall be required in voting on any ballot question under this act.

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**SECTION 2.** This act shall take effect upon its passage.

Approved October 16, 1991.

**Chapter 271.           AN ACT RELATIVE TO THE ELECTION OF OFFICERS OF  
THE CO-OPERATIVE CENTRAL BANK.**

*Be it enacted, etc., as follows:*

Chapter 45 of the acts of 1932 is hereby amended by striking out section 4, as most recently amended by section 3 of chapter 176 of the acts of 1984, and inserting in place thereof the following section:-

*Section 4.* There shall be a president, two or more vice presidents, one of whom may be named as executive vice president, a treasurer and a clerk of the corporation, and such other officers and committees thereof as the board of directors may deem necessary, which officers and committees shall be elected annually by the directors. The clerk of the corporation shall be clerk of the board of directors. The directors may fill any vacancies in said offices and committees until the next annual meeting.

Approved October 16, 1991.

**Chapter 272.           AN ACT RELATIVE TO THE TIME PERIOD FOR PERFECT-  
ING A PURCHASE MONEY SECURITY INTEREST.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 9-301 of chapter 106 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) If the secured party files with respect to a purchase money security interest before or within twenty days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

**SECTION 2.** Paragraph (4) of section 9-312 of said chapter 106, as so appearing, is hereby amended by striking out, in line 38, the word "ten" and inserting in place thereof the word:- twenty.

Approved October 16, 1991.

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**Chapter 273.****AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Georgieanna Eacmen in the town of West Stockbridge on October nineteenth, nineteen hundred and ninety-one between Gina Suzanne Nortrom and James John Bashour, both of the city of Boston, and the state secretary shall issue to said Georgieanna "Gigi" Eacmen a certificate of such authorization.

Approved October 18, 1991..

**Chapter 274.****AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Joseph J. Machera in the city of Beverly, on October twentieth, nineteen hundred and ninety-one between Benita R. Corrao and John J. Carey, both of the city of Revere, and the state secretary shall issue to said Joseph J. Machera a certificate of such authorization.

Approved October 18, 1991.

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**Chapter 275.****AN ACT PROVIDING FOR INSTRUCTIONAL TRUST FUND  
ACCOUNTS FOR THE PUBLIC SCHOOLS.**

*Be it enacted, etc., as follows:*

Chapter 71 of the General Laws is hereby amended by inserting after section 20 the following section:-

Section 20A. Any city, town or regional school district, located within such city or town, which accepts the provisions of this section may establish a fund to be known as the Instructional Materials Trust Fund, hereinafter in this section called the fund, and may appropriate money for said fund, which will be kept separate from all other monies by the city or town treasurer or, in the case of a regional school district, the treasurer of such regional school district. Said fund shall be managed by a board of trustees, hereinafter referred to as the board. The superintendent of schools of the city or town, or in the case of a regional school district, the superintendent of the regional school shall be chairperson of said board. In addition to the chairperson, the board shall consist of: two school committee members appointed by the school committee; two teachers from the elementary grade levels kindergarten through grade six, inclusive, and two teachers from the secondary grade levels, grades seven through twelve, inclusive, appointed by the local teachers organizations; one elementary school administrator and one secondary school administrator appointed by the superintendent of schools; and two parents of students in the elementary schools and two parents from the secondary schools appointed by the mayor of a city or the selectmen of a town, as the case may be, and in the case of a regional school district, appointed by the chairman of the regional school district committee. The terms of office of the board members shall be three years, except for the chairperson, who shall serve ex-officio. A vacancy on said board occurring by reason of the expiration of a term or other cause shall be filled by the designated appointing powers. A member of said board may be reappointed.

Said fund may accept a gift or donation. The principal of said fund shall not be expended. Said board is hereby authorized to expend annually ninety percent of the interest earned from the principal of said fund for the purchase of instructional materials; provided, however, that one-half of such expenditure shall be for the benefit of grade levels from kindergarten through grade six, inclusive, the remaining half for the benefit of grade levels seven through twelve, inclusive.

This section shall take effect upon its acceptance by a city, town, or regional school district.

Approved October 18, 1991.

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**Chapter 276.      AN ACT ESTABLISHING RECALL ELECTIONS IN THE  
TOWN OF BECKET.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any holder of elective office in the town of Becket may be recalled therefrom by the registered voters of said town as herein provided.

**SECTION 2.** Any one hundred registered voters of the town may file an affidavit with the town clerk containing the name of the officer sought to be recalled and a statement of the grounds for the recall. The town clerk shall thereupon deliver to said voters making affidavit a sufficient number of copies printed from petition blanks addressed to the board of selectmen demanding such recall. The blanks shall be issued under the signature and official seal of the town clerk. They shall be dated and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, and the grounds for the recall as stated in the affidavit and shall demand the election of a successor to said office. A copy of the petition shall be entered in the record book to be kept in the office of the town clerk. Such recall petition shall be returned and filed with the town clerk on or before the first work day following twenty days after the filing of the affidavit and shall be signed by at least thirty percent of the registered voters of the town, who shall add to their signatures the street and number, if any, of their residences. Within twenty-four hours of receipt of the petition the town clerk shall submit the petition to the registrars of voters in the town and the registrars shall within fourteen days certify thereon the number of signatures which are names of registered voters of the town. If their certification shows the petition to be insufficient, the town clerk shall return the petition to the voters seeking the recall, without prejudice, however, to the filing of a new affidavit for the same purpose.

**SECTION 3.** If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with this certification to the board of selectmen within seven days and the board shall within seven days give written notice of the receipt of the certificate to the officer sought to be recalled, and shall, if the officer does not resign within seven days thereafter, order an election to be held on a date to be fixed by them not less than sixty nor more than ninety days after the date of the town clerk's certification that a sufficient petition has been filed; provided, however, that if any other town election is scheduled to occur within one hundred days of said certificate, the board of selectmen may, in its discretion, postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the elections shall nevertheless proceed as provided herein.

**SECTION 4.** Any officer sought to be recalled may be a candidate to succeed himself and, unless he specifically requests otherwise in writing, the town clerk

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shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of same shall be in accordance with the provisions of law relating to elections unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected he shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in section seven. If not re-elected in the recall election, he shall be deemed removed from office upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within seven days after receiving written certified notification of his election, the incumbent shall thereupon be deemed recalled and the office vacant.

**SECTION 6.** Ballots used in a recall election shall submit the following propositions in order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (x), may vote for either of such propositions. Under the proposition shall appear the word "Candidates", the direction to voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this the names of candidates nominated as hereinbefore provided. If a two-thirds majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be deemed elected. If a majority of votes on the question is in the negative, the ballot for the candidates need not be counted.

**SECTION 7.** No recall petition shall be filed against an officer of the town within six months after he takes office, nor in the case of an officer subjected to a recall election and not recalled thereby, until at least twelve months after that election.

**SECTION 8.** No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall be appointed to any town office within one year after such recall or such resignation.

**SECTION 9.** This act shall be submitted for acceptance to the voters of the town of Becket at the annual town meeting to be held in the year nineteen hundred and ninety-two in the form of the following question, which shall be placed upon the official ballot to be used for the election of town officers at said meeting: "Shall an act passed by the General Court in the year nineteen hundred and ninety-two, entitled 'An Act Establishing Recall Elections in the Town of Becket', be accepted?" If the majority of votes in answer to said question is in the affirmative, said act shall take effect but not otherwise. If this act is not accepted in the year nineteen hundred and ninety-two, it shall again be submitted at the annual town meeting in the year

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nineteen hundred and ninety-three, and if accepted shall take full effect but not otherwise.

Approved October 18, 1991.

**Chapter 277.      AN ACT AUTHORIZING THE REGISTRAR OF VOTERS  
AND ASSISTANT REGISTRAR OF VOTERS IN THE TOWN  
OF FRAMINGHAM TO BE TOWN MEETING MEMBERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 5 of chapter 143 of the acts of 1949, as most recently amended by chapter 804 of the acts of 1969, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- A town meeting member who removes from the town or who is elected or appointed to any other town office except as a registrar of voters or assistant registrar of voters shall cease to be a town meeting member.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 18, 1991.

**Chapter 278.      AN ACT RELATIVE TO VACANCIES IN TOWN OFFICES.**

*Be it enacted, etc., as follows:*

Section 10 of chapter 41 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

If there is a resignation of a town officer creating a vacancy at some later time certain, and such resignation is filed with the town clerk in accordance with the provisions of section one hundred and nine, said town clerk shall certify a vacancy shall occur at the later time certain and the board of selectmen may call a special election as provided in this section; provided, however, that no such election may be held prior to the effective date of the resignation creating such vacancy.

Approved October 18, 1991.

**Chapter 279.      AN ACT DESIGNATING A CERTAIN BRIDGE IN THE  
TOWN OF WEST BOYLSTON AS THE AMERICAN  
EX-PRISONERS OF WAR BRIDGE.**

*Be it enacted, etc., as follows:*



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**SECTION 1.** The bridge extending over Woodland street located on interstate highway route 190 in the town of West Boylston shall be designated and known as the American Ex-Prisoners of War Bridge. The department of public works shall erect and maintain suitable markers bearing such designation in compliance with the standards of said department and as authorized by the federal highway administration.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 18, 1991.

**Chapter 280. AN ACT RELATIVE TO PAROLE OFFICERS.**

Be it enacted, etc., as follows:

Section 51A of chapter 119 of the General Laws is hereby amended by inserting after the word "courts", in line 48, as appearing in the 1990 Official Edition, the following words:- , parole officer.

Approved October 18, 1991.

**Chapter 281. AN ACT FURTHER REGULATING THE MUNICIPAL GOLF COURSE COMMISSION IN THE TOWN OF LUDLOW.**

Be it enacted, etc., as follows:

Section 2 of chapter 600 of the acts of 1974, as amended by chapter 105 of the acts of 1984, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The commission shall consist of seven members, of whom three shall be the recreation commissioners of said town and four shall be appointed by the board of selectmen of said town.

Approved October 18, 1991.

**Chapter 282. AN ACT RELATIVE TO CERTAIN BONDS TO BE ISSUED BY THE BLACKSTONE-MILLVILLE REGIONAL SCHOOL DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1.** The provisions of section twenty-two A of chapter forty-four of the General Laws shall apply to any bonds or notes issued by the Blackstone-Millville

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regional school district pursuant to the vote adopted by its regional district school committee on February fourteenth, nineteen hundred and ninety, if the regional district school committee so determines by a two-thirds vote; provided, however, that the powers granted by said section twenty-two A to the mayor of a city shall be exercised by the chairman of the regional district school committee. Said bonds shall in all other respects be subject to the applicable provisions and limitations of chapters forty-four and seventy-one of the General Laws.

**SECTION 2.** In order to secure any such bonds or notes, the treasurer of the district, with the approval of the chairman of the regional district school committee, may enter into a trust agreement with a bank or trust company doing business in the commonwealth. Such trust agreement shall be in such form and with such terms as the treasurer and chairman determine to be necessary or appropriate. Any funds deposited and held in trust by the trustee as provided in sections three and four may be invested in accordance with the provisions of section fifty-four of chapter forty-four of the General Laws, and the trust agreement may provide that any investment earnings shall be applied without appropriation to pay project costs, to pay principal of or interest on the bonds or notes described in section one or to pay trustee's fees and other related expenses.

**SECTION 3.** Upon certification to the state treasurer by the district secretary that an issue or issues of the bonds or notes described in section one has been issued and a trust agreement entered into in accordance with section two, the state treasurer shall annually pay the proceeds of the school construction grant approved by the state board of education pursuant to chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight for the project for which the bonds or notes were authorized directly to the trustee under said trust agreement and said grant proceeds shall be held in trust and applied by the trustee solely to pay the principal of and interest on the bonds or notes issued by the district.

**SECTION 4.** At least five days prior to each date on which a payment of principal or interest is due on any bonds or notes described in section one, the district treasurer shall deposit with the trustee the amount necessary to make such payment, after taking account of all other funds held by the trustee that are available for such purpose.

**SECTION 5.** This act shall take effect upon its passage.

Approved October 18, 1991.

**Chapter 283.           AN ACT RELATIVE TO PURCHASING SUPPLIES AND  
EQUIPMENT FOR MUNICIPAL LIGHT DEPARTMENTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose,

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which is to immediately regulate the awarding of certain contracts by municipal light departments, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 56B of chapter 164 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- All contracts made by a municipal light commission where the amount involved is five thousand dollars or more shall be in writing.

**SECTION 2.** Section 56C of said chapter 164, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Every municipal light commission or manager thereof, who makes or executes a contract on behalf of a municipal lighting plant, where the amount involved is five thousand dollars or more, shall furnish said contract or a copy thereof to the city or town auditor within one week after its execution.

**SECTION 3.** Section 56D of said chapter 164, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No contract for the purchase of equipment, supplies or materials, the actual or estimated cost of which amounts to ten thousand dollars or more, and no contract for the purchase of generation, transmission or distribution equipment, the actual cost or estimated cost of which amounts to ten thousand or more, except in cases of special emergencies involving the health, safety or welfare of the people or their property, shall be awarded unless proposals for the same have been invited by advertisement in at least one newspaper published in the city or town in which the lighting plant is located, or, if there is no such newspaper, in a newspaper published in the same county, such publication to be at least one week before the time specified for the opening of said proposals.

Approved October 18, 1991.

**Chapter 284.      AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF PEMBROKE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established in the town of Pembroke a department of public works, hereinafter called the department, which shall be under the jurisdiction of a board of commissioners to be elected as provided in section two.

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The department shall have all of the powers and duties now vested in or exercised by any of the following departments, which are hereby renamed divisions and included within said department of public works: cemetery, tree, highway and water. No contracts, obligations or liabilities in force on the effective date of this act shall be affected hereby, but the department shall in all respects be the lawful successor of the departments now included as divisions in the department of public works.

**SECTION 2.** The board of commissioners shall consist of three members being each elected to serve three year terms as hereinafter provided. The initial members of said board shall be elected by the voters at the regular town election on election day, on May second, nineteen hundred and ninety-two. The candidate receiving the highest number of votes shall serve for three years, the candidate receiving the second highest number of votes shall serve for two years, and the candidate receiving the third highest number of votes shall serve for one year. Thereafter all terms shall be three year terms. Upon the election of a board of commissioners the elected positions of highway surveyor, tree warden and board of water commissioners shall be eliminated and the appointed cemetery commissioners shall become cemetery trustees and shall control the care and expenditure of perpetual care funds as provided in section twenty-five of chapter one hundred and fourteen of the General Laws.

**SECTION 3.** The board of commissioners shall appoint a director of public works, whose qualifications, as outlined by the wage and personnel board, powers and duties shall be determined and prescribed by said board of commissioners, and who shall be responsible to said board. The director shall have authority to carry out the policies of said board and over the operations of the department. The director shall appoint and remove such staff assistants and employees as he deems necessary, subject to appropriation, with the approval of said board. Such staff may include a working foreman for each division. The director shall hold office subject to the will of the board and shall be appointed for a three year term.

**SECTION 4.** The town of Pembroke may, after the expiration of three years from the effective date of this act, vote at an annual town meeting to revoke this act and the question of revocation shall be submitted to the voters in the form of the following question, which shall be placed on the official ballot used for the election of town officers: "Shall an act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act establishing a department of public works in the town of Pembroke', be revoked?"

If a majority of the votes cast in answer to said question is in the affirmative, then at the next annual town election held after said vote of revocation, the town shall elect such officers as are necessary to exercise and perform the powers, rights and duties transferred to the department of public works by this act. Such action shall not affect any contract or liability then created or existing. All General Laws

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respecting town administration and town officers and any special laws relative to said town, the operation of which has been suspended or superseded by this act, shall then be in full force and effect. Any by-law inconsistent with such general or special laws shall be revoked thereby. Any subsequent vote to revoke this act shall not be taken more often than once in three years.

**SECTION 5.** Section one of this act shall take effect on May second, nineteen hundred and ninety-two. Sections two, three and four shall take effect upon their passage.

Approved October 21, 1991.

**Chapter 285.        AN ACT RELATIVE TO THE CO-OPERATIVE BANK INVESTMENT FUND.**

*Be it enacted, etc., as follows:*

Section 3 of chapter 482 of the acts of 1984 is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

For the purposes of this section, the term "co-operative bank" shall include any savings bank incorporated as such in the commonwealth and subject to the provisions of chapter one hundred and sixty-eight of the General Laws, any trust company incorporated as such in the commonwealth and subject to the provisions of chapter one hundred and seventy-two of the General Laws, any credit union incorporated as such in the commonwealth and subject to the provisions of chapter one hundred and seventy-one of the General Laws, and any federally chartered credit union, savings bank, or savings and loan association with its principal place of business in the commonwealth, or any parent, subsidiary or other affiliated companies of the above mentioned entities or of any co-operative bank.

Approved October 21, 1991.

**Chapter 286.        AN ACT RELATIVE TO FUNDS TRANSFERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection (2) of section 1-105 of chapter 106 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

Governing law in the Article on Funds Transfers.

Section 4A-507.

**SECTION 2.** Said chapter 106 is hereby amended by inserting after Article 4,

the following Article:-

**ARTICLE 4A.  
FUNDS TRANSFERS.**

**PART 1. SUBJECT MATTER AND DEFINITIONS.**

**Section 4A-101. Short Title.**

This Article shall be known and may be cited as Uniform Commercial Code - Funds Transfers.

**Section 4A-102. Subject Matter.**

Except as otherwise provided in section 4A-108, this Article shall apply to a funds transfer as defined in section 4A-104.

**Section 4A-103. Payment Order - Definitions.**

(a) In this Article, unless the context otherwise requires, the following words and terms shall have the following meanings:

(1) "Payment order", an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) such instruction does not state a condition to payment to the beneficiary other than time of payment;

(ii) such receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(iii) such instruction is transmitted by the sender directly to the receiving bank or to an agent, funds transfer system, or communication system for transmittal to the receiving bank.

(2) "Beneficiary", the person to be paid by the beneficiary's bank.

(3) "Beneficiary's bank", the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

(4) "Receiving bank", the bank to which the sender's instruction is addressed.

(5) "Sender", the person giving the instruction to the receiving bank.

(b) If an instruction complying with paragraph (1) of subsection (a) is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each such payment.

(c) A payment order is issued when it is sent to the receiving bank.

**Section 4A-104. Funds Transfer - Definitions.**

In this Article, unless the context otherwise requires, the following words and phrases shall have the following meanings:

(a) "Funds transfer", the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. A funds

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transfer is completed by acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's payment order.

(b) "Intermediary bank", a receiving bank other than the originator's bank or the beneficiary's bank.

(c) "Originator", the sender of the first payment order in a funds transfer.

(d) "Originator's bank", (i) the receiving bank to which the payment order of the originator is issued if the originator is not a bank, or (ii) the originator if the originator is a bank.

#### Section 4A-105. Other Definitions.

(a) In this Article, unless the context otherwise requires, the following words and phrases shall have the following meanings:

(1) "Authorized account", a deposit account of a customer in a bank designated by such customer as a source of payment of payment orders issued by such customer to the bank. If a customer does not so designate an account, any account of such customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of such account.

(2) "Bank", a person engaged in the business of banking and shall include a savings bank, savings and loan association, credit union, or trust company. A branch or separate office of a bank is a separate bank for purposes of this Article.

(3) "Customer", a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(4) "Funds transfer business day", the part of a day during which a receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

(5) "Funds transfer system", a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order of a bank may be transmitted to the bank to which the order is addressed.

(6) "Good faith", honesty in fact and the observance of reasonable commercial standards of fair dealing.

(7) "Prove", with respect to a fact means to meet the "burden of establishing" a fact as provided in paragraph (8) of section 1-201.

(b) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance"	Section 4A-209
"Beneficiary"	Section 4A-103
"Beneficiary's bank"	Section 4A-103
"Executed"	Section 4A-301
"Execution date"	Section 4A-301
"Funds transfer"	Section 4A-104
"Funds transfer system rule"	Section 4A-501

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"Intermediary bank"	Section 4A-104
"Originator"	Section 4A-104
"Originator's bank"	Section 4A-104
"Payment by beneficiary's bank to beneficiary"	Section 4A-405
"Payment by originator to beneficiary"	Section 4A-406
"Payment by sender to receiving bank"	Section 4A-403
"Payment date"	Section 4A-401
"Payment order"	Section 4A-103
"Receiving bank"	Section 4A-103
"Security procedure"	Section 4A-201
"Sender"	Section 4A-103

(c) The following definitions in Article 4 shall apply to this Article:

"Clearing house"	Section 4-104
"Item"	Section 4-104
"Suspends payments"	Section 4-104

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 4A-106. Time Payment Order Is Received.

(a) The time of receipt of a payment order or communication cancelling or amending a payment order is determined by the rules applicable to receipt of a notice stated in paragraph (27) of section 1-201. A receiving bank may fix a cut-off time on a funds transfer business day for the receipt and processing of a payment order or a communication cancelling or amending a payment order. Different cut-off times may apply to a payment order, cancellation, or amendment, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication cancelling or amending a payment order is received after the close of a funds transfer business day or after the appropriate cut-off time on a funds transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds transfer business day.

(b) If this Article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds transfer business day, the next day that is a funds transfer business day is treated as the date or day stated, unless the contrary is stated in this Article.

Section 4A-107. Federal Reserve Regulations and Operating Circulars.

Regulations of the board of governors of the federal reserve system and



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operating circulars of the federal reserve banks shall supersede any inconsistent provision of this Article to the extent of such inconsistency.

Section 4A-108. Exclusion of Consumer Transactions Governed by Federal Law.

This Article shall not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. 1693 et seq.).

## PART 2. ISSUE AND ACCEPTANCE OF PAYMENT ORDER.

Section 4A-201. Security Procedure.

"Security procedure" means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication amending or cancelling a payment order is that of the customer, or (ii) detecting error in the transmission or the content of the payment order or communication. A security procedure may require the use of algorithm or other code, identifying word or number, encryption, callback procedure, or similar security device. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer is not by itself a security procedure.

Section 4A-202. Authorized and Verified Payment Orders.

(a) A payment order received by the receiving bank is the authorized order of the person identified as sender if such person authorized the order or is otherwise bound by it under the law of agency.

(b) If a bank and its customer have agreed that the authenticity of a payment order issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against an unauthorized payment order, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the security procedure and any written agreement or instruction of such customer restricting acceptance of a payment order issued in the name of such customer. The bank is not required to follow an instruction that violates a written agreement with the customer or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

(c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security

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procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for such customer, and (ii) the customer expressly agreed in writing to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with the security procedure chosen by such customer.

(d) The term "sender" in this Article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection (a), or it is effective as the order of the customer under subsection (b).

(e) This section shall apply to an amendment or cancellation of a payment order to the same extent it applies to a payment order.

(f) Except as provided in this section and in paragraph (1) of subsection (a) of section 4A-203, rights and obligations arising under this section or said section 4A-203 may not be varied by agreement.

#### Section 4A-203. Unenforceability of Certain Verified Payment Orders.

(a) If an accepted payment order is not, under subsection (a) of section 4A-202, an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to subsection (b) of said section 4A-202, the following rules shall apply:

(1) By express written agreement, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(2) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or the like.

(b) This section shall apply to an amendment to a payment order to the same extent it applies to a payment order.

#### Section 4A-204. Refund of Payment and Duty of Customer to Report with Respect to Unauthorized Payment Order.

(a) If a receiving bank accepts a payment order issued in the name of its customer as sender which is (i) not authorized and not effective as the order of the customer under section 4A-202, or (ii) not enforceable, in whole or in part, against the customer under section 4A-203, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the

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customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.

(b) A reasonable time under subsection (a) may be fixed by agreement as stated in subsection (1) of section 1-204, but the obligation of a receiving bank to refund payment as stated in subsection (a) may not otherwise be varied by agreement.

#### Section 4A-205. Erroneous Payment Orders.

(a) If an accepted payment order was transmitted pursuant to a security procedure for the detection of error and the payment order (i) erroneously instructed payment to a beneficiary not intended by the sender, (ii) erroneously instructed payment in an amount greater than the amount intended by the sender, or (iii) was an erroneously transmitted duplicate of a payment order previously sent by the sender, the following rules apply:

(1) If the sender proves that the sender or a person acting on behalf of the sender pursuant to section 4A-206 complied with the security procedure and that the error would have been detected if the receiving bank had also complied, the sender is not obliged to pay the order to the extent stated in paragraphs (2) and (3).

(2) If the funds transfer is completed on the basis of an erroneous payment order described in clause (i) or (iii) of subsection (a), the sender is not obliged to pay the order and the receiving bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(3) If the funds transfer is completed on the basis of a payment order described in clause (ii) of subsection (a) the sender is not obliged to pay the order to the extent the amount received by the beneficiary is greater than the amount intended by the sender. In that case, the receiving bank is entitled to recover from the beneficiary the excess amount received to the extent allowed by the law governing mistake and restitution.

(b) If (i) the sender of an erroneous payment order described in subsection (a), is not obliged to pay all or part of the order, and (ii) the sender receives notification from the receiving bank that the order was accepted by the bank or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care, on the basis of information available to the sender, to discover the error with respect to the order and to advise the bank of the relevant facts within a reasonable time, not exceeding ninety days, after the bank's notification was received by the sender. If the bank proves that the sender failed to perform that

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duty, the sender is liable to the bank for the loss the bank proves it incurred as a result of the failure, but the liability of the sender may not exceed the amount of the sender's order.

(c) This section shall apply to an amendment to a payment order to the same extent it applies to a payment order.

Section 4A-206. Transmission of Payment Order Through Funds Transfer or Other Communication System.

(a) If a payment order addressed to a receiving bank is transmitted to a funds transfer system or other third-party communication system for transmittal to the bank, the system is deemed to be an agent of the sender for the purpose of transmitting the payment order to the bank. If there is a discrepancy between the terms of the payment order transmitted to the system and the terms of the payment order transmitted by the system to the bank, the terms of the payment order of the sender are those transmitted by the system. This section does not apply to a funds transfer system of the federal reserve banks.

(b) This section shall apply to an amendment or cancellation of a payment order to the same extent it applies to a payment order.

Section 4A-207. Misdescription of Beneficiary.

(a) Subject to the provisions of subsection (b), if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person shall have rights as a beneficiary of the order and acceptance of the order shall not occur.

(b) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules shall apply:

(1) Except as otherwise provided in subsection (c), if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(2) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person shall have rights as beneficiary except the person paid by the beneficiary's bank if such person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order shall not occur.

(c) If (i) a payment order described in subsection (b) is accepted, (ii) the originator's payment order described the beneficiary inconsistently by name and number, and (iii) the beneficiary's bank pays the person identified by number as permitted by paragraph (1) of subsection (b), the following rules shall apply:

(1) If the originator is a bank, the originator is obliged to pay its order.

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(2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a writing stating the information to which the notice relates.

(d) In a case governed by paragraph (1) of subsection (b), if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(1) If the originator is obliged to pay its payment order as stated in subsection (c), the originator has the right to recover.

(2) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

**Section 4A-208. Misdescription of Intermediary Bank or Beneficiary's Bank.**

(a) This subsection shall apply to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(1) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(2) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) This subsection shall apply to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(1) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might

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rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by paragraph (1) of this subsection, as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a writing stating the information to which the notice relates.

(3) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(4) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in paragraph (1) of subsection (a) of section 4A-302.

Section 4A-209. Acceptance of Payment Order.

(a) Subject to subsection (d), a receiving bank other than the beneficiary's bank accepts a payment order when it executes the order.

(b) Subject to subsections (c) and (d), a beneficiary's bank accepts a payment order at the earliest of the following times:

(1) when the bank (i) pays the beneficiary as stated in subsection (a) of section 4A-405 or subsection (b) of 4A-405, or (ii) notifies the beneficiary of receipt of the order or that the account of the beneficiary has been credited with respect to the order unless the notice indicates that the bank is rejecting the order or that funds with respect to the order may not be withdrawn or used until receipt of payment from the sender of the order;

(2) when the bank receives payment of the entire amount of the sender's order pursuant to paragraphs (1) and (2) of subsection (a) of section 4A-403; or

(3) the opening of the next funds transfer business day of the bank following the payment date of the order if, at that time, the amount of the sender's order is fully covered by a withdrawable credit balance in an authorized account of the sender or the bank has otherwise received full payment from the sender, unless the order was rejected before that time or is rejected within (i) one hour after that time, or (ii) one hour after the opening of the next business day of the sender following the payment date if that time is later. If notice of rejection is received by the sender after the payment date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the payment date to the day the sender receives notice or learns that the order was not accepted, counting that day as an elapsed day. If the withdrawable credit balance during that period falls below

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the amount of the order, the amount of interest payable is reduced accordingly.

(c) Acceptance of a payment order cannot occur before the order is received by the receiving bank. Acceptance does not occur under paragraph (2) or (3) of subsection (b) if the beneficiary of the payment order does not have an account with the receiving bank, the account has been closed, or the receiving bank is not permitted by law to receive credits for the beneficiary's account.

(d) A payment order issued to the originator's bank cannot be accepted until the payment date if the bank is the beneficiary's bank, or the execution date if the bank is not the beneficiary's bank. If the originator's bank executes the originator's payment order before the execution date or pays the beneficiary of the originator's payment order before the payment date and the payment order is subsequently cancelled pursuant to subsection (b) of section 4A-211, the bank may recover from the beneficiary any payment received to the extent allowed by the law governing mistake and restitution.

#### Section 4A-210. Rejection of Payment Order.

(a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally, electronically, or in writing. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, (i) any means complying with the agreement is reasonable and (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(b) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is cancelled pursuant to subsection (d) of section 4A-211 or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(d) Acceptance of a payment order precludes a later rejection of the order.

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Rejection of a payment order precludes a later acceptance of the order.

Section 4A-211. Cancellation and Amendment of Payment Order.

(a) A communication of the sender of a payment order cancelling or amending the order may be transmitted to the receiving bank orally, electronically, or in writing. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(b) Subject to subsection (a), a communication by the sender cancelling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(c) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds transfer system rule allows cancellation or amendment without agreement of the bank.

(1) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(2) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is cancelled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(d) An unaccepted payment order is cancelled by operation of law at the close of the fifth funds transfer business day of the receiving bank after the execution date or payment date of the order.

(e) A cancelled payment order cannot be accepted. If an accepted payment order is cancelled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(f) Unless otherwise provided in an agreement of the parties or in a funds transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds



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transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorneys' fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(g) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(h) A funds transfer system rule is not effective to the extent it conflicts with paragraph (2) of subsection (c).

Section 4A-212. Liability and Duty of Receiving Bank Regarding Unaccepted Payment Order.

If a receiving bank fails to accept a payment order that it is obliged by express agreement to accept, the bank is liable for breach of the agreement to the extent provided in the agreement or in this Article, but does not otherwise have any duty to accept a payment order or, before acceptance, to take any action, or refrain from taking action, with respect to the order except as provided in this Article or by express agreement. Liability based on acceptance arises only when acceptance occurs as stated in section 4A-209, and liability is limited to that provided in this Article. A receiving bank is not the agent of the sender or beneficiary of the payment order it accepts, or of any other party to the funds transfer, and the bank owes no duty to any party to the funds transfer except as provided in this Article or by express agreement.

#### PART 3. EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING BANK.

##### Section 4A-301. Execution and Execution Date.

(a) A payment order is "executed" by the receiving bank when it issues a payment order intended to carry out the payment order received by the bank. A payment order received by the beneficiary's bank can be accepted but cannot be executed.

(b) "Execution date" of a payment order means the day on which the receiving bank may properly issue a payment order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the beneficiary on the payment date.

##### Section 4A-302. Obligations of Receiving Bank in Execution of Payment Order.

(a) Except as provided in subsections (b) to (d), inclusive, if the receiving bank accepts a payment order pursuant to subsection (a) of section 4A-209, the bank has the following obligations in executing the order:

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(1) The receiving bank is obliged to issue, on the execution date, a payment order complying with the sender's order and to follow the sender's instruction concerning (i) any intermediary bank or funds transfer system to be used in carrying out the funds transfer, or (ii) the means by which payment orders are to be transmitted in the funds transfer. If the originator's bank issues a payment order to an intermediary bank, the originator's bank is obliged to instruct the intermediary bank according to the instruction of the originator. An intermediary bank in the funds transfer is similarly bound by an instruction given to it by the sender of the payment order it accepts.

(2) If the sender's instruction states that the funds transfer is to be carried out telephonically or by wire transfer or otherwise indicates that the funds transfer is to be carried out by the most expeditious means, the receiving bank is obliged to transmit its payment order by the most expeditious available means, and to instruct any intermediary bank accordingly. If a sender's instruction states a payment date, the receiving bank is obliged to transmit its payment order at a time and by means reasonably necessary to allow payment to the beneficiary on the payment date or as soon thereafter as is feasible.

(b) Unless otherwise instructed, a receiving bank executing a payment order may (i) use any funds transfer system if use of that system is reasonable in the circumstances, and (ii) issue a payment order to the beneficiary's bank or to an intermediary bank through which a payment order conforming to the sender's order can expeditiously be issued to the beneficiary's bank if the receiving bank exercises ordinary care in the selection of the intermediary bank. A receiving bank is not required to follow an instruction of the sender designating a funds transfer system to be used in carrying out the funds transfer if the receiving bank, in good faith, determines that it is not feasible to follow the instruction or that following the instruction would unduly delay completion of the funds transfer.

(c) Unless the provisions of paragraph (2) of subsection (a) apply or the receiving bank is otherwise instructed, the bank may execute a payment order by transmitting its payment order by first class mail or by any means reasonable in the circumstances. If the receiving bank is instructed to execute the sender's order by transmitting its payment order by a particular means, the receiving bank may issue its payment order by the means stated or by any means as expeditious as the means stated.

(d) Unless instructed by the sender, (i) the receiving bank may not obtain payment of its charges for services and expenses in connection with the execution of the sender's order by issuing a payment order in an amount equal to the amount of the sender's order less the amount of the charges, and (ii) may not instruct a subsequent receiving bank to obtain payment of its charges in the same manner.

#### Section 4A-303. Erroneous Execution of Payment Order.

(a) A receiving bank that (i) executes the payment order of the sender by issuing

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a payment order in an amount greater than the amount of the sender's order, or (ii) issues a payment order in execution of the sender's order and then issues a duplicate order, is entitled to payment of the amount of the sender's order under section 4A-402(c) if that subsection is otherwise satisfied. The bank is entitled to recover from the beneficiary of the erroneous order the excess payment received to the extent allowed by the law governing mistake and restitution.

(b) A receiving bank that executes the payment order of the sender by issuing a payment order in an amount less than the amount of the sender's order is entitled to payment of the amount of the sender's order under subsection (c) of section 4A-402 if (i) that subsection is otherwise satisfied and (ii) the bank corrects its mistake by issuing an additional payment order for the benefit of the beneficiary of the sender's order. If the error is not corrected, the issuer of the erroneous order is entitled to receive or retain payment from the sender of the order it accepted only to the extent of the amount of the erroneous order. This subsection does not apply if the receiving bank executes the sender's payment order by issuing a payment order in an amount less than the amount of the sender's order for the purpose of obtaining payment of its charges for services and expenses pursuant to instruction of the sender.

(c) If a receiving bank executes the payment order of the sender by issuing a payment order to a beneficiary different from the beneficiary of the sender's order and the funds transfer is completed on the basis of that error, the sender of the payment order that was erroneously executed and all previous senders in the funds transfer are not obliged to pay the payment orders they issued. The issuer of the erroneous order is entitled to recover from the beneficiary of the order the payment received to the extent allowed by the law governing mistake and restitution.

**Section 4A-304. Duty of Sender to Report Erroneously Executed Payment Order.**

If the sender of a payment order that is erroneously executed as stated in section 4A-303 receives notification from the receiving bank that the order was executed or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care to determine, on the basis of information available to the sender, that the order was erroneously executed and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the notification from the bank was received by the sender. If the sender fails to perform that duty, the bank is not obliged to pay interest on any amount refundable to the sender under subsection (d) of section 4A-402 for the period before the bank learns of the execution error. The bank is not entitled to any recovery from the sender on account of a failure by the sender to perform the duty stated in this section.

**Section 4A-305. Liability for Late or Improper Execution or Failure to Execute Payment Order.**

(a) If a funds transfer is completed but execution of a payment order by the

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receiving bank in breach of section 4A-302 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection (c), additional damages are not recoverable.

(b) If execution of a payment order by a receiving bank in breach of section 4A-302 results in (i) noncompletion of the funds transfer, (ii) failure to use an intermediary bank designated by the originator, or (iii) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by subsection (a), resulting from the improper execution. Except as provided in subsection (c), additional damages are not recoverable.

(c) In addition to the amounts payable under subsections (a) and (b), damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank.

(d) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank, but are not otherwise recoverable.

(e) Reasonable attorneys' fees are recoverable if demand for compensation under subsection (a) or (b) is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection (d) and the agreement does not provide for damages, reasonable attorneys' fees are recoverable if demand for compensation under subsection (d) is made and refused before an action is brought on the claim.

(f) Except as stated in this section, the liability of a receiving bank under subsections (a) and (b) may not be varied by agreement.

#### PART 4. PAYMENT.

##### Section 4A-401. Payment Date.

"Payment date" of a payment order means the day on which the amount of the order is payable to the beneficiary by the beneficiary's bank. The payment date may be determined by instruction of the sender but cannot be earlier than the day the order is received by the beneficiary's bank and, unless otherwise determined, is the day the order is received by the beneficiary's bank.

##### Section 4A-402. Obligation of Sender to Pay Receiving Bank.

(a) This section is subject to the provisions of sections 4A-205 and 4A-207.

(b) With respect to a payment order issued to the beneficiary's bank, acceptance

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of the order by the bank obliges the sender to pay the bank the amount of the order, but payment is not due until the payment date of the order.

(c) This subsection is subject to the provisions of subsection (e) and section 4A-303. With respect to a payment order issued to a receiving bank other than the beneficiary's bank, acceptance of the order by the receiving bank obliges the sender to pay the bank the amount of the sender's order. Payment by the sender is not due until the execution date of the sender's order. The obligation of that sender to pay its payment order is excused if the funds transfer is not completed by acceptance by the beneficiary's bank of a payment order instructing payment to the beneficiary of that sender's payment order.

(d) If the sender of a payment order pays the order and was not obliged to pay all or part of the amount paid, the bank receiving payment is obliged to refund payment to the extent the sender was not obliged to pay. Except as provided in sections 4A-204 and 4A-304, interest is payable on the refundable amount from the date of payment.

(e) If a funds transfer is not completed as stated in subsection (c) and an intermediary bank is obliged to refund payment as stated in subsection (d) but is unable to do so because not permitted by applicable law or because the bank suspends payments, a sender in the funds transfer that executed a payment order in compliance with an instruction, as stated in paragraph (1) of subsection (a) of section 4A-302, to route the funds transfer through that intermediary bank is entitled to receive or retain payment from the sender of the payment order that it accepted. The first sender in the funds transfer that issued an instruction requiring routing through that intermediary bank is subrogated to the right of the bank that paid the intermediary bank to refund as stated in subsection (d).

(f) The right of the sender of a payment order to be excused from the obligation to pay the order as stated in subsection (c) or to receive refund under subsection (d) may not be varied by agreement.

**Section 4A-403. Payment by Sender to Receiving Bank.**

(a) Payment of the sender's obligation under section 4A-402 to pay the receiving bank occurs as follows:

(1) If the sender is a bank, payment occurs when the receiving bank receives final settlement of the obligation through a federal reserve bank or through a funds transfer system.

(2) If the sender is a bank and the sender (i) credited an account of the receiving bank with the sender, or (ii) caused an account of the receiving bank in another bank to be credited, payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank learns of that fact.

(3) If the receiving bank debits an account of the sender with the receiving bank, payment occurs when the debit is made to the extent the debit is covered by a

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withdrawable credit balance in the account.

(b) If the sender and receiving bank are members of a funds transfer system that nets obligations multilaterally among participants, the receiving bank receives final settlement when settlement is complete in accordance with the rules of the system. The obligation of the sender to pay the amount of a payment order transmitted through the funds transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against the sender's obligation the right of the sender to receive payment from the receiving bank of the amount of any other payment order transmitted to the sender by the receiving bank through the funds transfer system. The aggregate balance of obligations owed by each sender to each receiving bank in the funds transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against that balance the aggregate balance of obligations owed to the sender by other members of the system. The aggregate balance is determined after the right of setoff stated in the second sentence of this subsection has been exercised.

(c) If two banks transmit payment orders to each other under an agreement that settlement of the obligations of each bank to the other under section 4A-402 will be made at the end of the day or other period, the total amount owed with respect to all orders transmitted by one bank shall be set off against the total amount owed with respect to all orders transmitted by the other bank. To the extent of the setoff, each bank has made payment to the other.

(d) In a case not covered by subsection (a), the time when payment of the sender's obligation under subsection (b) or (c) of section 4A-402 occurs is governed by applicable principles of law that determine when an obligation is satisfied.

Section 4A-404. Obligation of Beneficiary's Bank to Pay and Give Notice to Beneficiary.

(a) Subject to subsection (e) of section 4A-211 and subsections (d) and (e) of section 4A-405, if a beneficiary's bank accepts a payment order, the bank is obliged to pay the amount of the order to the beneficiary of the order. Payment is due on the payment date after the close of the funds transfer business day. If the bank refuses to pay after demand by the beneficiary and receipt of notice of particular circumstances that will give rise to consequential damages as a result of nonpayment, the beneficiary may recover damages resulting from the refusal to pay to the extent the bank had notice of the damages, unless the bank proves that it did not pay because of a reasonable doubt concerning the right of the beneficiary to payment.

(b) If a payment order accepted by the beneficiary's bank instructs payment to an account of the beneficiary, the bank is obliged to notify the beneficiary of receipt of the order before midnight of the next funds transfer business day following the payment date. If the payment order does not instruct payment to an account of the beneficiary, the bank is required to notify the beneficiary only if notice is

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required by the order. Notice may be given by first class mail or any other means reasonable in the circumstances. If the bank fails to give the required notice, the bank is obliged to pay interest to the beneficiary on the amount of the payment order from the day notice should have been given until the day the beneficiary learned of receipt of the payment order by the bank. No other damages are recoverable. Reasonable attorneys' fees are also recoverable if demand for interest is made and refused before an action is brought on the claim.

(c) The right of a beneficiary to receive payment and damages as stated in subsection (a) may not be varied by agreement or a funds transfer system rule. The right of a beneficiary to be notified as stated in subsection (b) may be varied by agreement of the beneficiary or by a funds transfer system rule if the beneficiary is notified of the rule before initiation of the funds transfer.

**Section 4A-405. Payment by Beneficiary's Bank to Beneficiary.**

(a) If the beneficiary's bank credits an account of the beneficiary of a payment order, payment of the bank's obligation under subsection (a) of section 4A-404 occurs when and to the extent (i) the beneficiary is notified of the right to withdraw the credit, (ii) the bank lawfully applies the credit to a debt of the beneficiary, or (iii) funds with respect to the order are otherwise made available to the beneficiary by the bank.

(b) If the beneficiary's bank does not credit an account of the beneficiary of a payment order, the time when payment of the bank's obligation under said subsection (a) of said section 4A-404 occurs is governed by principles of law that determine when an obligation is satisfied.

(c) Except as stated in subsections (d) and (e), if the beneficiary's bank pays the beneficiary of a payment order under a condition to payment or agreement of the beneficiary giving the bank the right to recover payment from the beneficiary if the bank does not receive payment of the order, the condition to payment or agreement is not enforceable.

(d) A funds transfer system rule may provide that payments made to beneficiaries of funds transfers made through the system are provisional until receipt of payment by the beneficiary's bank of the payment order is accepted. A beneficiary's bank that makes a payment that is provisional under the rule is entitled to refund from the beneficiary if (i) the rule requires that both the beneficiary and the originator be given notice of the provisional nature of the payment before the funds transfer is initiated, (ii) the beneficiary, the beneficiary's bank and the originator's bank agreed to be bound by the rule, and (iii) the beneficiary's bank did not receive payment of the payment order that it accepted. If the beneficiary is obliged to refund payment to the beneficiary's bank, acceptance of the payment order by the beneficiary's bank is nullified and no payment by the originator of the funds transfer to the beneficiary occurs under section 4A-406.

(e) This subsection applies to a funds transfer that includes a payment order

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transmitted over a funds transfer system that (i) nets obligations multilaterally among participants, and (ii) has in effect a loss-sharing agreement among participants for the purpose of providing funds necessary to complete settlement of the obligations of one or more participants that do not meet their settlement obligations. If the beneficiary's bank in the funds transfer accepts a payment order and the system fails to complete settlement pursuant to its rules with respect to any payment order in the funds transfer, (i) the acceptance by the beneficiary's bank is nullified and no person has any right or obligation based on the acceptance, (ii) the beneficiary's bank is entitled to recover payment from the beneficiary, (iii) no payment by the originator to the beneficiary occurs under section 4A-406, and (iv) subject to subsection (e) of section 4A-402, each sender in the funds transfer is excused from its obligation to pay its payment order under subsection (c) of said section 4A-402 because the funds transfer has not been completed.

**Section 4A-406. Payment by Originator to Beneficiary; Discharge of Underlying Obligation.**

(a) Subject to subsection (e) of section 4A-211, and subsection (d) and (e) of section 4A-405, the originator of a funds transfer pays the beneficiary of the originator's payment order (i) at the time a payment order for the benefit of the beneficiary is accepted by the beneficiary's bank in the funds transfer and (ii) in an amount equal to the amount of the order accepted by the beneficiary's bank, but not more than the amount of the originator's order.

(b) If payment under subsection (a) is made to satisfy an obligation, the obligation is discharged to the same extent discharge would result from payment to the beneficiary of the same amount in money, unless (i) the payment under subsection (a) was made by a means prohibited by the contract of the beneficiary with respect to the obligation, (ii) the beneficiary, within a reasonable time after receiving notice of receipt of the order by the beneficiary's bank, notified the originator of the beneficiary's refusal of the payment, (iii) funds with respect to the order were not withdrawn by the beneficiary or applied to a debt of the beneficiary, and (iv) the beneficiary would suffer a loss that could reasonably have been avoided if payment had been made by a means complying with the contract. If payment by the originator does not result in discharge under this section, the originator is subrogated to the rights of the beneficiary to receive payment from the beneficiary's bank under subsection (a) of section 4A-404.

(c) For the purpose of determining whether discharge of an obligation occurs under subsection (b), if the beneficiary's bank accepts a payment order in an amount equal to the amount of the originator's payment order less charges of one or more receiving banks in the funds transfer, payment to the beneficiary is deemed to be in the amount of the originator's order unless upon demand by the beneficiary the originator does not pay the beneficiary the amount of the deducted charges.

(d) Rights of the originator or of the beneficiary of a funds transfer under this



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section may be varied only by agreement of the originator and the beneficiary.

PART 5. MISCELLANEOUS PROVISIONS.

Section 4A-501. Variation by Agreement and Effect of Funds Transfer System Rule.

(a) Except as otherwise provided in this Article, the rights and obligations of a party to a funds transfer may be varied by agreement of the affected party.

(b) "Funds transfer system rule" means a rule of an association of banks (i) governing transmission of payment orders by means of a funds transfer system of the association or rights and obligations with respect to such orders, or (ii) to the extent the rule governs rights and obligations between banks that are parties to a funds transfer in which a federal reserve bank, acting as an intermediary bank, sends a payment order to the beneficiary's bank. Except as otherwise provided in this Article, a funds transfer system rule governing rights and obligations between participating banks using the system may be effective even if the rule conflicts with this Article and indirectly affects another party to the funds transfer who does not consent to the rule. A funds transfer system rule may also govern rights and obligations of parties other than participating banks using the system to the extent stated in subsection (c) of section 4A-404, subsection (d) of section 4A-405, and subsection (c) of section 4A-507.

Section 4A-502. Creditor Process Served on Receiving Bank; Setoff by Beneficiary's Bank.

(a) As used in this section, "creditor process" means levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.

(b) This subsection applies to creditor process with respect to an authorized account of the sender of a payment order if the creditor process is served on the receiving bank. For the purpose of determining rights with respect to the credit process, if the receiving bank accepts the payment order the balance in the authorized account is deemed to be reduced by the amount of the payment order to the extent the bank did not otherwise receive payment of the order, unless the creditor process is served at a time and in a manner affording the bank a reasonable opportunity to act on it before the bank accepts the payment order.

(c) If a beneficiary's bank has received a payment order for payment to the beneficiary's account in the bank, the following rules apply:

(1) The bank may credit the beneficiary's account. The amount credited may be set off against an obligation owed by the beneficiary to the bank or may be applied to satisfy creditor process served on the bank with respect to the account.

(2) The bank may credit the beneficiary's account and allow withdrawal of the amount credited unless creditor process with respect to the account is served at a time and in a manner affording the bank a reasonable opportunity to act to prevent withdrawal.

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(3) If creditor process with respect to the beneficiary's account has been served and the bank has had a reasonable opportunity to act on it, the bank may not reject the payment order except for a reason unrelated to the service of process.

(d) Creditor process with respect to a payment by the originator to the beneficiary pursuant to a funds transfer may be served only on the beneficiary's bank with respect to the debt owed by that bank to the beneficiary. Any other bank served with the creditor process is not obliged to act with respect to the process.

**Section 4A-503. Injunction or Restraining Order with Respect to Funds Transfer.**

For proper cause and in compliance with applicable law, a court may restrain (i) a person from issuing a payment order to initiate a funds transfer, (ii) an originator's bank from executing the payment order of the originator, or (iii) the beneficiary's bank from releasing funds to the beneficiary or the beneficiary from withdrawing the funds. A court may not otherwise restrain a person from issuing a payment order, paying or receiving payment of a payment order, or otherwise acting with respect to a funds transfer.

**Section 4A-504. Order in Which Items and Payment Orders May Be Charged to Account; Order of Withdrawals from Account.**

(a) If a receiving bank has received more than one payment order of the sender or one or more payment orders and other items that are payable from the sender's account, the bank may charge the sender's account with respect to the various orders and items in any sequence.

(b) In determining whether a credit to an account has been withdrawn by the holder of the account or applied to a debt of the holder of the account, credits first made to the account are first withdrawn or applied.

**Section 4A-505. Preclusion of Objection to Debit of Customer's Account.**

If a receiving bank has received payment from its customer with respect to a payment order issued in the name of the customer as sender and accepted by the bank, and the customer received notification reasonably identifying the order, the customer is precluded from asserting that the bank is not entitled to retain the payment unless the customer notifies the bank of the customer's objection to the payment within one year after the notification was received by the customer.

**Section 4A-506. Rate of Interest.**

(a) If, under this Article, a receiving bank is obliged to pay interest with respect to a payment order issued to the bank, the amount payable may be determined (i) by agreement of the sender and receiving bank, or (ii) by a funds transfer system rule if the payment order is transmitted through a funds transfer system.

(b) If the amount of interest is not determined by an agreement or rule as stated in subsection (a), the amount is calculated by multiplying the applicable federal funds rate by the amount on which interest is payable, and then multiplying the product by the number of days for which interest is payable. The applicable federal funds rate is the average of the federal funds rates published by the Federal Reserve

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Bank of New York for each of the days for which interest is payable divided by three hundred and sixty. The federal funds rate for any day on which a published rate is not available is the same as the published rate for the next preceding day for which there is a published rate. If a receiving bank that accepted a payment order is required to refund payment to the sender of the order because the funds transfer was not completed, but the failure to complete was not due to any fault by the bank, the interest payable is reduced by a percentage equal to the reserve requirement on deposits of the receiving bank.

Section 4A-507. Choice of Law.

(a) The following rules shall apply unless the affected parties otherwise agree or subsection (c) applies:

(1) The rights and obligations between the sender of a payment order and the receiving bank are governed by the law of the jurisdiction in which the receiving bank is located.

(2) The rights and obligations between the beneficiary's bank and the beneficiary are governed by the law of the jurisdiction in which the beneficiary's bank is located.

(3) The issue of when payment is made pursuant to a funds transfer by the originator to the beneficiary is governed by the law of the jurisdiction in which the beneficiary's bank is located.

(b) If the parties described in each paragraph of subsection (a) have made an agreement selecting the law of a particular jurisdiction to govern rights and obligations between each other, the law of such jurisdiction shall govern such rights and obligations, whether or not the payment order or the funds transfer bears a reasonable relation to that jurisdiction.

(c) A funds transfer system rule may select the law of a particular jurisdiction to govern (i) rights and obligations between participating banks with respect to payment orders transmitted or processed through the system, or (ii) the rights and obligations of some or all parties to a funds transfer any part of which is carried out by means of the system. A choice of law made pursuant to clause (i) is binding on participating banks. A choice of law made pursuant to clause (ii) is binding on the originator, other sender, or a receiving bank having notice that the funds transfer system might be used in the funds transfer and of the choice of law by the system when the originator, other sender, or receiving bank issued or accepted a payment order. The beneficiary of a funds transfer is bound by the choice of law if, when the funds transfer is initiated, the beneficiary has notice that the funds transfer system might be used in the funds transfer and of the choice of law by the system. The law of a jurisdiction selected pursuant to this subsection may govern, whether or not that law bears a reasonable relation to the matter in issue.

(d) In the event of inconsistency between an agreement made under subsection (b) and a choice-of-law rule under subsection (c), the agreement under said

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subsection (b) shall prevail.

(e) If a funds transfer is made by use of more than one funds transfer system and there is inconsistency between choice-of-law rules of the systems, the matter in issue shall be governed by the law of the selected jurisdiction that has the most significant relationship to the matter in issue.

**SECTION 3.** This act shall take effect on January first, nineteen hundred and ninety-two, but, subject to the provisions of section 4A-501 of chapter one hundred and six of the General Laws, shall apply only to funds transfers in which the originator's bank received the payment order after said date.

*Emergency Letter: December 16, 1991 @ 2:41 P.M. Approved October 25, 1991.*

**Chapter 287.      AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MAR-  
RIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable E. Sydney Hanlon, as she is a justice of the district court department of the trial court in the town of Milton on October twenty-sixth, nineteen hundred and ninety-one between Mary E. Jordan of the town of Milton and Edward E. McGrady of the town of Plymouth, and the state secretary shall issue to said Honorable E. Sydney Hanlon in her capacity as aforesaid a certificate of such authorization.

Approved October 25, 1991.

**Chapter 288.      AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLAN-  
NING AND OPERATIONS AND THE METROPOLITAN  
DISTRICT COMMISSION TO GRANT EASEMENTS OVER  
CERTAIN PARK LAND IN THE CITY OF CAMBRIDGE TO  
THE CITY OF CAMBRIDGE.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, permanent and temporary easements located in the city of Cambridge to a person or entity, subject to the requirements of sections two to four, inclusive, and to such terms and conditions as said commissioner may prescribe in consultation with the metropolitan district commission, said easements being described as follows:

The 50 foot wide temporary construction easement is located in Cambridge, Massachusetts, containing 10,573 square feet as shown on a plan entitled "Memorial Easement" dated January 20, 1990, prepared by Thomas P. Dixon of Schoenfeld Associates, Inc., and being more particularly bounded and described as follows:

BEGINNING FOR REFERENCE at a Metropolitan District Commission stone bound found near the northerly boundary of the Charles River Parkway;

THENCE N55 degrees 40'23"E for a distance of 367.82' to the most northwesterly corner of this 50' wide easement for the POINT OF BEGINNING;

THENCE S39 degrees 41'01"E for a distance of 61.70';

THENCE S14 degrees 26'34"W for a distance of 47.12';

THENCE S30 degrees 42'16"W passing the northerly bank of the Charles River at 137' and in all 157.08' to the most southerly corner of this 50' wide easement;

THENCE N50 degrees 56'12"W for a distance of 50.54' to the most southwesterly corner of this 50' wide easement;

THENCE N30 degrees 42'16 E passing the northerly bank of the Charles River at 20' and in all 142.59' to a point;

THENCE N14 degrees 26'34"E for a distance of 76.14' to the POINT OF BEGINNING of this 50' wide temporary construction easement, containing 10,573 square feet more or less.

The permanent maintenance easement of variable width from 20 to 40 feet is located in Cambridge, Massachusetts and contains 4851 square feet as shown on a plan entitled "Memorial Easement" dated January 20, 1990, prepared by Thomas P. Dixon of Schoenfeld Associates, Inc., and being more particularly bounded and described as follows:

BEGINNING FOR REFERENCE at a Metropolitan District Commission stone bound found near the northerly boundary of the Charles River Parkway;

THENCE S55 degrees 40'23"E for a distance of 367.82';

THENCE S39 degrees 41'01"E for a distance of 18.51' to the most northwesterly corner of this easement for the POINT OF BEGINNING:

THENCE S39 degrees 41'01"E for a distance of 24.68' to the most northeasterly corner of this easement;

THENCE S14 degrees 26'34"W for a distance of 55.82';

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THENCE S30 degrees 42'16"W for a distance of 117.69';  
THENCE S59 degrees 17'44"E for a distance of 10.00';  
THENCE S30 degrees 42'16"W passing the northerly bank of the Charles River  
at 15' and in all 36.51' to the most southerly corner of this easement;  
THENCE N50 degrees 56'12"W for a distance of 40.43';  
THENCE N30 degrees 42'16"E passing the northerly bank of the Charles River  
at 20' and in all 30.64' to a point;  
THENCE S59 degrees 17'44"E for a distance of 10.00';  
THENCE N30 degrees 42'16"E for a distance of 114.83';  
THENCE N14 degrees 26'34"E for a distance of 67.43' to the POINT OF  
BEGINNING of this varying width permanent maintenance easement, containing  
4851 square feet more or less.

Said easements being over land taken by the Metropolitan District Commission,  
as shown on the "Charles River Parkway" Plan # 119 and the "Cambridge Parkway"  
plans # 18477 and # 13319 as recorded in the office of the metropolitan district  
commission.

**SECTION 2.** No deed conveying by or on behalf of the commonwealth the  
easements described in section one shall be valid unless such deed provides that  
said easements be used for the purpose of installing and constructing a sewer drain  
pipe line.

**SECTION 3.** If the aforementioned purpose as described in section two is not  
begun within two years after the effective date of this act, or ceases at any time  
thereafter, said easements shall revert to the commonwealth under such terms and  
conditions as the commissioner of the division of capital planning and operations  
may prescribe.

**SECTION 4.** The recipient of said easements shall assume the costs of any  
appraisals, surveys, and other expenses as deemed necessary by the commissioner  
of the division of capital planning and operations for the granting of these  
easements.

Approved October 28, 1991.

**Chapter 289.      AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLAN-  
NING AND OPERATIONS TO GRANT RIGHTS AND EASE-  
MENTS OVER CERTAIN PARCELS OF LAND IN THE CITY  
OF LOWELL TO THE UNITED STATES OF AMERICA.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose,  
which is to immediately grant rights and easements over certain parcels of land,  
therefore it is hereby declared to be an emergency law, necessary for the immediate  
preservation of the public convenience.

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*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey permanent air rights and easements for canalway and trolley system development purposes pursuant to the Lowell National Historical Park Act, over certain parcels of land located in the city of Lowell, to the United States, subject to the requirements of sections two to five, inclusive, and to such additional terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said parcels are bounded and described as follows:

**PARCEL 1** (Northern Canal Island)

Beginning at a point on the northeasterly line of School Street and on the northerly side of the Northern Canal; thence along the line of School Street

N 46°-51'-34" W, a distance of about fifteen feet (15) to the face of a concrete wall at the Merrimack River; thence by the Merrimack River along said wall

NORTHEASTERLY, more or less, a distance of about twenty-four feet (24) to the shoreline of the Merrimack River; thence along said shoreline

NORTHEASTERLY and EASTERLY, more or less, a distance of about one thousand two hundred and twenty-five feet (1,225) to a point on the northwesterly line of the Northern Canal Walkway; thence along the northwesterly line of said walkway

SOUTHWESTERLY, more or less, a distance of about three hundred and twenty-one feet (321) to the westerly end of the walkway; thence by the westerly end of said walkway

SOUTHERLY, more or less, a distance of seven and 5/10 feet (7.5) to a point on the back edge of the northerly granite wall of the Northern Canal; thence along said canal wall as follows:

S 87°-35'-13" W, a distance of thirty-eight and 82/100 feet (38.82) to an iron pin set,

WESTERLY, more or less, a distance of about two hundred and one feet (201) to an iron pin set,

NORTHWESTERLY, more or less, a distance of about two hundred and thirty-eight feet (238) to an iron pin set, and

SOUTHWESTERLY, more or less, a distance of about one hundred and ninety-nine feet (199) to a point at the base of some granite steps; thence by the base of said steps

SOUTHEASTERLY, more or less, a distance of about two feet (2) to the water face of the northerly granite wall of the Northern Canal; thence along said canal wall

S 54°-34'-18" W, a distance of ten and 34/100 feet (10.34) to a point, and

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S 42°-34'-31" W, a distance of eighty-eight and 02/100 (88.02) to the point of beginning.

Containing two and 2/10 acres (2.2), more or less.

Being identified as Parcel 29-B in an Order of Taking dated December 1, 1986 and recorded at the northern district registry of deeds in Middlesex county in Book 3830 on Page 70.

The Lowell historic preservation commission may have non-exclusive use of PARCEL I for public pedestrian access, public art, construction or repair and maintenance of improvements including, but not limited to, stairs and security gate at School street, upper level walkway surface, board picket fence along upper level walkway, wood decking to provide handicapped access between island walkway and the Great River wall, lower level walkway along canal edge, railing along canal wall, signage and landscaping. Said commission may also use PARCEL I to provide reasonable access by vehicles needed to install and maintain improvements on PARCEL II, described below.

*PARCEL II (Tremont Yard)*

Beginning at the point on the northerly street line of French Street Extension being the southeasterly corner of the herein described premises;

Thence running by land now or formerly of Courier-Citizen Company North 33 degrees 15 minutes 49 seconds East a distance of 22.89 feet to a point;

Thence running northwesterly by a curved line to the right having a radius of 676.06 feet a distance of 162.18 feet to a point;

Thence running northwesterly by a curved line to the right having a radius of 39.00 feet a distance of 63.96 feet to a point;

Thence running North 33 degrees 52 minutes 21 seconds East a distance of 60.46 feet to a point;

Thence turning and running North 56 degrees 07 minutes 39 seconds West a distance of 24.77 feet to a point;

Thence turning and running South 33 degrees 52 minutes 21 seconds West a distance of 60.46 feet to a point;

Thence running southerly by a curved line to the left having a radius of 63.77 feet a distance of 104.58 feet to a point;

Thence turning and running southeasterly by said northerly street line of French Street Extension by a curved line to the left having a radius of 720.00 feet a distance of 161.05 feet to the point of beginning.

Containing 7,338 square feet, which is 0.17 acre, more or less.

The above described land is shown as Parcel "A" on Sheet 1 of a set of plans entitled "PLAN OF LAND IN LOWELL, MASS. LAND ACQUISITIONS FOR LOWELL TROLLEY EXTENSION" prepared by Bryant Associates, Inc., dated December 16, 1985, and recorded at the northern district registry of deeds in Middlesex county in Plan Book 157, Plan No. 148.



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Being and intending to be a portion of the land acquired by the Commonwealth of Massachusetts, Department of Environmental Management in a deed recorded in the northern district registry of deeds in Middlesex county in Book 2251, on Page 234.

The Lowell historic preservation commission may use PARCEL II to maintain and operate an electric transportation system, including but not limited to; railroad tracks, catenary poles and overhead wires, boarding platform and other associated appurtenances such as fencing, lighting and signage, and pedestrian access to said boarding platform. Said commission and its assigns shall have exclusive use of said trolley transportation system. The commonwealth may grant to said commission a right of reasonable access by foot and vehicle over adjacent land of the commonwealth, to facilitate maintenance of these improvements.

*PARCEL III (Proposed Trolley Bridge)*

All that aerial easement for railroad and bridge purposes over and above a portion of Eastern Canal in the City of Lowell, County of Middlesex, and Commonwealth of Massachusetts, being shown as "PARCEL F" on a plan entitled "PLAN OF LAND IN LOWELL, MASS. ACQUISITIONS FOR LOWELL TROLLEY EXTENSION AND ACCESS" by Bryant Associates, Inc., dated April 17, 1989 and revised June 6, 1989, being recorded at the northern district registry of deeds in Middlesex county in Plan Book 174 as Plan number No. 75, bounded and described as follows;

Beginning at a point on the northwesterly face of the southeasterly wall of said Eastern Canal, said point being 10.00 feet North 32° 40' 38" East of the intersection of the northerly street line of East Merrimack Street with said northwesterly face of the southeasterly canal wall; thence running North 29° 33' 45" West 64.72 feet across said Eastern Canal to the southeasterly face of the northwesterly wall of said canal; thence running the following three courses along said face of the northwesterly canal wall:

North 32° 58' 36" East, 69.13 feet,

South 82° 11' 55" East, 3.54 feet,

North 36° 13' 22" East, 1.65 feet,

thence running South 29° 33' 45" East, 60.56 feet across said Eastern Canal to a point on said northwesterly face of said southeasterly wall of the canal; thence running South 32° 40' 38" West, 74.20 feet along said face of the canal wall to the Point of Beginning.

Containing 0.10 of an acre, more or less.

PARCEL III being a portion of the air rights acquired by the Commonwealth of Massachusetts by an Order of Taking dated December 1, 1986 and recorded at the northern district registry of deeds in Middlesex county in Book 3830, Page 70.

The Lowell historic preservation commission may use PARCEL III to provide continuous public pedestrian access along the canals and to extend and operate

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a trolley transportation system, by installing a railroad bridge over the Eastern canal. Said commission may install and maintain improvements associated with said bridge including, but not limited to; railroad track, overhead wires, railings, signage and lighting. Said commission shall have exclusive use of said trolley transportation system.

**PARCEL IV (Cantilevered walkway along Northern Canal Waste Gatehouse)**

All that aerial easement for the purpose of restoring a cantilevered walkway along the base of the Southerly wall of the Northern Canal Waste Gatehouse, bounded as follows:

Northerly by the southerly wall of said Gatehouse,

Westerly by the southward extension of a line parallel to and six feet westerly of the westerly wall of said Gatehouse,

Southerly by a line being parallel to and 10 feet from said southerly wall of said Gatehouse, Easterly by the southward extension of a line parallel to and six feet easterly of the easterly wall of said Gatehouse.

PARCEL IV being a portion of the air rights acquired by the Commonwealth of Massachusetts by an Order of Taking dated December 1, 1986 and recorded at the northern district registry of deeds in Middlesex county in Book 3830, Page 70.

The Lowell historic preservation commission may use PARCEL IV to provide public pedestrian access by restoring a cantilevered walkway over Northern Canal. Said commission may install or repair and maintain improvements including, but not limited to, support structure, decking, signage and railing.

**PARCEL V (Northern Canal Walkway)**

Beginning at a point on the southwestery wall of the Northern Canal Waste Gatehouse, said point being one and 24/100 feet (1.24) distant from the southeasterly corner thereof; thence running along the southeasterly edge of the granite walkway along the Northern Canal as follows:

S 55°-59'-38" W, a distance of thirty-five and 35/100 feet (35.35) to a point,

S 54°-48'-52" W, a distance of four hundred ninety-one and 45/100 feet (491.45) to a point,

S 55°-30'-18" W, a distance of forty and 24/100 feet (40.24) to a point,

S 58°-18'-36" W, a distance of thirty-six and 51/100 feet (36.51) to a point,

S 60°-52'-05" W, a distance of twenty-five and 18/100 feet (25.18) to a point,

S 63°-25'-15" W, a distance of eighteen and 43/100 feet (18.43) to a point,

S 64°-23'-07" W, a distance of thirteen and 70/100 feet (13.70) to a point,

S 66°-21'-58" W, a distance of thirty-one and 35/100 feet (31.35) to a point,

S 68°-30'-30" W, a distance of thirty and 77/100 feet (31.77) to a point,

S 72°-39'-30" W, a distance of thirty and 91/100 feet (30.91) to a point,

S 75°-12'-31" W, a distance of thirty-three and 70/100 (33.70) to a point,

S 78°-46'-51" W, a distance of thirty-nine and 43/100 (39.43) to a point,

S 82°-18'-38" W, a distance of thirty and 40/100 feet (30.40) to a point,

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S 85°-23'-04" W, a distance of thirty-seven 57/100 feet (37.57) to a point, S 87°-43'-27" W, a distance of twenty-six and 22/100 feet (26.22) to a point, and S 88°-33'-07" W, a distance of two hundred fifty-eight and 29/100 feet (258.29) to a point at the end of a granite wall of the Northern Canal; thence running by the westerly end of the walkway and along Parcel 29-B

N 01°-26'-54" W, a distance of nine and 5/10 feet (9.5) to a point on the northwesterly edge of the walkway; thence running along the edge of said walkway by Parcel 29-B and the Merrimack River

EASTERLY and NORTHEASTERLY, more or less, a distance of about one thousand one hundred and seventy-seven feet (1,177) to a point on the southwesterly wall of the Northern Canal Waste Gatehouse, the last line described being the northwesterly edge of the walkway, said northwesterly edge being nine and 5/10 feet (9.5) distant from and running parallel with the southeasterly edge of the walkway as hereinbefore described; thence along the southwesterly wall of the Northern Canal Waste Gatehouse

S 29°-58'-11" E, a distance of ten and 06/100 (10.06) to the point of beginning.

Containing eleven thousand and thirty-eight square feet (11,038) of land, more or less.

PARCEL V being identified as the "NORTHERN CANAL WALKWAY" in said Order of Taking.

The Lowell historic preservation commission may use PARCEL V to provide public pedestrian access consistent with the operation of the Northern Canal walkway as a park, and to install or repair and maintain the following improvements to support public access:

- (a) Railings on both sides of the walkway;
- (b) Construct ramps at grade changes to allow for handicapped access;
- (c) Repair concrete walkway.

**SECTION 2.** Any improvements made on the above described parcels shall not interfere with the use, maintenance or operation by Boott Hydropower, Inc., their successors and assigns, for hydroelectric power production.

**SECTION 3.** In the event that the parcels herein conveyed cease to be used for the purpose for which they were intended, which is solely for public park purposes, all interests conveyed in these parcels shall revert to the commonwealth.

**SECTION 4.** The recipient of said easements shall assume all costs for appraisals, surveys, and other expenses as deemed necessary by the commissioner of capital planning and operations for the disposition of this property.

Approved October 28, 1991.

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**Chapter 290.            AN ACT AUTHORIZING THE CITY OF LYNN TO SELL  
CERTAIN LAND LOCATED IN THE TOWN OF SAUGUS.**

*Be it enacted, etc., as follows:*

The city of Lynn is hereby authorized to sell, transfer, and convey all and any part of a certain parcel of land owned by said city and located in the town of Saugus, more particularly described as Lot A-501 and Lot A-502, Water Street, Saugus, Massachusetts, as recorded in Book 1135, Page 287 at the Southern district registry of deeds in Essex county.

Approved October 28, 1991.

**Chapter 291.            AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLAN-  
NING AND OPERATIONS TO CONVEY CERTAIN EASE-  
MENTS IN THE CITY OF LOWELL.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately grant permanent easements through air rights under the control of the department of environmental management to Boott Mills Limited Partnership, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey permanent air rights and easements for the purpose of constructing, maintaining, using, repairing, removing and replacing bridges to provide access and egress, by foot and vehicle, to land owned by Boott Mills Limited Partnership, over certain parcels of land located in the city of Lowell, to an individual or entity, subject to the requirements of sections two and three and to such additional terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said parcels are bounded and described as follows:

Four certain parcels of land in the city of Lowell, situated in an area bounded by Bridge Street, Amory Street, and French Street, and by the Merrimack River and the Merrimack Wasteway, denoted as Air Rights Parcels 1, 2, 3 and 4 as shown on a plan entitled "Boott Mills, Plan of Air Rights Parcel for Pedestrian Bridge in Lowell, Massachusetts, North District, Middlesex County", dated 7 September, 1989, Drawing No. 219.17S, Sheet 1 of 2, by Survey Engineers of Boston, and on a plan

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entitled, "Boott Mills, Plan of Air Rights Parcels in Lowell, Massachusetts, North District, Middlesex County", dated 25 April 1990, Drawing No. 219.18M, Sheet 2 of 2, by Survey Engineers of Boston, being more particularly bounded and described as follows:

*Parcel 1*

Beginning at a point on the northeasterly side of the Eastern Canal, said point being 129.14 feet, southeasterly of the northeast corner of the Boott Dam Gatehouse; thence running

S 56 59 49 E 16.00 feet along the southwesterly face of Mill No. 8 to a point; thence turning and running

S 33 00 11 W 61.56 feet to a point; thence turning and running

S 56 40 59 E 16.00 feet to a point; then turning and running

N 33 00 11 E 61.47 feet to the point of beginning.

Said Air Rights Parcel extends from an elevation of 17.75 feet to 36.42 feet on City of Lowell Datum. Containing 984 square feet, more or less, or 91.4 square meters, more or less.

Subject to and with the benefit of any and all existing easements and rights of ways.

*Parcel 2*

Beginning at a point on the northwesterly side of the Merrimack Wasteway, said point being 3.45 feet southwesterly from the northeasterly corner of land now or formerly of Fred C. Church, Inc.; thence running

S 57 02 40 E 24.59 feet to a point on the westerly face of Mill No. 9; thence turning and running

S 32 57 20 W 24.00 feet to a point; thence turning and running

N 57 02 40 W 24.37 feet to a point; thence turning and running

N 32 26 48 E 24.00 feet to the point of beginning.

Said Air Rights Parcel extends from an elevation of 17.5 feet to 37.5 feet on City of Lowell Datum. Containing 588 square feet, more or less, or 54.6 square meters, more or less.

Subject to and with the benefit of any and all existing easements and rights of ways.

*Parcel 3*

Beginning at a point on the northwesterly side of the Merrimack Wasteway, said point being 165.89 feet S 33 15 17 W of the northeasterly corner of land now or formerly of Merrimack Properties, Inc.; thence running

S 56 15 12 E 23.16 feet to a point on the westerly face of Mill No. 4; thence turning and running

S 33 44 48 W 4.00 feet to a point; thence turning and running

S 28 15 07 W 14.25 feet, to a point; thence turning and running

S 32 57 20 W 4.00 feet to a point; thence turning and running

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N 57 02 40 W 24.39 feet to a point; thence turning and running  
N 33 15 17 E 22.52 feet to the point of beginning.

Said Air Rights Parcel extends from an elevation of 17.0 feet to 28.0 feet on City of Lowell Datum. Containing 531 square feet, more or less, or 49.3 square meters, more or less.

Subject to and with the benefit of any and all existing easements and rights of ways.

*Parcel 4*

Beginning at a point on the northwesterly side of the Merrimack Wasteway, said point being 76.23 feet S 33 15 17 W of the northeasterly corner of land now or formerly of Merrimack Properties, Inc.; thence running

S 56 15 12 E 23.93 feet to a point on the westerly face of Mill No. 4; thence turning and running

S 33 44 48 W 14.00 feet to a point; thence turning and running

N 56 15 12 W 23.81 feet to a point; thence turning and running

N 33 15 17 E 14.00 feet to the point of beginning.

Said Air Rights Parcel extends from an elevation of 20.0 feet to 40.0 feet on City of Lowell Datum. Containing 334 square feet, more or less, or 31 square meters, more or less.

Subject to and with the benefit of any and all existing easements and rights of ways.

**SECTION 2.** Said grant of easement shall be subject to such conditions and restrictions as may be deemed necessary or appropriate by the commissioner of the department of environmental management.

**SECTION 3.** In consideration for said easements, Boott Mills Limited Partnership, its successors and assigns, may grant to the department of environmental management, a permanent, public access easement to use certain of the renovated courtyard areas of The Boott Mills as shown on a plan entitled Courtyard Public Access Easement Plan (2 sheets) dated January 31, 1991 by Survey Engineers of Boston or any other form of compensation as determined by the commissioner of capital planning and operations in consultation with the department of environmental management.

**SECTION 4.** The recipient of said easements shall assume all costs for appraisals, surveys, and other expenses as deemed necessary by the commissioner of capital planning and operations for the disposition of this property.

Approved October 28, 1991.

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**Chapter 292.            AN ACT RELATIVE TO THE RIGHTS OF GRANDPARENTS  
VISITATION RIGHTS TO CHILDREN BORN OUT OF WED-  
LOCK.**

*Be it enacted, etc., as follows:*

Chapter 119 of the General Laws is hereby amended by striking out section 39D, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 39D. If the parents of an unmarried minor child are divorced, married but living apart, under a temporary order or judgment of separate support, or if either or both parents are deceased, or if said unmarried minor child was born out of wedlock whose paternity has been adjudicated by a court of competent jurisdiction or whose father has signed an acknowledgement of paternity, and the parents do not reside together, the grandparents of such minor child may be granted reasonable visitation rights to the minor child during his minority by the probate and family court department of the trial court upon a written finding that such visitation rights would be in the best interest of the said minor child. No such visitation rights shall be granted if said minor child has been adopted by a person other than a stepparent of such child and any visitation rights granted pursuant to this section prior to such adoption of the said minor child shall be terminated upon such adoption without any further action of the court.

Approved October 30, 1991.

**Chapter 293.            AN ACT FURTHER REGULATING THE AGE OF CHILDREN  
WHO MAY PERFORM VOLUNTEER SERVICES.**

*Be it enacted, etc., as follows:*

Section 60 of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following two paragraphs:-

This section and section eighty-six shall not be deemed to prohibit children fourteen to sixteen years of age from voluntarily performing services in a nonprofit hospital after regular school hours, and before eight o'clock post meridiem, nor shall this section and section eighty-six be deemed to prohibit children thirteen years of age from voluntarily performing services in a nonprofit hospital after regular school hours, and before half past five o'clock post meridiem.

Children between the ages of thirteen and sixteen years who voluntarily perform services in a nonprofit hospital shall, as a condition of providing such

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service, be provided with an orientation by said hospital and be supervised while providing services which are performed voluntarily.

Approved October 30, 1991.

**Chapter 294.      AN ACT AUTHORIZING THE CITY OF NEWBURYPORT  
TO FUND THE SUMMER PAY OF TEACHERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 247 of the acts of 1988 is hereby amended by striking out, in line 4, the words "to nineteen hundred and ninety-three, inclusive" and inserting in place thereof the words:- nineteen hundred and ninety, nineteen hundred and ninety-one, nineteen hundred and ninety-three, and nineteen hundred and ninety-four.

**SECTION 2.** Section 2 of said chapter 247 is hereby amended by striking out, in lines 4 and 5, the words "to nineteen hundred and ninety-three, inclusive" and inserting in place thereof the words:- nineteen hundred and ninety, nineteen hundred and ninety-one, nineteen hundred and ninety-three, and nineteen hundred and ninety-four.

Approved October 31, 1991.

**Chapter 295.      AN ACT RELATIVE TO REGISTRARS OF VOTERS IN CER-  
TAIN TOWNS.**

*Be it enacted, etc., as follows:*

Section 25 of chapter 51 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- No person appointed as a registrar or assistant registrar shall hold an office in the city or town for which he is appointed either by election or by direct appointment of the mayor or of the board of selectmen or of a city manager or town manager or hold an office by election or appointment under the government of the United States or of the commonwealth or of the city or town, except as a justice of the peace, notary public or officer of the state militia; provided, however, that in a town with a population of under two thousand residents, a person may be appointed a registrar or assistant registrar who holds an office in the town for which he is directly appointed by the board of selectmen or town manager, or who holds an office by appointment under the government of the United States or of the commonwealth.

Approved November 4, 1991.



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**Chapter 296.           AN ACT RELATIVE TO THE CREDITING OF CERTAIN  
                          COMPENSATION BY THE RETIREMENT BOARD OF THE  
                          CITY OF CHELSEA.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 345 of the acts of 1989 is hereby amended by adding the following sentence:- Said monies shall be credited for the year in which they were received.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 4, 1991.

**Chapter 297.           AN ACT PROVIDING THAT FORMER SPOUSES OF PER-  
                          SONS UNDER THE CONTRIBUTORY RETIREMENT LAW  
                          SHALL BE ELIGIBLE FOR NOMINATION AS BENEFICIA-  
                          RIES.**

*Be it enacted, etc., as follows:*

The third paragraph of *Option (c)* of subdivision (2) of section 12 of chapter 32 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "spouse", in line 2, the words:- former spouse who has not remarried.

Approved November 4, 1991.

**Chapter 298.           AN ACT DESIGNATING A PORTION OF STATE HIGH-  
                          WAY, ROUTE 107 IN THE CITY OF SALEM AS THE  
                          AMERICAN EX-PRISONERS OF WAR AVENUE.**

*Be it enacted, etc., as follows:*

That portion of state highway, Route 107 in the city of Salem, from the Lynn city line to its intersection with Wilson road shall be designated and known as the American Ex-Prisoners of War avenue. The department of public works shall erect a suitable marker along said highway bearing said designation, in compliance with the standards of said department and as authorized by the federal highway administration.

Approved November 4, 1991.

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**Chapter 299.           AN ACT RELATIVE TO THE ELECTION OF THE BOARD OF  
WATER COMMISSIONERS OF THE SEEKONK WATER  
DISTRICT.**

*Be it enacted, etc., as follows:*

Section 9 of chapter 381 of the acts of 1945 is hereby amended by striking out the second sentence and inserting in place thereof the following three sentences:- The date and time and nomination procedure for each such election shall be the same as the annual town elections. The date and time for each election shall be the same as the annual town elections. The Seekonk Water District shall hold an annual meeting each year, the date and time to be determined by the board of water commissioners.

Approved November 4, 1991.

**Chapter 300.           AN ACT PROVIDING FOR A THREE YEAR TERM OF  
OFFICE FOR THE OFFICE OF TOWN TREASURER AND  
COLLECTOR OF TAXES IN THE TOWN OF NORWOOD.**

*Be it enacted, etc., as follows:*

Section 4 of chapter 197 of the acts of 1914 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- At the annual meeting to be held in the year nineteen hundred and ninety-two and every three years thereafter, there shall be elected by ballot a town official to be known as the town treasurer and collector of taxes.

Approved November 4, 1991.

**Chapter 301.           AN ACT FURTHER REGULATING OPEN SPACE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 21 of chapter 260 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "provided", in line 6, the following words:- ; provided, however, that this section shall not bar an action by or on behalf of a nonprofit land conservation corporation or trust for the recovery of land or interests in land held for conservation, parks, recreation, water protection or wildlife protection purposes.

**SECTION 2.** The provisions of this act shall not be construed to abrogate the

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rights of any person in any action to establish title by adverse possession who was seized of or possessed of real property or an interest in real property for no less than twenty years prior to the effective date of this act.

Approved November 4, 1991.

**Chapter 302.           AN ACT DESIGNATING A CERTAIN ELDERLY HOUSING  
COMPLEX IN THE TOWN OF RANDOLPH AS THE JAMES  
W. BRENNAN ELDERLY HOUSING COMPLEX.**

*Be it enacted, etc., as follows:*

The elderly housing complex known as the DeCelle drive elderly housing complex and located on DeCelle drive in the town of Randolph, shall be designated and known as the James W. Brennan elderly housing complex in honor of James W. Brennan, a former chairman of the Randolph Housing Authority who served as its first elected chairman for the past twenty-five years. Said housing authority in said town is hereby authorized to place thereon in a conspicuous place a tablet or other appropriate sign bearing said designation.

Approved November 4, 1991.

**Chapter 303.           AN ACT ESTABLISHING A SELECTMEN-TOWN ADMINIS-  
TRATOR FORM OF GOVERNMENT IN THE TOWN OF  
MEDWAY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The purpose of this act is to secure for the voters of the town of Medway, through the adoption of this act, all the powers possible to secure for their government under the Constitution and laws of the Commonwealth, as fully and as though each such power were specifically and individually enumerated herein. To the extent that the provisions of this act modify or repeal existing General Laws and special acts or the body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

**SECTION 2.** The offices to be filled by the voters shall be a board of selectmen, a school committee, a town moderator, library trustees, planning board, board of health, water/sewer commission, a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

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**SECTION 3.** (a) There shall be a board of selectmen composed of three members elected for terms of three years each, so arranged so that the term of one member shall expire each year.

(b) The executive powers of the town shall be vested in the board of selectmen who shall serve as the chief policy making agency of the town. The board of selectmen shall continue to have and to exercise all the powers and duties vested in boards of selectmen by the laws of the commonwealth or by vote of the town, except as otherwise provided herein.

(c) The board of selectmen shall appoint a town administrator, a town counsel, board of assessors, town accountant, constables, recreation commission, conservation commission, zoning board of appeals, registrars of voters, not including the town clerk, and the members of all multiple member boards, commissions, and committees except those appointed by the moderator or the town administrator. The board of selectmen shall also appoint such other officers as may be required by by-law.

**SECTION 4.** (a) There shall be a school committee composed of six members elected for terms of three years each, so arranged so that the terms of two members expire each year.

(b) The school committee shall have all the powers, duties and responsibilities given to school committees by the laws of the commonwealth and such additional powers and duties as may be authorized by by-law or by other town meeting vote. Nothing in this act shall be construed to affect the powers and duties of the school committee as provided by law, except as specifically provided herein.

**SECTION 5.** (a) There shall be a moderator elected by the voters for a term of three years.

(b) The moderator shall have the powers and duties provided that office by the laws of the commonwealth, by this act, by by-law or by other town meeting vote.

**SECTION 6.** (a) There shall be a board of library trustees composed of six members elected for terms of three years each, so arranged that the terms of two members expire each year.

(b) The board of library trustees shall have all the powers, duties and responsibilities given to library trustees by the laws of the commonwealth and such additional powers and duties as may be authorized by by-law or by other town meeting vote. Nothing in this act shall be construed to affect the powers and duties of the library trustees as provided by law, except as specifically provided herein.

**SECTION 7.** (a) There shall be a planning board composed of five members elected for terms of five years each, so arranged so that the term of one member expires each year.

(b) The planning board shall have all the powers, duties and responsibilities given to planning boards by the laws of the commonwealth and such additional powers and duties as may be authorized by by-law or by other town meeting vote.

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Nothing in this act shall be construed to affect the powers and duties of the planning board as provided by law, except as specifically provided herein.

**SECTION 8.** (a) There shall be a board of health composed of three members elected for terms of three years each, so arranged so that the term of one member expires each year.

(b) The board of health shall have all the powers, duties and responsibilities given to board of healths by the laws of the commonwealth and such additional powers and duties as may be authorized by by-law or by other town meeting vote. Nothing in this act shall be construed to affect the powers and duties of the board of health as provided by law, except as specifically provided herein.

**SECTION 9.** (a) There shall be a water/sewer commission composed of three members elected for terms of three years each, so arranged so that the term of one member expires each year.

(b) The water/sewer commission shall have all the powers, duties and responsibilities given to such commission by the laws of the commonwealth and special law, unless otherwise provided by this act. Nothing in this act shall be construed to affect the powers and duties of the water/sewer commission as provided by law, except as specifically provided herein.

**SECTION 10.** (a) There shall be a housing authority consisting of five members. Four of these persons shall be chosen by ballot, the fifth person shall be appointed in the manner provided by law. Housing authority members shall serve for terms of five years each, so arranged that one term of office shall expire each year.

(b) The housing authority shall continue to exercise all the powers and duties vested in the housing authority by the laws of the commonwealth.

**SECTION 11.** The board of selectmen shall appoint a town administrator for a period of time not to exceed three years, who shall be a person of proven administrative ability, especially fit by education, training and previous experience in business or public administration to perform the duties of the office.

The town administrator shall devote full time to the duties of the office and shall not hold any other elective or appointive office, nor shall the town administrator engage in any other business unless such action is approved in advance in writing by the board of selectmen.

The board of selectmen shall evaluate annually the performance of the town administrator, based on mutually established predetermined goals, standards or criteria for performance.

The board of selectmen may from time to time establish additional qualifications for the office of town administrator.

**SECTION 12.** Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. The board of selectmen shall appoint a five member search committee who shall be responsible for the initial screening of all applicants and recommend to the board of selectmen finalists for the position.

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Pending appointment of the town administrator or the filling of any vacancy, the board of selectmen shall, within a reasonable period of time, appoint some other qualified person to perform the duties of interim town administrator.

**SECTION 13.** The town administrator may designate by letter, filed with the board of selectmen and town clerk, a qualified officer, department head or employee of the town to perform the duties of the town administrator during a temporary absence or disability. Any such designation shall be subject to the approval of the board of selectmen. In the event of failure of the town administrator to make such designation or if the person so designated is for any reason unable to serve, or is deemed not qualified by the board of selectmen, the board of selectmen may designate some other qualified person to perform the duties of the town administrator until the town administrator shall return.

**SECTION 14.** The town administrator shall receive such compensation for services as the board of selectmen shall determine, but such compensation shall be within the limits of available appropriations.

**SECTION 15.** The board of selectmen may remove the town administrator from office in accordance with the following procedure:

(a) The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of its members. The preliminary resolution may suspend the town administrator for a period not to exceed thirty days. A copy of the resolution shall be delivered to the town administrator and the town clerk forthwith. The board of selectmen shall provide a written statement setting forth the reasons for the removal if so requested by the town administrator.

(b) Within five days after the receipt of the preliminary resolution of removal, the town administrator may request a public hearing by filing a written request for such hearing with the board of selectmen. The hearing shall be held at a meeting of the board of selectmen not later than twenty days from the date of request.

(c) The board of selectmen may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of its members at any time after ten days following the date of delivery of a copy of the preliminary resolution to the town administrator, if the town administrator has not requested a public hearing. If the town administrator requests a public hearing, the board of selectmen may, at the conclusion of the hearing or within fifteen days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of a majority of its members. Failure to adopt a final resolution of removal shall nullify the vote to dismiss the town administrator. The town administrator shall continue to receive a salary until the final date of removal shall become effective unless provided otherwise. The action of the board of selectmen in removing the town administrator shall be final.

**SECTION 16.** Except as otherwise provided by this act, the town administrator shall appoint, based upon merit and fitness alone, all department heads, officers,

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subordinates and employees for whom no other method of selection is provided in this act, except employees of the school department and housing authority. Appointments made by the town administrator shall become effective on the fifteenth day following the day notice of the appointment is filed with the board of selectmen unless the board of selectmen shall within that period by a majority of all of its members vote to reject the said appointment. The town administrator shall consider the recommendations of department heads, committees and commissions when making any appointments within their respective areas. Department heads, committees and commissions shall be notified in writing, prior to the town administrator making an appointment within their respective areas, if the appointment is other than the recommendation of said department heads, committees or commissions.

**SECTION 17.** The town administrator shall be the administrative officer of the town and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town administrator is given responsibility under this act. The powers, duties and responsibilities of the town administrator shall include, but are not intended to be limited to, the following:

(a) to supervise, direct and be responsible for the efficient administration of all officers, department heads and employees appointed by the town administrator and their respective departments and of all functions for which the town administrator is given responsibility, authority or control by this act, by by-law, by town meeting vote, or by vote of the board of selectmen;

(b) to administer either directly or through a person or persons supervised by the town administrator, in accordance with this act, all provisions of general or special laws applicable to the town, all by-laws, and all regulations established by the board of selectmen;

(c) to supervise all activities of town departments under the direction of the town administrator and the board of selectmen with the activities of departments under the control of officers, boards or commissions elected directly by the voters of the town;

(d) to attend all regular and special meetings of the board of selectmen, except meetings at which the removal of the town administrator is being considered;

(e) to attend all sessions of the town meeting and to answer all questions addressed to the town administrator and which are related to the warrant articles and to matters under the general supervision of the town administrator;

(f) to be responsible for the implementation of town meeting votes and shall report annually in writing to the town meeting on the status of prior town meeting votes on which implementation is not complete;

(g) to keep the board of selectmen fully informed as to the needs of the town, and to recommend to the board of selectmen for adoption such measures requiring action by them or by the town as the town administrator deems necessary or

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expedient;

(*b*) to insure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the board of selectmen as may be required;

(*i*) to be responsible for the rental, use, maintenance and repair of all town facilities, except those under the jurisdiction of the school committee and housing authority;

(*j*) to be responsible for responding to citizen complaints, concerns or requests;

(*k*) to act as the procurement officer and be responsible for the purchase of all supplies, materials, and equipment, except for the schools and books and other media materials for libraries, and approve the award of all contracts for all town departments;

(*l*) to develop and maintain a full and complete inventory of all town owned real and personal property;

(*m*) to administer the town personnel system as the personnel director except employees of the school department, including, but not limited to personnel policies and practices, rules and regulations, and all collective bargaining agreements entered into by the town;

(*n*) to be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except employees of the school department, provided, however, the board of selectmen may provide guidelines, advice and direction to the town administrator and all contracts negotiated shall be subject to the approval of the board of selectmen. The town administrator may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties;

(*o*) to prepare and submit an annual operating budget and capital improvement program;

(*p*) to keep the board of selectmen and the finance committee fully informed as to the financial condition of the town and to make recommendations to the board of selectmen and to other elected and appointed officials as the town administrator deems necessary or expedient;

(*q*) to investigate or inquire into the affairs of any town department or office under the supervision of the town administrator or the job-related conduct of any officer or employee thereof to be examined;

(*r*) to perform such other duties as necessary or as may be assigned by this act, by by-law, by town meeting vote, or by vote of the board of selectmen.

**SECTION 18. (a)** The town administrator, subject to the approval of the board of selectmen, may reorganize, create, consolidate or abolish committees, commissions, offices, and departments under the supervision of the town administrator, in whole or in part, and may establish new committees, commissions, offices and departments as deemed necessary, and may for such purposes transfer the duties



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and powers.

(b) Until such time as otherwise provided in accordance with subsection (a), there shall be established a department of public service under the direction of the town administrator. The town administrator shall act as the director of public service. The director shall be responsible for the supervision and coordination of all public service operations of the town.

The department shall assume all of the powers and duties now vested in or exercised by any of the following departments and offices: highway, parks, tree warden and such other powers, duties and responsibilities as authorized by the town administrator, board of selectmen, by-law or other town meeting vote.

**SECTION 19.** The board of selectmen and the school committee shall meet and confer during the budget process to review the financial conditions of the town, revenue and expenditure forecasts and other relevant information in order to develop a coordinated and balanced budget. The finance committee shall participate in the discussions with the board of selectmen and the school committee in an advisory capacity. The school superintendent and the town administrator shall jointly develop budgets consistent with the policies developed by the board of selectmen and the school committee.

Within a time fixed by the board of selectmen prior to the annual town meeting, all departments shall submit to the town administrator their proposed budget and capital improvement program. The town administrator shall submit to the board of selectmen a proposed budget and a capital improvement program for the town government for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the town administrator shall explain the budget in financial terms and in terms of work programs.

It shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reasons for such change. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the town administrator deems desirable. The preliminary budget as adopted by the school committee shall be submitted to the town administrator at least one hundred days prior to the annual town meeting to enable the town administrator to consider the effect of the school department's requested appropriation upon the total town budget which is required to be submitted under this section.

**SECTION 20.** The finance committee shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for each town agency proposed by the town administrator. The finance committee may confer with representatives from any town department, commission or committee in connection with its deliberations and may request the town administrator or any department, commission or committee to provide additional

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information.

The finance committee shall file a proposed budget and report of its recommendations for action prior to the date on which the town meeting is to act on the proposed budget. The budget to be acted upon by the town meeting shall be the budget proposed by the board of selectmen in accordance with accompanying recommendations of the finance committee.

**SECTION 21.** Warrants for payments of town funds prepared by the town accountant in accordance with the procedures of the General Laws shall be approved by the town administrator.

**SECTION 22.** All by-laws, resolutions, rules, regulations, special acts and votes of the town meeting which are in force at the time this act is adopted, not inconsistent with the provisions of this act, shall continue in full force until amended or repealed. Where provisions of this act conflict with provisions of town by-laws, rules, regulations, orders, and special acts and acceptance of General Laws, the provisions of this act shall govern.

**SECTION 23.** Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform their duties until provisions shall have been made in accordance with this act for the performance of the said duties by another person or agency. No employee in the permanent full-time or part-time service of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to their former capacity as is practical subject to appropriation.

**SECTION 24.** All town officers, boards, commissions or agencies shall continue to perform their duties until re-appointed, or re-elected, or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.

**SECTION 25.** All records, property and equipment whatsoever of any office, board, commission, committee or agency or part thereof, the powers and duties of which are assigned in whole or in part to another town office, board, commission or agency shall be transferred forthwith to such office, board, commission or agency.

**SECTION 26. (a)** Forthwith after the adoption of this act the board of selectmen shall commence the recruitment and selection of a town administrator. The board of selectmen shall appoint a five member search committee who shall be responsible for the initial screening of all applicants and recommend to the board of selectmen finalists for the position.

**(b)** Until such time as the town administrator is appointed, the board of selectmen shall continue to exercise the necessary authority to conduct town business.

**(c)** The incumbent serving as treasurer/tax collector shall continue to serve for the balance of the term for which the treasurer/tax collector was elected.

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Upon the expiration of the term of office of the treasurer/tax collector, or if a vacancy in the office shall sooner occur, the treasurer/tax collector shall be appointed by the town administrator.

(d) The incumbent in the office of town clerk shall continue to serve for the balance of the term for which the town clerk was elected. Upon the expiration of the term of office of the town clerk, or if a vacancy shall sooner occur, the town clerk shall be appointed by the town administrator.

(e) The incumbent members of the board of assessors shall continue to serve the balance of the terms for which they were elected. Upon the expiration of term of office of each member, or if a vacancy in the office of the board shall sooner occur, the assessors shall be appointed by the board of selectmen.

(f) Upon the appointment of the town administrator the park commissioners shall relinquish all authority for the maintenance of parks within the town to the town administrator. The town administrator shall succeed to all powers hereto possessed by the park commissioners relating to the maintenance of parks. The park commissioners shall be known as the recreation commission and be responsible for the recreation related functions.

The incumbent park commissioners shall continue to serve the balance of the terms for which they were elected as the recreation commission. Upon the expiration of term of office of each member, or if a vacancy shall sooner occur, the recreation commission shall be appointed by the board of selectmen.

(g) The incumbent constables shall continue to serve the balance of the terms for which they were elected. Upon the expiration of term of office of each constable, or if a vacancy shall sooner occur, the constables shall be appointed by the board of selectmen.

**SECTION 27.** This act shall be submitted for acceptance to the qualified voters of the Town of Medway at the next annual or special town election, following the adoption of this act by the general court, in the form of the following question, which shall be placed upon the official ballot.

"Shall an act passed by the General Court in the year nineteen hundred and ninety-one, entitled 'An Act establishing a Selectmen-Town Administrator form of government in the Town of Medway', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise. If this act is initially defeated by the voters, the question of adopting this act may be resubmitted by the board of selectmen within the next two years.

Approved November 4, 1991.

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**Chapter 304.****AN ACT CHANGING THE BOUNDARIES OF THE MILLERS FALLS FIRE AND WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section seventy-nine of chapter forty-eight of the General Laws or any other general or special law to the contrary, the Millers Falls Fire and Water District shall, on June thirtieth, nineteen hundred and ninety-two be dissolved; and said District's assets shall be divided and distributed, and its debts assigned and assumed in accordance with the provisions of this act. For purposes of this act, said District shall be understood as acting by and through its commissioners, and the town of Erving as acting by and through its board of selectmen.

**SECTION 2.** Except as otherwise provided herein, from the effective date of this act until the dissolution date, the Millers Falls Fire and Water District shall continue its ordinary corporate existence, functions and services, including the power to assess properties and fees; shall continue to be obligated on and service all outstanding debts and bonds; but shall not incur further debt other than short term borrowing in anticipation of revenue; and shall not dispose of District assets.

**SECTION 3.** On June thirtieth, nineteen hundred and ninety-two, all street lighting services heretofore provided by the Millers Falls Fire and Water District to those portions of said District lying within the town of Erving shall cease. Thereafter said town of Erving, if and as it so determines, shall have the sole authority and responsibility for the provision or procurement of such street lighting services, and the exclusive authority to assess properties and fees therefor. All fixed assets, which for purposes of this act shall be understood to include real property and interests in real property of said District located within said town of Erving, owned by the District for street lighting purposes, shall, as of July first, nineteen hundred and ninety-two, be the property of said town of Erving. Said District shall enter into agreements prior to the dissolution date with any other corporate successor, which may include a governmental entity to be established by said District, for the purpose of assigning or contracting for the provision of street lighting services to those portions of said District lying within the town of Montague, with the authority to assign and transfer, effective July first, nineteen hundred and ninety-two, such fixed assets to said corporate successor. All fixed assets of said District located within said town of Montague, owned by said District for street lighting purposes, shall, as of July first, nineteen hundred and ninety-two, be the property of said corporate successor.

**SECTION 4.** On June thirtieth, nineteen hundred and ninety-two, all fire protection services heretofore provided by the Millers Falls Fire and Water District to the town of Erving shall cease. Thereafter, said town of Erving, if and as it

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determines to do so, shall have the sole authority and responsibility for the provision or procurement of such fire protection services, and the exclusive authority to assess properties in said town and fees therefor. All fixed assets of said District located within said town of Erving, owned by said District for fire protection, but not including fixed assets and equipment owned primarily for public water supply purposes shall, as of July first, nineteen hundred and ninety-two, become the property of said town of Erving. Said District shall enter into agreements prior to the dissolution date with any corporate successor, which may include a governmental entity to be established by said District, for the purpose of assigning or contracting for the provision of fire protection services to the Montague area, with the authority to assign and transfer, effective July first, nineteen hundred and ninety-two, such fixed assets to said corporate successor. All fixed assets of said District located within the town of Montague, owned by said District for fire protection purposes, but not including fixed assets and equipment owned primarily for public water supply purposes shall, as of July first, nineteen hundred and ninety-two, be the property of said corporate successor.

**SECTION 5.** On June thirtieth, nineteen hundred and ninety-two, all public water supply functions heretofore provided by the Millers Falls Fire and Water District to the town of Erving shall cease. Thereafter, said town of Erving, if and as it determines to do so, shall have the sole authority and responsibility for the provision or procurement of such public water supply services and the exclusive authority to assess properties and fees therefor. All fixed assets, owned by said District for public water supply purposes, located within said town of Erving shall, as of July first, nineteen hundred and ninety-two, become the property of said town of Erving. Said District shall enter into agreements prior to the dissolution date with any corporate successor, which may include a governmental entity to be established by said District, for the purpose of securing continued public water supply services to the town of Montague. All fixed assets of said District located within said town of Montague, owned by said District for public water supply purposes shall, as of July first, nineteen hundred and ninety-two, become the property of said District's corporate successor.

**SECTION 6.** All non-fixed assets of the Millers Falls Fire and Water District, not otherwise divided and distributed under sections one to five, inclusive, of this act, including liquid assets, equipment, personal property, claims and receivables, shall be equitably divided and distributed, and all debts and bonds of said District, shall be equitably assigned to the town of Erving. As of July first, nineteen hundred and ninety-two, said District or its corporate successor, and said town of Erving shall be the separate owners of the assets thus divided, and obligated on the debts and bonds thus assigned. For purposes of this act, equitable division of assets and equitable assignment of debt shall take suitably into account the current value of the assets already divided and distributed under sections three, four and five, the

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condition and anticipated maintenance costs thereof, and shall require a fair and equitable allocation of all remaining District assets and debts so as to achieve a balanced final total allocation of assets and debts to said town of Erving and said District's corporate successor.

Said town of Erving shall deliver to said District certified property valuations for fiscal year nineteen hundred and ninety-two within ten business days from the date on which it receives certification from the department of revenue. If, by January thirty-first, nineteen hundred and ninety-two, equitable division of assets, and equitable assignment and assumption of debts, shall not have been settled to the mutual satisfaction of both the town of Erving and said District, and so certified by them to the department of public utilities, then the division and assignment called for under this section shall be submitted to binding arbitration before an arbitrator, which may include the department of public utilities, mutually satisfactory to the town and said District, who shall, on or before March thirty-first, nineteen hundred and ninety-two, certify his determination of the matter to said department of public utilities. The arbitrator's determination shall be binding upon the parties and their successors, and shall be deemed to have the force of law under this act. Said District, prior to the effective date of this act, and the town and the District's corporate successor, on and after the effective date of this act, shall thereupon carry out the terms of their agreements and comply with the determinations and orders of the arbitrator.

Nothing herein shall impair the integrity of any outstanding bonds issued by said District. Said town of Erving shall, on and after July first, nineteen hundred and ninety-two, be obligated on all bonded debt of said District. Said town of Erving shall thereafter service the bonded debt in accordance with the terms and provisions of the bonds. Notwithstanding the foregoing, if said town of Erving's bond obligations hereunder exceed levels established as the fair and equitable division of debts, a corresponding and equalizing adjustment shall be made in the division of other assets.

**SECTION 7.** In the event that by June thirtieth, nineteen hundred and ninety-two, no corporate successor to the Millers Falls Fire and Water District has been found or established, then dissolution of said District under the provisions of this act shall be deferred for up to one year to June thirtieth, nineteen hundred and ninety-three, during which time said District shall serve as the receiver of the assets and liabilities of said District, with the powers and duties, and subject to the provisions set forth in section two dealing with interim provisions for the area of the town of Montague it serves.

**SECTION 8.** The dates and deadlines set forth in this act may be accelerated by the joint action of the town of Erving and the commissioners of the Millers Falls Fire and Water District, and so certified to the department of public utilities.

**SECTION 9.** This act shall take effect upon its passage.

Approved November 5, 1991.

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**Chapter 305.        AN ACT AUTHORIZING THE STATE SECRETARY TO  
AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

*Whereas*, The deferred operation of this act would tend to defeat the purpose, which is to immediately authorize the solemnization of a certain marriage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by the Honorable Anthony P. Sullivan, as he is an associate justice of the district court department of the trial court in the city of Woburn on November ninth, nineteen hundred and ninety-one, between Joan M. Cook and Robert L. DiSarcina, both of the city of Somerville, and the state secretary shall issue to said Honorable Anthony P. Sullivan in his capacity as aforesaid a certificate of such authorization.

Approved November 5, 1991.

**Chapter 306.        AN ACT PROVIDING FOR RECALL ELECTIONS IN THE  
TOWN OF NEW SALEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any holder of an elected office in the town of New Salem may be recalled therefrom by the registered voters of the town as herein provided, except, the maximum number of members of a board that may be recalled is a majority.

**SECTION 2.** Any twenty-five registered voters of the town may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which printed forms he shall keep available. Such blanks shall be issued by the town clerk, with his signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall

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be returned and filed with the town clerk within twenty days after the filing of the affidavit, and shall have been signed by at least twenty-five percent of the registered voters of the town, who shall add to their signatures, the street and number, if any, of their residences.

The town clerk shall within twenty-four hours of receipt, submit the petition to the registrar of voters in the town, and the registrars shall within five working days certify thereon the number of signatures which are names of registered voters of the town.

**SECTION 3.** If the petition shall be found and certified by the town clerk to be sufficient he shall submit the same with his certificate to the selectmen within five working days, and the selectmen shall, within five working days, give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than sixty and not more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within one hundred days after the date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

**SECTION 4.** Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in section seven. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer). Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of the said propositions. Under the propositions shall appear



the word "Candidates", the directions to the voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this, the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If more than one-third of the votes on the question are in the negative, the ballots for candidates need not be counted.

**SECTION 7.** No recall petition shall be filed against an officer within ninety days after he takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least ninety days after the election at which his recall was submitted to the voters of the town.

**SECTION 8.** No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall be appointed to any town office within one year after such recall or such resignation.

Approved November 6, 1991.

**Chapter 307.            AN ACT PROMOTING TOURISM IN THE COMMON-WEALTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one, for the fiscal year ending June thirtieth, nineteen hundred and ninety-two or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.**  
**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Miscellaneous.*

Item		
1599-0036 For the expenses of the Massachusetts Convention Center		
Authority		\$4,000,000
Massachusetts Tourism Fund	100.0%	

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**EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.**

*Office of the Secretary.*

9000-1901 For the expenses of the office of travel and tourism for tourism promotion programs; provided, however, that notwithstanding any general or special law to the contrary, of the amount appropriated herein not less than one hundred and fifty thousand dollars shall be expended for the expenses of the Massachusetts film bureau \$4,210,526

Massachusetts Tourism Fund 100.0%

9000-1920 For financial assistance to those tourist promotion agencies which received funds pursuant to section fourteen of chapter twenty-three A of the General Laws during August of nineteen hundred and ninety-one; provided, however, that funds appropriated herein shall be distributed to said agencies in the same proportion that funds were distributed to said agencies in said August of nineteen hundred and ninety-one \$2,000,000

Massachusetts Tourism Fund 100.0%

9000-2100 For expenses of the Massachusetts international trade council \$315,789

Massachusetts Tourism Fund 100.0%

**SECTION 3.** Section 34 of chapter 190 of the acts of 1982 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The executive director may be removed at any time by the Authority for cause including misfeasance, malfeasance or willful neglect of duty, after public notice and a public hearing on the facts and circumstances which form the basis for such removal.

**SECTION 4.** Item 2120-8777 in section 4 of chapter 481 of the acts of 1976, as amended by section 1 of chapter 287 of the acts of 1982, is hereby further amended by striking out, in lines 11 and 12, the words "at least fifty per cent reimbursement from the federal government and".

**SECTION 5.** This act shall take effect upon its passage.

Approved November 8, 1991.

**Chapter 308. AN ACT INCREASING THE AMOUNT OF BORROWING AUTHORIZED FOR IMPROVEMENTS AT THE MIDDLESEX COUNTY HOSPITAL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 102 of the acts of 1987 is hereby amended by striking out, in line 3, the words "three million" and inserting in place thereof the

words:- four million, five hundred thousand.

**SECTION 2.** Section 2 of said chapter 102 is hereby further amended by striking out, in line 5, the words "three million" and inserting in place thereof the words:- four million, five hundred thousand.

**SECTION 3.** This act shall take effect upon its passage.

Approved November 12, 1991.

**Chapter 309.           AN ACT EXEMPTING THE POSITION OF SCHOOL CUSTODIAN IN THE TOWN OF EASTHAMPTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of school custodian in the town of Easthampton shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of school custodian in the town of Easthampton on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved November 12, 1991.

**Chapter 310.           AN ACT RELATIVE TO LEGISLATIVE AGENTS.**

*Be it enacted, etc., as follows:*

Chapter 3 of the General Laws is hereby amended by striking out section 46, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 46. The docket of legislative agents shall be maintained for each legislative year, beginning on the first Wednesday of January and ending at the conclusion of business on the final day before the succeeding legislative session.

*Emergency Letter: November 12, 1991 @ 2:19 P.M.* Approved November 12, 1991.

**Chapter 311.           AN ACT RELATIVE TO THE REPRESENTATION OF HANDICAPPED PERSONS IN COUNTY GOVERNMENT.**

*Be it enacted, etc., as follows:*

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**Chap. 312**

Chapter 34 of the General Laws is hereby amended by inserting after section 14A the following section:-

Section 14B. In any county which accepts this section by vote of the county commissioners, the chairman of the county commissioners shall appoint a handicapped person to serve as an associate commissioner for affairs concerning handicapped persons. Said associate commissioner shall serve for a one year term, coterminous with the chairman's term of office and shall serve without compensation. Said associate commissioner shall have no powers or authority in the county government, but shall advise the county commissioners on affairs of the handicapped.

Approved November 12, 1991.

**Chapter 312.           AN ACT FURTHER REGULATING THE OPERATION AND  
MANAGEMENT OF THE WOBURN GOLF AND SKI AU-  
THORITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 526 of the acts of 1968 is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The members of the Authority shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Every member of the Authority shall execute a surety bond in such amounts as the Authority may determine from time to time, and the secretary-treasurer shall execute a surety bond in such amounts as the Authority may determine from time to time, each such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the commonwealth as surety, and to be approved by the attorney general and filed in the office of the state secretary.

**SECTION 2.** Clause (d) of the first paragraph of section 4 of said chapter 526, as appearing in section 3 of chapter 822 of the acts of 1971, is hereby amended by striking out, in line 1, the words "take by eminent domain,".

**SECTION 3.** Said first paragraph of said section 4 of said chapter 526, as so appearing, is hereby further amended by adding the following clause:-

(j) To conduct a restaurant business for purveying food, drink and refreshment; to obtain and do business under an alcoholic beverage license, under due public authority and in conformance with law and regulations.

**SECTION 4.** Section 8 of said chapter 526, as amended by said section 4 of said chapter 822, is hereby further amended by striking out the first paragraph and

inserting in place thereof the following paragraph:-

The Authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds or notes of the Authority for the purpose of paying all or any part of the cost of a project for the acquisition, construction, reconstruction, improvement or replacement of its facilities and expenses related thereto; provided, however, that the principal amount of bonds or notes issued under this act and outstanding at any one time, exclusive of refundings, shall not exceed, in the aggregate, the sum of one million dollars. The principal and interest of such bonds or notes shall be payable solely from the funds herein provided for such payment. The bonds or notes of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time according to an index, banker's loan and not otherwise, as the Authority may fix, shall mature at such time or times as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds or notes. The Authority shall determine the form of the bonds or notes, including interest coupons, if any, to be attached thereto, and the form and manner of execution of the bonds or notes, and shall fix the denomination or denominations of the bonds or notes and the place or places of payment of principal and interest which may be at any bank or trust company within the commonwealth. The bonds may be sold at par, premium or discount and may be sold as instruments, the principal amount of which remains constant or increases during the life of the instrument. Registered bonds may be certified. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons appended thereto shall cease to be such officer before the delivery of such bonds or notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds or notes issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code. The bonds or notes may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone, and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds or notes in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interest of the Authority.

**SECTION 5.** The second paragraph of said section 8 of said chapter 526, as appearing in said section 4 of said chapter 822, is hereby amended by inserting after the word "project", in line 2, the words:- provided for herein.

**SECTION 6.** The third paragraph of said section 8 of said chapter 526, as so

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**Chap. 313**

appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The issuance of such refunding bonds or notes, the maturities and other details thereof, and the duties of the Authority in respect to the same, shall be governed by the provisions of this act insofar as the same may be applicable, provided that any such refunding bonds shall mature at such time or times as may be determined by the Authority and may likewise be refunded pursuant to this section.

Approved November 12, 1991.

**Chapter 313.        AN ACT AUTHORIZING THE TOWN OF SAUGUS TO  
BORROW MONEY TO FUND CERTAIN PAYMENTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Saugus is hereby authorized to borrow such sums of money as may be necessary to fund payments the town is required or agrees to make under its contract with the Saugus Refuse Energy Systems Company as a result of capital improvements to the incinerator of said company and related facilities, and may issue bonds or notes therefor. Such bonds or notes shall bear on their face, the words Town of Saugus Solid Waste Disposal Loan, Act of 1991. Each authorized issue shall constitute a separate loan and each such loan shall be payable within twenty years from its date. The town may also issue temporary loans in anticipation of such borrowing pursuant to section seventeen of chapter forty-four of the General Laws. Bonds and notes may be issued hereunder by the town treasurer with the approval of the board of selectmen and the proceeds thereof may be expended without further authorization or appropriation by the town. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section ten of said chapter forty-four but, except as provided herein, shall otherwise be subject to the provisions of said chapter forty-four.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 14, 1991.

**Chapter 314.        AN ACT RELATIVE TO APPROVAL BY THE DEPARTMENT  
OF PUBLIC UTILITIES OF AN ISSUE OF NEW STOCK,  
BONDS OR OTHER SECURITIES BY A GAS OR ELECTRIC  
COMPANY.**

*Be it enacted, etc., as follows:*

Chapter 164 of the General Laws is hereby amended by striking out section 16, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 16. If, when the department approves an issue of new stock, bonds or other securities by a gas or electric company, it determines that the fair structural value of the plant and of the land and the fair value of the nuclear fuel, gas inventories or fossil fuel inventories owned by such company is less than its outstanding stock and debt, it may prescribe such conditions and requirements as it deems best adapted to make good within a reasonable time the impairment of the capital stock; or before allowing an increase, it may require the capital stock to be reduced by a prescribed amount, not exceeding the amount of such impairment. The amount of impairment and the conditions and requirements imposed shall be stated in the annual report of the department. The supreme judicial or superior court shall have jurisdiction in equity, on application of the department, the attorney general, any stockholder or any interested party, to enforce this section and section fourteen and all orders and decisions, conditions or requirements of the department made in pursuance thereof.

Approved November 15, 1991.

**Chapter 315.      AN ACT RELATIVE TO THE MASSACHUSETTS NATIONAL GUARD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection (b) of section 15 of chapter 33 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The adjutant general shall be appointed by the governor, in his capacity as commander-in-chief, from those persons who are, or have been, active commissioned officers in the Massachusetts national guard, army or air, for a period of not less than five years and who have attained, while serving therein, or in the national guard of the United States, a grade not lower than that of lieutenant colonel. He shall serve for a term coterminous with that of the governor and shall receive the same pay as an officer of the regular service of corresponding grade with corresponding length of service.

**SECTION 2.** The provisions of section one of this act shall not be deemed to affect the term of office of the incumbent of the office of the adjutant general on the effective date of this act.

Approved November 15, 1991.

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## **Chap. 316**

### **Chapter 316.       AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF HINGHAM FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of chief of police in the town of Hingham shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of chief of police in the town of Hingham on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved November 15, 1991.

### **Chapter 317.       AN ACT RELATIVE TO HANDICAP PARKING SPACES.**

*Be it enacted, etc., as follows:*

The seventh paragraph of section 2 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The registrar may issue plates displaying the "International Symbol of Access" for a motor vehicle owned or leased by and used by, a nonprofit organization or institution or the commonwealth or its political subdivisions for the transportation of handicapped persons when the registrar determines that such organization or institution or agency or municipality substantially and regularly provides care and transportation to handicapped persons, and prominently displays the name of the organization or institution or agency or municipality on said vehicle; provided, however, that such vehicles shall include those purchased with grants and loans from the federal government for the purpose of providing transportation to meet the special needs of the elderly and the handicapped.

Approved November 15, 1991.

### **Chapter 318.       AN ACT AUTHORIZING THE TOWN OF CONCORD AND THE CONCORD-CARLISLE REGIONAL SCHOOL DISTRICT TO NEGOTIATE A PLAN FOR DISABILITY INSURANCE FOR THEIR EMPLOYEES.**

*Be it enacted, etc., as follows:*



**SECTION 1.** The town of Concord and the Concord-Carlisle regional school district, acting by and through its town manager, board of selectmen, school superintendent and school committees, are hereby authorized to negotiate with one or more insurance carriers and administer a plan for disability insurance for active town, school and district employees. Up to one hundred percent of the premiums associated with such a plan shall be paid by the qualified active employees who participate either directly or through payroll deductions.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 15, 1991.

**Chapter 319.      AN ACT RELATIVE TO CERTAIN TERMS IN SALES CONTRACTS GOVERNED BY THE UNIFORM COMMERCIAL CODE.**

*Be it enacted, etc., as follows:*

Section 2-207 of chapter 106 of General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "additional", in line 6, the words:- or different.

Approved November 15, 1991.

**Chapter 320.      AN ACT RELATIVE TO NOTICE IN CERTAIN PROBATE ACTIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 192 of the General Laws is hereby amended by striking out section 9, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 9. Any person interested in a will which has been proved and allowed in any other of the United States or in a foreign country according to the laws of such state or country, or in a will which, by the laws of the state or country in which it was made, is valid without probate, may produce to the probate and family court in any county where there is any property, real or personal, on which such will may operate, a copy of such will and the probate thereof, duly authenticated, or if such will is valid without probate as aforesaid, a copy of the will or of the official record thereof duly authenticated by the proper official having custody of such will or record in such state or country together with an affidavit, in each case, by the petitioner or other person having knowledge of the facts, stating the names and

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residences of the known heirs and the next of kin of the testator living at his death and their relationship to the testator. The court shall thereupon assign a time and place for hearing and cause notice thereof to be given to all persons interested by publication at such times and in such newspapers as the court orders, said publication to be thirty days at least before the time assigned for hearing.

**SECTION 2.** Chapter 202 of the General Laws is hereby amended by striking out section 38, as so appearing, and inserting in place thereof the following section:-

Section 38. After the entry of a decree authorizing or licensing an executor, administrator, guardian, conservator or trustee to sell real estate at a public or private sale, provided: (a) the notice of the petition for license to sell real estate and of the time and place appointed for hearing, the same shall have been given by publication at such times and in such newspapers as the court orders, and (b) there shall have been no appearance entered against such sale prior to the entry of the decree or where such appearance shall have been entered and withdrawn prior to the entry of the decree, notwithstanding the fact that an appeal may have been taken prior to the expiration of the period allowed for an appeal therefrom, it shall be conclusively presumed that the amount of the advantageous offer stated in said petition for license to sell real estate is the highest possible price obtainable for the real estate described in such petition and that the executor, administrator, guardian, conservator, or trustee has fully satisfied his fiduciary duty to obtain the highest possible price for such real estate.

Approved November 22, 1991.

**Chapter 321.           AN ACT DESIGNATING THE INTERSECTION OF UNITED STATES HIGHWAY ROUTE 1 AND THE STATE HIGHWAY ROUTE 123 IN THE CITY OF ATTLEBORO AS THE SERGEANT WILLIAM R. ROLLINSON, II MEMORIAL SQUARE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the designation of a certain intersection as Sergeant William R. Rollinson, II Memorial Square, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

The intersection of United States highway route 1 and State Highway route 123 in the city of Attleboro shall be designated and known as the Sergeant William R. Rollinson, II Memorial square, in memory of William R. Rollinson, II of said city,

a sergeant in the United States Air Force, who was killed in the service of his country while on active duty in Honduras in nineteen hundred and eighty-five. The department of public works shall erect and maintain suitable markers thereat bearing said designation in compliance with the standards of said department and as authorized by the federal highway administration.

Approved November 25, 1991.

**Chapter 322.        AN ACT RELATIVE TO RATES GOVERNING CELLULAR  
TELEPHONE SERVICE PROVIDERS.**

*Be it enacted, etc., as follows:*

Section 12C of chapter 159 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "carriers", in line 4, the words:- ; provided, however, that the department may allow a rate for a radio utility to fluctuate below a maximum rate; and provided, further, that any such rate below the maximum shall become effective only after notice is provided to the customers of such utility, and upon such radio utility filing a notice thereof with the department at least twenty-four hours prior to any such change. The department may establish rules and regulations necessary to carry out the provisions of this section.

Approved November 27, 1991.

**Chapter 323.        AN ACT RELATIVE TO THE POWERS OF THE MASSACHU-  
SETTS COMMISSION AGAINST DISCRIMINATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection 6 of section 3 of chapter 151B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "ancestry", in line 19, the words:- , children, marital status, veteran status or membership in the armed services, the receiving of public assistance,.

**SECTION 2.** The second paragraph of section 9 of said chapter 151B, as so appearing, is hereby amended by inserting after the word "writing", in line 23, the words:- , but not later than three years after the alleged unlawful practice occurred,.

**SECTION 3.** Said second paragraph of said section 9 of said chapter 151B, as so appearing, is hereby further amended by inserting after the second sentence the following sentence:- Any person claiming to be aggrieved by an unlawful practice relative to housing under this chapter, but who has not filed a complaint pursuant

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to section five, may commence a civil action in the superior or probate court for the county in which the alleged unlawful practice occurred or in the housing court within whose district the alleged unlawful practice occurred; provided, however, that such action shall not be commenced later than one year after the alleged unlawful practice has occurred.

**SECTION 4.** The third paragraph of said section 9 of said chapter 151B, as so appearing, is hereby amended by striking out the last sentence.

Approved November 27, 1991.

**Chapter 324.        AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY  
KNOWN AS THE TOWN OF METHUEN AS THE METHUEN  
FIREFIGHTERS MEMORIAL BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge on Osgood street over the railroad tracks in the city known as the town of Methuen shall be designated and known as the Methuen Firefighters Memorial Bridge. Suitable markers bearing such designation shall be attached thereto by the department of public works in accordance with the standards of said department.

Approved November 27, 1991.

**Chapter 325.        AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF  
THE ANNUAL TOWN MEETING IN THE TOWN OF RICH-  
MOND.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings of the town of Richmond at the annual town meeting held on April twenty-seventh, nineteen hundred and ninety-one and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if the warrant for such meeting had been properly posted and published.

Approved November 27, 1991.

**Chapter 326.        AN ACT RELATIVE TO INSURANCE INVESTIGATORS.**

*Be it enacted, etc., as follows:*

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The second paragraph of section 23 of chapter 147 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause 8 and inserting in place thereof the following clause:-

8. An insurance adjuster or investigator while acting in such capacity or a contracted investigator while acting in the capacity of an insurance investigator or an insurance adjuster.

Approved November 27, 1991.

**Chapter 327.        AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE  
OF SCHOOL PRINCIPALS' RECOGNITION DAY.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 12TT, inserted by chapter 207 of the acts of 1991, the following section:-

Section 12UU. The governor shall annually issue a proclamation setting apart April twenty-seventh as School Principals' Recognition Day, and recommending that said day be observed in an appropriate manner by the people.

Approved November 27, 1991.

**Chapter 328.        AN ACT AUTHORIZING THE TOWN OF NORTH  
ATTLEBOROUGH TO LEASE CERTAIN LAND TO THE  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

*Be it enacted, etc., as follows:*

The town of North Attleborough, acting by and through its park commission, is hereby authorized to lease to the department of environmental management for a term of ten years, with renewals for additional ten year terms, the land occupied by the fire tower at World War I Memorial park in said town.

Approved November 27, 1991.

**Chapter 329.        AN ACT FURTHER REGULATING CHILD CARE IN THE  
COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate child care in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation

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of the public convenience.

*Be it enacted, etc., as follows:*

Chapter 521 of the acts of 1990 is hereby amended by striking out section 7 and inserting in place thereof the following section:-

**Section 7.** A qualified employer, as used in this section, shall mean an employer who has established, in accordance with the applicable requirements of section one hundred and twenty-nine of the Federal Internal Revenue Code of 1986, or any successor section, as amended and in effect for the taxable year, either a dependent care assistance program or a cafeteria plan whose benefits include a dependent care assistance program. On or before July first, nineteen hundred and ninety-one, the commonwealth and every authority established as a body politic and corporate and constituted as a public instrumentality of the commonwealth, shall meet the requirements of a qualified employer as defined herein. On and after July first, nineteen hundred and ninety-two, no contract for goods and services of any type shall be awarded by the commonwealth or any such authority to an employer having fifty or more employees unless such employer is a qualified employer, or offers child care tuition assistance or on-site or near-site subsidized child care placements except in cases of special emergency certified by the secretary of administration and finance or his designee to involve the health or safety of the people or their property. The office for children shall by regulation specify minimum standards for child care tuition assistance and on-site or near-site subsidized child care placements as used in this section under the direction of the executive office of health and human services. The secretary of administration and finance shall prepare a plan to implement the provisions of this section. Such plan shall be transmitted to the senate and house committees on ways and means on or before April first, nineteen hundred and ninety-two.

Approved November 27, 1991.

## **Chapter 330.      AN ACT INCREASING THE AMOUNT OF CERTAIN RETIREMENT AND DEATH BENEFITS WHICH MAY BE PAID BY THE BEVERLY POLICE RELIEF ASSOCIATION, INCORPORATED.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 131 of the acts of 1985 is hereby amended by striking out, in lines 3 and 9, the word "four" and inserting in place thereof, in each instance, the word:- ten.

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**SECTION 2.** Section 2 of said chapter 131 is hereby amended by striking out, in lines 2 and 3, the words "one thousand five hundred" and inserting in place thereof the words:- three thousand.

**SECTION 3.** This act shall take effect as of January first, nineteen hundred and ninety-one.

Approved November 27, 1991.

**Chapter 331.        AN ACT AUTHORIZING THE CITY OF LYNN TO ENTER  
                         INTO A CERTAIN LEASE.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section three of chapter forty of the General Laws, the city of Lynn is hereby authorized to enter into a lease agreement for the lease of a certain building known as the Old Post Office located at 360 Washington street in said city for a term of not more than fifteen years.

*Emergency Letter: November 27, 1991 @ 11:35 A.M.* Approved November 27, 1991.

**Chapter 332.        AN ACT EXEMPTING THE TOWN OF EDGARTOWN FROM  
                         CERTAIN PUBLIC BIDDING REQUIREMENTS.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of chapter thirty B of the General Laws or any other general or special law or rule or regulation to the contrary, the town of Edgartown is hereby authorized to transfer the Chappaquiddick ferry slips, ramps and appurtenant buildings to Edgartown Ferry, Inc.

Approved November 27, 1991.

**Chapter 333.        AN ACT DESIGNATING A CERTAIN SECTION OF ROUTE  
                         122 IN THE TOWN OF BARRE AS THE TROOPER ALJE M.  
                         SAVELA MEMORIAL HIGHWAY.**

*Be it enacted, etc., as follows:*

The section of state highway Route 122 in the town of Barre from the intersection of Pleasant street in said town to the Petersham town line, shall be designated and known as the Trooper Alje M. Savela Memorial highway, in memory

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of Alje M. Savela, a Massachusetts state trooper who was killed in the line of duty on this roadway August thirty-first, nineteen hundred and fifty-one. Suitable signs bearing said designation shall be erected thereon by the department of public works in compliance with the standards of said department.

Approved November 27, 1991.

**Chapter 334.        AN ACT AUTHORIZING THE TOWN OF CONCORD TO  
CONVEY CERTAIN CONSERVATION LAND TO PAUL J.  
DENARO.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Concord acting by and through its town manager with the approval of its board of selectmen is hereby authorized to convey to Paul J. Denaro a certain parcel of conservation land consisting of approximately two hundred and three square feet as shown on a plan of land entitled "Plan of Land in Concord, Mass. Showing Proposed Land Swap. Owned by Paul J. Denaro, 189 Commonwealth Ave., Concord, Mass.", dated March 11, 1991, David W. Perley Civil Engineer. In consideration of said conveyance, Paul J. Denaro shall convey to the town of Concord a certain parcel of land of approximately two hundred and three square feet as shown on the aforesaid plan. In further consideration of said conveyance Paul J. Denaro shall grant to the town of Concord an easement across his property for emergency and maintenance purposes.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 27, 1991.

**Chapter 335.        AN ACT PROVIDING FOR THE APPOINTMENT OF THE  
TREASURER, TAX COLLECTOR AND CLERK IN THE TOWN  
OF PRINCETON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section one of chapter forty-one of the General Laws, the treasurer of the town of Princeton shall be appointed for a term not to exceed three years by the board of selectmen of said town and the person so appointed shall have all the power and duties by law vested in the office of treasurer.

**SECTION 2.** Notwithstanding the provisions of section one of chapter forty-one of the General Laws, the tax collector of the town of Princeton shall be appointed



for a term not to exceed three years by the board of selectmen of said town and the person so appointed shall have all the powers and duties by law vested in the office of tax collector.

**SECTION 3.** Notwithstanding the provisions of section one of chapter forty-one of the General Laws, the clerk of the town of Princeton shall be appointed for a term not to exceed three years by the board of selectmen of said town and the person so appointed shall have all the powers and duties by law vested in the office of clerk.

**SECTION 4.** Notwithstanding the provisions of sections one, two and three of this act, the incumbents in the offices of treasurer, tax collector and clerk upon the effective date of this act shall continue to hold said offices and to perform the duties thereof until the expiration of their terms or a precedent vacating of office.

Approved November 27, 1991.

**Chapter 336.      AN ACT RELATIVE TO DEFERRING THE COMPENSATION AND FUNDING OF CERTAIN TEACHERS' SALARIES FOR CITIES, TOWNS AND REGIONAL SCHOOL DISTRICTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify the law relating to the deferring of certain teachers' compensation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** A city, town or regional school district that in the fiscal year beginning July first, nineteen hundred and ninety-one defers part of the compensation of its teachers pursuant to the provisions of chapter two hundred and twenty-three of the acts of nineteen hundred and ninety-one may, in fiscal years beginning on or after July first, nineteen hundred and ninety-two, further defer such part of its teachers' compensation by vote of its town meeting, town council or city council with the approval of the mayor where required by law, or by vote of its regional school committee. Said deferral shall be in accordance with the following schedule:

In fiscal years beginning after June thirtieth, nineteen hundred and ninety-two and before June thirtieth, nineteen hundred and ninety-six, a city, town or regional school district may defer the entire amount of its teachers' compensation deferred in the fiscal year beginning July first, nineteen hundred and ninety-one.

In fiscal years beginning after June thirtieth, nineteen hundred and ninety-six

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and each successive year thereafter such city, town or regional school district shall amortize the amount of the teachers' compensation deferred in the fiscal year beginning July first, nineteen hundred and ninety-one by raising in equal installments in its local budget or regional school budget, respectively, one-fifteenth of the deferral amount. A city, town or regional school district may at any time elect to amortize the deferral amount on a more rapid schedule than is required by this paragraph.

In the fiscal year beginning July first, nineteen hundred and ninety-two, a city and town that deferred part of the compensation of its teachers in the fiscal year beginning July first, nineteen hundred and ninety-one shall pay the compensation so deferred and shall not charge the amount of such deferred payments to the school budget of the fiscal year beginning July first, nineteen hundred and ninety-two.

**SECTION 2.** In a regional school district that does not reduce assessments to its member cities and towns on account of a deferral of a portion of its teachers' compensation in the fiscal year beginning July first, nineteen hundred and ninety-one, a member city or town may elect by vote of its board of selectmen, town council or city council with the approval of the mayor where required by law, to defer a portion of its assessment equal to the amount by which said city's or town's assessment would have been reduced if the district had deferred part of its teachers' compensation. Any city or town deferring a portion of its regional school assessment shall pay such assessment to the regional district in full when due under the terms of the regional district agreement. Any deferral by a city or town under the provisions of this section shall be subject to the amortization provisions of section one.

**SECTION 3.** For the fiscal year beginning July first, nineteen hundred and ninety-two, a regional school district shall defer an amount of its budget for said fiscal year equal to the amount of its teachers' compensation that it was authorized to defer for the fiscal year beginning July first, nineteen hundred and ninety-one, unless the regional school committee and a majority of the member cities and towns vote by February fifteenth, nineteen hundred and ninety-two to reject such deferral for the district. A city or town that is a member of a regional school district shall vote on the regional district deferral for the fiscal year beginning July first, nineteen hundred and ninety-two by vote of its city council, with the approval of the mayor where required by law, and by vote of its town council or board of selectmen. In a district that defers part of its budget for the fiscal year beginning July first, nineteen hundred and ninety-two, the total amount of assessments to member cities and towns shall be reduced by the amount of the deferral.

In a regional school district that does not reduce assessments to its member cities and towns on account of a deferral of a portion of its teachers' compensation in the fiscal year beginning July first, nineteen hundred and ninety-two, a member

city or town may elect by vote of its town meeting, town council or city council with the approval of the mayor where required by law, to defer a portion of its assessment equal to the amount by which said city's or town's assessments would have been reduced if the district had deferred part of its teachers' compensation. Any city or town deferring a portion of its regional school assessment shall pay such assessment to the regional district in full when due under the terms of the regional district agreement.

For the fiscal year beginning July first, nineteen hundred and ninety-two, any city or town may by vote of its city council, with the approval of the mayor where required by law, and by vote of its town council or town meeting, defer in its budget for said fiscal year an amount less than or equal to the amount of teachers' compensation it was authorized to defer in the fiscal year beginning July first, nineteen hundred and ninety-one.

Any deferral by a city, town or regional school district under the provisions of this section shall be subject to the amortization provisions of section one.

**SECTION 4.** Notwithstanding the provisions of chapter two hundred and twenty-three of the acts of nineteen hundred and ninety-one, for all purposes except the determination of municipal and regional school district budgets, including but not limited to teachers' rights under chapters thirty-two, thirty-two B, one hundred and fifty-one A and one hundred and fifty-two of the General Laws, teachers' compensation shall be deemed to be fully earned at the end of the school year, and proportionately during the school year.

**SECTION 5.** Notwithstanding the provisions of chapter two hundred and twenty-three of the acts of nineteen hundred and ninety-one, a city or town may accept the provisions of said chapter two hundred and twenty-three in the manner provided therein at any time before it fixes its tax rate for the fiscal year beginning July first, nineteen hundred and ninety-one. Notwithstanding the provisions of chapter two hundred and twenty-three of the acts of nineteen hundred and ninety-one, a regional school district may reject the deferral of a portion of its teachers' summer pay in the manner provided in said chapter two hundred and twenty-three at any time up to fourteen days after the effective date of this act.

**SECTION 6.** Notwithstanding the provisions of section five of chapter seventy A of the General Laws, in a city, town or regional school district that reduces its school budget through a deferral of a portion of its teachers' compensation, the school budget shall be deemed to include the amount of the deferred teachers' compensation for purposes of determining whether the direct service expenditures of such city, town or district are sufficient to maintain its eligibility for equal education opportunity grants under the provisions of said chapter seventy A and such deferral shall not be included in the calculation of local direct services expenditures in the year that the deferred portion of teachers' compensation are actually paid.

Approved November 27, 1991.

**Chapter 337. AN ACT RELATIVE TO THE RECEIPT OF DEPOSITS FOR TRANSMITTAL TO FOREIGN COUNTRIES.**

Be it enacted, etc., as follows:

**SECTION 1.** The General Laws are hereby amended by striking out chapter 169, as appearing in the 1990 Official Edition, and inserting in place thereof the following chapter:-

**CHAPTER 169.**

**RECEIPTS OF DEPOSITS FOR TRANSMITTAL TO FOREIGN COUNTRIES.**

Section 1. This chapter shall apply to all persons who engage or are financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries, except banks chartered by the commonwealth, banks chartered by the federal government or another state of the United States and authorized to do banking business in the commonwealth, persons doing business under sections thirty-eight to forty-three, inclusive, of chapter one hundred and sixty-seven, express companies having contracts with transportation companies for the operation of an express service upon the lines of such companies or express companies doing an international express business or global transportation companies or telegraph companies.

Section 2. Every person subject to section one, before engaging or becoming financially interested or continuing to engage or be financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries, shall make, execute and deliver to the state treasurer a bond in a sum equal to twice the average weekly amount of money or equivalents thereof transmitted to foreign countries by such person, as determined by the commissioner of banks, hereinafter called the commissioner, but in no event shall the sum of the bond be less than fifty thousand dollars; provided, however, that a person carrying on business at more than one location need post only one such bond which shall be in the sum of fifty thousand dollars or twice the average total weekly amount of money or equivalents thereof transmitted to foreign countries from all locations, whichever is greater; and, provided further, that the sum of such bond shall be increased on order of the commissioner at any time to such amount as shall be shown by examination to be necessary. Such bond shall be conditioned upon the faithful holding and transmission of any money or equivalents thereof which shall have been delivered to such person for transmission to a foreign country and, in the event of the insolvency or bankruptcy of the principal, upon the payment of the full amount of such bond to the assignee, receiver or trustee of the principal, as the case may require, for the benefit of such persons as shall have delivered money or equivalents thereof to said principal for the purpose of transmitting the same to a

foreign country.

Section 3. Except as otherwise expressly provided herein, the provisions of this section shall apply to the bonds required by section two. Each such bond shall be executed by the person of whom it is required, as principal, and a surety company, approved by the commissioner, as surety. In lieu of the aforesaid surety, the person may deposit and the state treasurer shall accept as security for the fulfillment of the provisions of the bond, money, bonds of the United States, of the commonwealth or of any municipality thereof or, if approved by the commissioner, other bonds, certificates of deposit issued by a savings bank, cooperative bank, credit union, trust company, federal savings bank, federal savings and loan association, federal credit union or national bank, or savings accounts in such institutions. The money or securities so deposited shall be held upon the conditions specified in the bond. If securities be deposited in lieu of an approved surety and be accepted, the state treasurer shall require the depositor to maintain such deposit at a value equal to the amount fixed as the penalty of the bond and he may, in his discretion, permit the substitution of securities for money, or of money for securities, in whole or in part, or of money or securities for an approved surety, or of a bond for money or securities deposited or the withdrawal of securities deposited and the substitution of others of equal value in their place and, if the total value of the securities becomes substantially impaired, he shall require the deposit of money or additional securities sufficient to cover the impairment in value. No bond required by section two shall be accepted until it has been first examined and approved by the commissioner and the state treasurer and, upon such approval by the state treasurer, it shall be filed in his office. Upon notice of such approval by the state treasurer, the commissioner shall issue a license authorizing said person to carry on the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries. Such license shall be for a period of one year from July first. No person shall engage or become financially interested or continue to engage or be financially interested in the aforesaid business without such authority. The fee for such license shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven. The license shall not be transferred or assigned. It shall not authorize the transaction of business at any place other than that described in the license, except with the written approval of the commissioner. Immediately upon the receipt of the license issued by the commissioner, the licensee named therein shall cause the license to be posted and at all times conspicuously displayed in the place of business for which it is issued, so that all persons visiting such place may readily see the same. It shall be unlawful for any licensee to post the license or permit the license to be posted upon premises other than those described therein or those to which it has been transferred with the written approval of the commissioner, or knowingly to deface or destroy any such license. The money and securities

deposited with the state treasurer as herein provided and the money which in case of breach of the bond shall be paid by any licensee or surety thereon, shall constitute a trust fund for the benefit of such persons as shall deposit money with the licensee for transmission as aforesaid and such beneficiaries shall be entitled to an absolute preference as to such money or securities over all general creditors of the licensee. The license shall be revocable at all times by the commissioner for cause shown and in the event of such revocation or a surrender of the license, no refund shall be made in respect to any license fee paid. Every license shall be surrendered to the commissioner within twenty-four hours after written notice to the holder that the license has been revoked. In case of revocation or surrender of, or failure to renew, a license, the money and securities and the bond, if there be one, shall continue to be held by the state treasurer for a period of one year from the date of such revocation, surrender or failure to renew and until the expiration of sixty days after final judgment in any action or suit commenced prior to the end of said period, unless otherwise directed by the order or judgment of a court of competent jurisdiction.

Section 4. The state treasurer shall keep a record, which shall be open to public inspection, of such bonds filed with him with the names and places of business of the principals and the name of any surety company, and the name of the officer before whom the bond was executed or acknowledged and any money or securities deposited in lieu of an approved surety as provided in section three.

Section 5. An action to recover on such bond may be brought by an aggrieved party in the superior court department of the trial court.

Section 6. The application for a license shall be in writing and on a form prescribed by the commissioner which shall contain the name and complete address where the business of such applicant is located and, if the applicant is a partnership, association, corporation or other business organization, the names and addresses of each member, director and principal officer thereof. Further such application shall include a description of the activities of the applicant, in such detail and for such periods as the commissioner may require, and such further information as the commissioner may require. Each application for a license shall be accompanied by an investigation fee to be determined annually by the commissioner of administration under the provisions of section three B of chapter seven. Said commissioner may reject an application for a license or an application for a renewal of a license if he finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant and the members thereof if such applicant is a partnership or association, and of the officers and directors if the applicant is a corporation are not such as to warrant belief that the business will be operated in accordance with law and in the public interest. Each license shall state the name and address of the licensee and the city or town of the place where such business is to be carried on. If a licensee intends to carry on a business

at more than one location, such licensee shall procure a license for each location where such business shall be conducted. Any change of location of a place of business of a licensee shall require prior written approval of the commissioner. Such request for relocation shall be in writing setting forth the reason for such request and shall be accompanied by a relocation investigation fee to be determined annually by the commissioner of administration under the provisions of said section three B of said chapter seven.

Section 7. The commissioner may, from time to time, prescribe such rules and regulations as may be necessary to carry out the provisions of this chapter. Such rules and regulations may contain such classifications, differentiations or other provisions and may provide for such adjustments and exceptions for any class of transaction as in the judgment of the commissioner may be necessary to carry out the provisions of this chapter.

Section 8. All money received for transmission to a foreign country by any licensee shall be forwarded to the person to whom the same is directed within seven days following receipt thereof. Receipts given for deposits of money received for transmission to a foreign country shall be on forms approved by the commissioner.

Section 9. Licensees shall, annually, within thirty days after the last business day in December and at such other times as the commissioner may specify, make a return to said commissioner in such form as said commissioner may prescribe, signed and sworn to by such officer or person as said commissioner may designate, which form shall disclose the condition of such licensee as of the close of business on the last day of December or such other day as the commissioner may prescribe.

A licensee who fails to make such annual report or fails to amend such report within fifteen days of notice from the commissioner to so amend such report shall, unless such failure is for good cause, pay to the commonwealth five dollars for each day which such neglect or failure continues.

Section 10. A licensee shall keep such books, accounts and records as will enable the commissioner to determine whether such licensee is in compliance with the provisions of this chapter and rules and regulations made pursuant thereto and any other law, rule and regulation applicable to the conduct of such business. A licensee shall preserve such books, accounts and records for a period of at least three years. Preservation of such books, accounts and records by photographic reproduction thereof or record in photographic form shall constitute compliance with the requirements of this section. The books, accounts and records of every licensee shall be kept and audited in such manner and form as the commissioner may prescribe.

A licensee shall, when directed by the commissioner, permit the commissioner or his duly authorized representative to inspect its records and evidence of compliance with this chapter or any rule or regulation issued thereunder and with

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any other law, rule and regulation applicable to the conduct of its business. For the purposes of such inspection, the commissioner or his representative shall have access to the offices and place of business, books, accounts, papers, records and files of licensee. The commissioner and any person designated by him may require the attendance and testimony of all persons as he may deem necessary relative to the inspection of such business. The total cost for any such inspection, which shall be paid by the licensee within thirty days after the receipt of invoice therefor, shall be determined by the commissioner of administration under the provisions of section three B of chapter seven.

Section 11. The commissioner, if he has reason to believe that a person other than a licensee has violated any of the provisions of this chapter, shall be authorized to make such investigations as he shall deem necessary and may examine such other person and shall compel the production of all relevant books, records, accounts and documents.

Section 12. The commissioner may suspend or revoke any license issued pursuant to this chapter if he finds that: (a) the licensee has violated any provision of this chapter or any rule or regulation adopted hereunder or any other law applicable to the conduct of such business; or (b) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commissioner to refuse to issue such license.

Except as provided in section thirteen, no license shall be revoked or suspended except after notice and hearing pursuant to chapter thirty A.

A licensee may surrender any license by delivering to the commissioner written notice thereof and such surrender shall not affect the civil or criminal liability of such licensee for acts committed before the effective date of such surrender. No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing contract between the licensee and any other person.

Section 13. (a) If the commissioner determines, after notice and opportunity for a hearing, that a licensee has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation or order pursuant hereto, said commissioner may order such licensee to cease and desist from such unlawful act or practice and take such affirmative steps as may be necessary to carry out the provisions of this chapter.

(b) If the commissioner makes written findings that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), he may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly notify the licensee affected thereby, in writing, that such order has been so entered, the reasons therefor, and that within twenty days after the receipt of a written request from such licensee, the matter will be scheduled for hearing to determine whether or not such temporary order shall become permanent and final. If no such hearing is requested and none is ordered



by the commissioner, the order shall remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice and opportunity for a hearing to the licensee subject to said order, shall, by written finding of facts and conclusions of law, vacate or modify such order including making such order permanent.

(c) No order under this section, except a temporary order issued pursuant to subsection (b), shall be entered without prior notice and opportunity for a hearing. The commissioner may vacate or modify an order under this section upon finding that the conditions which required such an order have changed and that it is in the public interest to so vacate or modify such order.

An order issued pursuant to this section shall be subject to review as provided in chapter thirty A.

Section 14. If, after examination, it appears that a licensee is insolvent or that its capital is impaired or that its condition is such as to render the continuance of its business hazardous to the public or to those having funds in its custody, the commissioner shall apply or, if a licensee appears to have exceeded his powers or failed to comply with any provision of law, the commissioner may apply to the supreme judicial court to restrain such licensee from further proceeding with its business and to make such further order or decree as the court deems necessary. The court may appoint one or more receivers to take possession of the property and effects of such licensee, subject to such directions as may from time to time be prescribed by the court.

Section 15. The commissioner may enforce the provisions of this chapter or restrain violations thereof by filing a civil action in the superior court department of the trial court.

Section 16. Whoever violates any provision of this chapter or any rule or regulation made hereunder by the commissioner shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, all licenses issued prior to the effective date of this act pursuant to chapter one hundred and sixty-nine of the General Laws and in effect on the effective date of this act and licenses issued pursuant to said chapter one hundred and sixty-nine on or after the effective date of this act shall expire on June thirtieth following the date of issuance of such license.

Approved November 27, 1991.

**Chapter 338.        AN ACT PROVIDING FOR THE MAINTENANCE AND OPERATION OF THE PLYMOUTH COUNTY C-MED.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, any hospital which is assessed a fee for the maintenance and operation of the Plymouth county C-Med Radio System shall have its net patient revenues adjusted by the rate setting commission to reflect the total amount of said assessment.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 27, 1991.

**Chapter 339.        AN ACT RELATIVE TO THE CONVERSION OF A MUTUAL  
LIFE INSURANCE COMPANY.**

*Be it enacted, etc., as follows:*

Chapter 175 of the General Laws is hereby amended by inserting after section 19D the following section:-

Section 19E. Upon compliance with the requirements and completion of the proceedings prescribed by this section, a domestic mutual life insurance company may either (i) convert into a domestic stock life insurance company or (ii) so convert as part of a plan of reorganization in which a majority or all of the common shares of the domestic stock life insurance company is acquired by a parent corporation which may be organized for such purposes.

Such conversion shall be accomplished pursuant to a plan which complies with the following:

(1) Such plan shall be filed with the commissioner and shall be approved by him as conforming to the requirements of this section and as not prejudicial to the policyholders of such company or to the insuring public, after a hearing thereon for which notice was given to the insurer, its directors, officers, employees and policyholders, all of whom shall have the right to appear and be heard at the hearing.

(2) Such plan shall be approved by vote of not less than two-thirds of the votes of the insurer's policyholders voting thereon in person, by proxy or by mail at a meeting of policyholders called for that purpose pursuant to such reasonable notice and procedure as may be approved by the commissioner. Upon such approval, the conversion shall be effective as of the date specified in the plan. On and after such date, all the rights, franchises and interests of the insurer in and to every species of property shall be vested in the converted insurer without any deed or transfer and the converted insurer shall succeed to all the obligations and liabilities of the insurer.

(3) In exchange for all membership interests in the company, such plan shall give each eligible policyholder appropriate consideration. Said consideration shall

be determinable under a fair and reasonable formula approved by the commissioner, and shall be based upon the insurer's entire surplus as shown by the insurer's financial statement most recently filed with the commissioner pursuant to section twenty-five, including all voluntary reserves but excluding contingently repayable funds and outstanding guaranty capital shares at the redemption value thereof, and without taking into account the value of nonadmitted assets or insurance business in force.

(4) Such plan shall give each eligible policyholder a pre-emptive right to acquire his proportionate part of all of the proposed capital stock of the insurer or of the proposed parent corporation within a designated reasonable period, and to apply upon the purchase thereof the amount of his consideration, as determined under subparagraph (3), except that the plan may provide that a policyholder may not purchase or receive stock pursuant to this section if it has an aggregate subscription price of two thousand dollars or less and that such pre-emptive right will not apply to policyholders who reside in jurisdictions in which the issuance of stock is impossible, would involve unreasonable delay or would require the insurer to incur unreasonable costs, provided that any such policyholder shall receive his consideration in cash.

(5) The policyholder eligible to participate in the distribution of consideration and to purchase stock shall be the person whose name appears on the conversion date on the insurer's records as owner of a policy under which there is a right to vote and which, on both the December thirty-first immediately preceding the conversion date and the date the insurer's board of directors first votes to convert to stock form, is in full force for its full basic benefits with no unpaid premium or consideration at the expiration of any applicable grace period, or which is being continued under a nonforfeiture benefit and continues to be eligible for participation in the insurer's annual distribution of divisible surplus.

(6) Shares are to be offered to policyholders at a price not greater than to be thereafter offered under the plan to others.

(7) Such plan shall provide for payment to each policyholder of consideration which may consist of cash, securities, a certificate of contribution, additional life insurance or annuity benefits, increased dividends or other consideration or any combination of such forms of consideration.

(8) Such plan, when completed, shall provide for the converted insurer's paid-in capital stock to be in an amount not less than the minimum paid-in capital stock and the net cash surplus required of a new domestic stock insurer upon initial authorization to transact like kinds of insurance.

(9) The commissioner shall find that the insurer's management has not, through reduction in volume of new business written, or cancellation or through any other means sought to reduce, limit or affect the number or identity of the insurer's policyholders to be entitled to participate in such plan or to otherwise secure for

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the individuals comprising management any unfair advantage through such plan.

Nothing in this section shall be deemed to prohibit the inclusion in the conversion plan of provisions under which the individuals comprising the insurer's management and employee group shall be entitled to purchase for cash at the same price as offered to the insurer's policyholders, shares of stock not taken by policyholders on the pre-emptive offering to policyholders, in accordance with such reasonable classification of such individuals as may be included in the plan and approved by the commissioner.

The conversion plan may also include provisions restricting the ability of any person or persons acting in concert from directly or indirectly offering to acquire or acquiring the beneficial ownership of ten percent or more of any class of common stock of the converted insurer or the parent corporation.

No director, officer, agent or employee of the insurer, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their usual regular salaries and compensation, for in any manner aiding, promoting or assisting in such conversion, except as set forth in the plan approved by the commissioner. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants and actuaries for services performed in the independent practice of their professions, even though also directors of the insurer.

For the purpose of determining whether a conversion plan meets the requirements of this section and any other relevant provisions of this chapter, the commissioner may employ staff personnel and outside consultants. All reasonable costs related to the review of a plan of conversion, including those costs attributable to the use of staff personnel, shall be borne by the insurer making the filing.

Approved November 27, 1991.

**Chapter 340.           AN ACT RELATIVE TO THE CHARITABLE ASSOCIATION  
OF THE BOSTON FIRE DEPARTMENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 131 of the acts of 1838 is hereby amended by striking out, in lines 3 and 4, the words "Massachusetts Hospital Life Insurance Company for a term not exceeding thirty years" and inserting in place thereof the words:- with a broker licensed in the commonwealth.

**SECTION 2.** Said section 2 of said chapter 131 is hereby further amended by striking out, in lines 5 and 6, the words " , not exceeding the sum of three thousand dollars;".

**SECTION 3.** Section 2 of chapter 343 of the acts of 1874 is hereby amended by

striking out, in line 3, the word "five" and inserting in place thereof the word:- twenty-five.

**SECTION 4.** Section 1 of chapter 96 of the acts of 1896 is hereby amended by striking out, in line 5, the words "five hundred thousand" and inserting in place thereof the words:- one million.

**SECTION 5.** Section 2 of chapter 82 of the special acts of 1916 is hereby amended by striking out, in lines 8 and 9, the words "engineers, assistant engineers, horsemen and laddermen" and inserting in place thereof the word:- firefighters.  
Approved November 27, 1991.

**Chapter 341.           AN ACT AMENDING THE CONTROLLED SUBSTANCES  
LAW.**

*Be it enacted, etc., as follows:*

Subsection (a) of Class B of section 31 of chapter 94C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following four clauses:-

- (5) Phenyl-2-Propanone (P2P)
- (6) Phenylcyclohexylamine (PCH)
- (7) Piperidinocyclohexanecarbonitrile (PCC)
- (8) 3,4-methylenedioxy methamphetamine (MDMA).

Approved November 27, 1991

**Chapter 342.           AN ACT FURTHER REGULATING TOWN MEETINGS IN  
THE TOWN OF WEYMOUTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 61 of the acts of 1921 is hereby amended by striking out section 8, as most recently amended by section 1 of chapter 429 of the acts of 1941, and inserting in place thereof the following section:-

*Section 8.* No measure passed at any representative town meeting, except a vote to adjourn or a measure appropriating or borrowing money for emergency purposes which shall contain a preamble specifying the facts constituting the emergency and requiring for its passage a separate vote of two-thirds of the town meeting members present and voting thereon, shall become operative until the expiration of seven days, exclusive of Sundays and holidays, from the dissolution of the meeting. If, within said seven days a petition, signed by not less than ten

percent of the registered voters of the town, the ten percent to be calculated based on the number of registered voters on the voting list of the last annual town election, containing their names and addresses as appearing on the current voting list is filed with the board of selectmen asking that the question or questions involved in such measure be submitted to the voters of the town at large, then the board of selectmen, after the expiration of seven days, shall forthwith call a special meeting for the sole purpose of presenting to the voters at large the question or questions so involved. The questions on said petition shall be stated in substantially the same language and form which they were stated when presented to said representative town meeting by the moderator. The polls shall be opened at seven o'clock in the forenoon and shall be closed no earlier than eight o'clock in the evening and all votes upon any questions submitted shall be taken by ballot, and a check list shall be used in the several precincts in the same manner as in the election of town officers. The questions submitted at the said town meeting shall be determined by a vote of a majority of the registered voters of the town voting thereon. The questions on the ballot shall be as drafted by the town counsel substantially in the same language and form in which they were presented to said representative town meeting by the moderator, and as they appear upon the records of said representative town meeting. If such petition is not filed within the said period of seven days, the vote of the representative town meeting shall become operative and effective upon expiration of said period.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 27, 1991.

### **Chapter 343.**

### **AN ACT PROVIDING FOR THE ELECTION OF SCHOOL COMMITTEE MEMBERS IN THE CITY OF NORTHAMPTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 250 of the acts of 1883 is hereby amended by striking out section 22 and inserting in place thereof the following section:-

**Section 22.** The school committee of the city of Northampton shall consist of the mayor of said city, ex officio, and nine other persons, inhabitants thereof, who shall be elected by the qualified voters of the city. One member of the school committee shall be elected by and from the qualified voters of each of the seven wards of the city and shall, at the time of election, be a resident of the ward in which elected. Members representing a ward shall be elected for a term of four years. Two members shall be elected by and from all the qualified voters of said city, and shall be known as school committee members-at-large. Members-at-large shall be

elected for a term of two years.

The members of the school committee shall be elected so that their terms shall be staggered, with the four members of said committee representing wards one, three, five, and seven and the three members of said committee representing wards two, four, and six, elected at alternate biennial municipal elections. The two members-at-large shall be elected at each biennial municipal election.

The mayor shall be chairman and have the same right to vote as an elected member of the school committee, but the committee may elect from its own number a vice-chairman who shall preside in the absence of the mayor. The school committee shall annually appoint a secretary who shall be under the direction and control of said committee and may annually appoint, but not from its own number, a superintendent of schools, and shall fix the compensation of such secretary and superintendent. The school committee may remove, for sufficient cause, such secretary or superintendent. Any vacancy occurring in the committee shall be filled as follows: (1) if the vacancy is for a ward seat and more than two years of the term remain at the time of the vacancy, then a special election shall be held in that ward to fill the seat; (2) if the vacancy is for a ward seat and less than two years of the term remain at the time of vacancy or if the vacancy is for an at large seat, the vacancy shall be filled by the joint ballot of the city council and school committee in convention at any time. A member so elected shall hold office for the unexpired term of the member who has ceased to hold office. Members of the school committee may be compensated by a majority vote of the city council.

**SECTION 2.** Section three of chapter two hundred and sixty-five of the acts of nineteen hundred and twenty-seven is hereby repealed.

**SECTION 3.** This act shall be submitted to the voters of the city of Northampton at the next regular municipal election to be held in said city in the form of the following question, which shall be placed upon the official ballot to be used for the election of city officers at said election: "Shall An Act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act providing for the election of school committee members in the city of Northampton', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then this act shall take effect at the next election held in said city, but not otherwise.

Approved December 4, 1991.

**Chapter 344.      AN ACT AUTHORIZING THE TOWN OF MARBLEHEAD  
TO PAY A CERTAIN UNPAID BILL.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of chapter thirty B of the General Laws, the

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town of Marblehead is hereby authorized to pay to the North of Boston Library Exchange Inc. the sum of fourteen thousand five hundred and thirty-six dollars for automated library network membership services provided in fiscal year nineteen hundred and ninety-one. Such sum shall be paid from the Abbot public library appropriation for fiscal year nineteen hundred and ninety-one.

Approved December 4, 1991.

**Chapter 345.        AN ACT RELATIVE TO THE MEMBERSHIP OF THE CONSERVATION COMMISSION OF THE TOWN OF SANDWICH.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section eight C of chapter forty of the General Laws, the board of selectmen of the town of Sandwich are hereby authorized to appoint three associate members of the conservation commission of said town for terms not to exceed one year. The chairman of said commission may designate any such associate member to sit on the board in place of an absent member, in case of absence of a quorum or failure of a quorum by reason of a conflict of interest or other reason or in the event of a vacancy on said commission until said vacancy is filled in the manner provided in said section eight C of said chapter forty.

Approved December 4, 1991.

**Chapter 346.        AN ACT AUTHORIZING THE TOWN OF BOURNE TO REIMBURSE CERTAIN REAL ESTATE TAXES.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, the town of Bourne is hereby authorized to appropriate for the payment of and after such appropriation the treasurer of said town is authorized to pay to Frank Callaway the sum of one thousand two hundred and fifty-three dollars and forty-three cents, such sum being reimbursed for real estate taxes paid in error for fiscal years nineteen hundred and eighty-eight and nineteen hundred and eighty-nine.

Approved December 5, 1991.

**Chapter 347.        AN ACT ALLOWING TRUSTEES TO INVEST FUNDS IN INSURANCE POLICIES AND ANNUITY CONTRACTS.**

*Be it enacted, etc., as follows:*



Chapter 203 of the General Laws is hereby amended by striking out section 25A, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 25A. The trustee under a will or other instrument may, if the trust does not otherwise provide, invest the income or principle of the trust fund in policies of life or endowment insurance or annuity contracts, issued by a life insurance company duly authorized to transact business in the commonwealth pursuant to chapter one hundred and seventy-five, on the life of any beneficiary of the trust or on the life of any person in whose life such beneficiary has an insurable interest.

Approved December 5, 1991.

**Chapter 348.            AN ACT RELATIVE TO THE MEMBERSHIP OF THE BOARD  
OF REGISTRATION OF COSMETOLOGY.**

*Be it enacted, etc., as follows:*

Chapter 13 of the General Laws is hereby amended by striking out sections 42 to 44, inclusive, as appearing in the 1990 Official Edition, and inserting in place thereof the following three sections:-

Section 42. There shall be a board of registration of cosmetology to consist of seven members to be appointed by the governor, one of whom shall be designated as chairperson by a majority vote of the board of registration of cosmetology. Upon initial appointment to said board, two members shall continue in office for one year, two members shall continue in office for two years and three members, including the chairperson, shall continue in office for three years. Successors shall be appointed for terms of three years; provided, however, that any person designated to fill a vacancy shall be appointed only for the unexpired term of the board member so replaced. Upon the expiration of a term of office, a board member may continue to serve until a successor has been appointed and qualified. No person shall be appointed to fill an unexpired term for more than two consecutive terms. No person shall serve as chairperson for more than one full term. The governor may remove the chairperson or other member of said board for neglect of duty or malfeasance or upon a conviction of a felony or crime of moral turpitude. No board member shall participate in any matter before said board in which said member has a pecuniary interest, personal bias, or other conflict. No two members of said board, while in office, shall be interested in a cosmetology establishment in the same town. A board member in office on the effective date of this section shall continue to serve as a voting, full time member of said board until such time as his term of office expires.

The governor shall appoint members to the board from among candidates who

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meet the following qualifications:- (a) five members who shall be licensed cosmetologists, in compliance with sections eighty-seven T to eight-seven KK, inclusive, of chapter one hundred and twelve, one of whom shall own a licensed cosmetology school for at least five years, one of whom shall be a type one hairdresser for at least five years and who shall be a member of the Massachusetts Cosmetology Association for at least five years, one of whom shall be a licensed type one hairdresser and shop owner for at least five years, one of whom shall be a licensed vocational educator from the public sector who has taught cosmetology for at least five years, and one of whom shall be licensed aesthetician for at least five years; and (b) two members shall be representatives of the general public and shall have no direct affiliation with the practice of cosmetology.

Section 43. The board shall hold regular meetings on the second Tuesday of each month in each year, and such additional meetings at such times and places as it deems necessary. The director of the division of registration upon approval of the board of cosmetology shall appoint an executive secretary who shall devote full time during business hours to the duties of said position and who shall be exempt from the provisions of chapter thirty-one. Said executive secretary shall appoint such clerks as he deems necessary subject to the approval of the board.

Section 44. Board members shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of official board business.

Approved December 6, 1991.

**Chapter 349.      AN ACT EXTENDING THE DEADLINE FOR NOTICE REGARDING RE-ELECTION FOR CERTAIN TEACHERS IN THE TOWN OF WEBSTER.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section forty-one of chapter seventy-one of the General Laws or any other general or special law to the contrary, the school committee in the town of Webster shall notify in writing a teacher not serving at its discretion on or before May thirtieth whenever such person is not to be employed for the following school year.

Approved December 6, 1991.

**Chapter 350.      AN ACT RELATIVE TO THE PENALTY FOR DESTROYING PUBLIC PARK OR PLAYGROUND EQUIPMENT.**

*Be it enacted, etc., as follows:*

Section 98A of chapter 266 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the word "hundred" and inserting in place thereof the word:- thousand.

Approved December 6, 1991.

**Chapter 351.        AN ACT RELATIVE TO THE ELECTION OF TOWN OFFICERS IN THE TOWN OF LEE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 471 of the acts of 1990 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The voters of the town of Lee shall, in accordance with any applicable general or special law or by-laws of the town, continue to elect the following: town meeting members, moderator, board of selectmen, school committee members, housing authority, constables, planning board members, and community development corporation members.

This act shall not affect the term of any such elected office or elected member of such board, committee, or authority. Every other elective office, board, committee, or commission of the town shall become appointive as hereinafter provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board, committee, or commission existing as an elected office at the time of the acceptance of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of his successor.

The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable provisions of any general or special law, by-law or vote of the town, except as otherwise expressly provided herein.

Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to the town administrator for consultation, conference and discussion on matters relating to their respective offices.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 6, 1991.

**Chapter 352.        AN ACT RELATIVE TO THE CRIMINAL JUSTICE TRAINING CENTER.**

*Be it enacted, etc., as follows:*

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Chapter three hundred and sixty-six of the acts of nineteen hundred and eighty-five is hereby repealed.

Approved December 6, 1991.

**Chapter 353. AN ACT RELATIVE TO INVESTMENTS BY CREDIT UNIONS.**

*Be it enacted, etc., as follows:*

Section 67 of chapter 171 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clauses (s) and (t) and inserting in place thereof the following three clauses:-

(s) in bonds of governments or countries friendly to the United States as defined by the United States Department of State;

(t) a credit union may contribute such sums as its board of directors may determine to be reasonable (i) to any private nonprofit organization organized for the purpose of improving the social and economic conditions in the community where such credit union is established, including any educational institution, and to any educational institution located outside that community for the purpose of providing scholarships for the benefit of the residents of that community; or (ii) to any fund being raised by a committee or agency for the purpose of relieving suffering or distress resulting from disaster or other calamity occurring in any part of the commonwealth; and

(u) in the capital stock of the Federal Home Loan Bank of Boston.

Approved December 6, 1991.

**Chapter 354. AN ACT ABOLISHING THE LIABILITY INSURANCE FUND OF THE TOWN OF LEE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Lee is hereby authorized to transfer the funds remaining within the Liability Insurance Fund, established by chapter two hundred and ninety-four of the acts of nineteen hundred and ninety, to available funds of the treasury of said town.

**SECTION 2.** Chapter two hundred and ninety-four of the acts of nineteen hundred and ninety is hereby repealed.

Approved December 6, 1991.

**Chapter 355.**

**AN ACT AUTHORIZING THE CITIES OF BEVERLY, CHELSEA, EVERETT, LYNN, MALDEN, MELROSE AND REVERE AND THE TOWNS OF READING, SAUGUS, STONEHAM, SWAMPSCOTT, WAKEFIELD AND WINTHROP TO BORROW MONEY TO FUND CERTAIN PAYMENTS WITH RESPECT TO THE RESCO INCINERATOR AND RELATED FACILITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The cities of Beverly, Chelsea, Everett, Lynn, Malden, Melrose and Revere and the towns of Reading, Saugus, Stoneham, Swampscott, Wakefield and Winthrop are each hereby authorized to borrow such sums of money as may be necessary to fund payments that said city or town is required or agrees to make under its contract with Refuse Energy Systems Company as a result of improvements to the incinerator of said company and related facilities required by changes in law or otherwise, and may issue bonds or notes therefor. Such bonds or notes shall bear on their face the name of the city or town followed by the words Solid Waste Disposal Loan, Act of 1991. Each authorized issue shall constitute a separate loan and each loan shall be payable within twenty years from its date. Each city or town may also issue temporary loans in anticipation of such borrowing pursuant to section seventeen of chapter forty-four of the General Laws. Bonds and notes may be issued hereunder, in the case of a city other than the city of Chelsea, by the city treasurer with the approval of the mayor or city manager, as applicable, provided that such borrowing has been authorized by the city council or board of aldermen, as applicable; in the case of the city of Chelsea, by the receiver thereof; and in the case of a town, by the town treasurer with the approval of the board of selectmen; and the proceeds thereof may be expended without further authorization or appropriation by such city or town. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the city or town under section ten of said chapter forty-four but, except as provided herein, shall otherwise be subject to the provisions of said chapter forty-four; provided, however, that bonds or notes issued hereunder by the city of Chelsea, shall be executed on behalf of such city by the receiver thereof.

**SECTION 2.** This act shall be effective with respect to the cities of Beverly, Chelsea, Everett, Lynn, Malden, Melrose and Revere and the towns of Saugus and Stoneham upon passage and shall be effective with respect to each of the towns of Reading, Swampscott, Wakefield and Winthrop upon acceptance of this act by such town.

**SECTION 3.** Any two or more cities and towns authorized to borrow under the provisions of section one may enter into a joint agreement for the purpose of

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incurring such debt jointly. Such bonds or notes shall bear on their face the name of each city or town entering into such joint agreement followed by the words, Solid Waste Disposal Loan Act of 1991. Any debt incurred under such agreement shall be subject to the provisions of chapter forty-four of the General Laws, except as provided in section one of this act. Notwithstanding any provisions of law or a charter to the contrary, no city or town shall be exempt from the liability for its obligations under an agreement lawfully entered into in accordance with this section.

Approved December 12, 1991.

**Chapter 356.        AN ACT AUTHORIZING THE GREATER NEW BEDFORD  
REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL  
AND THE BRISTOL PLYMOUTH REGIONAL TECHNICAL  
HIGH SCHOOL TO CONVEY CERTAIN LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the Greater New Bedford regional vocational technical high school and the Bristol Plymouth regional technical high school may convey, subject to the provisions of chapter thirty B of the General Laws, certain parcels of land and the improvements made thereon, which parcels have been acquired by the respective schools and used for the purpose of constructing improvements thereon as an educational exercise.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 12, 1991.

**Chapter 357.        AN ACT AUTHORIZING THE CITY OF LOWELL TO USE A  
PORTION OF THE NORTH COMMON FOR THE EREC-  
TION OF A SCHOOL AND SCHOOL RELATED PURPOSES  
THERE TO.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lowell is hereby authorized to use a portion of the North Common for the erection of a new public school building, and for other school related and incidental purposes thereto. The portion of the North Common to be so used is situated as the easterly portion of the North Common and contains approximately 5.66 acres, more or less, and shown on a plan filed with the office

of the city engineer.

**SECTION 2.** This act shall take effect upon its acceptance by the city of Lowell during the current year.

Approved December 13, 1991.

**Chapter 358.      AN ACT AUTHORIZING THE CITY OF LOWELL TO USE A  
PORTION OF GAGE FIELD FOR THE ERECTION OF A  
SCHOOL AND SCHOOL RELATED PURPOSES THERETO.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lowell is hereby authorized to use a portion of Gage field for the erection of a new public school building, and for other school related and incidental purposes thereto. The portion of Gage field to be so used is situated at the northerly part of Gage field and contains approximately 4.50 acres, more or less, and shown on a plan filed with the office of the city engineer.

**SECTION 2.** This act shall take effect upon its acceptance by the city of Lowell during the current year.

Approved December 13, 1991.

**Chapter 359.      AN ACT AUTHORIZING THE CITY OF LOWELL TO USE A  
PORTION OF O'DONNELL PLAYGROUND FOR THE EREC-  
TION OF TWO SCHOOLS AND SCHOOL RELATED, AS  
WELL AS RECREATIONAL PURPOSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lowell is hereby authorized to use the O'Donnell playground in said city for the erection of new public school buildings, and for other school related, as well as recreational purposes. The portion of the O'Donnell playground to be so used for school purposes is shown on a plan filed with the office of the city engineer.

**SECTION 2.** This act shall take effect upon its acceptance by the city of Lowell during the current year.

Approved December 13, 1991.

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**Chapter 360.      AN ACT AUTHORIZING THE CITY OF BOSTON TO UTILIZE A CERTAIN PARCEL OF PARK LAND AS AN ADDITION TO EVERGREEN CEMETERY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Boston is hereby authorized to utilize a certain parcel of park land abutting the Evergreen cemetery to provide additional land to said cemetery. Said land to be incorporated into the existing cemetery is bounded and described as follows:

Beginning at the Southwesterly point of the Evergreen Cemetery property;

Thence turning and running S 69° -06'20" E" a distance of 592.588 feet to a point;

Thence turning and running S 30° -45'-28.5" W a distance of 200.00 feet to a point;

Thence turning and running N 77° -30'-07" W a distance of 200.00 feet to a point;

Thence turning and running N 36° -58'-26" W a distance of 425.704 feet to the point of beginning.

This parcel contains 1.97 acres of land more or less.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 13, 1991.

**Chapter 361.      AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS, THE TOWNS OF RICHMOND, STOCKBRIDGE, GRAFTON, UPTON, METHUEN, WILMINGTON, DANVERS, SOUTHAMPTON, BOLTON, LANCASTER, AND CLINTON, AND THE CITIES OF WESTFIELD, HAVERHILL AND HOLYOKE TO GRANT CERTAIN EASEMENTS TO TENNESSEE GAS PIPELINE COMPANY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Richmond is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional permanent easement twenty-five feet wide over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company, together with a temporary work space for construction purposes twenty-five feet wide immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for conservation purposes, is



described in a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Richmond property, Berkshire county, Massachusetts, TB-L12-T200-3-6", on file with said town.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 2.** The town of Richmond is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional twenty-five foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for conservation purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Richmond property, Berkshire county, Massachusetts, TB-L12-T200-3-34.03", on file with said town.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 3.** The town of Stockbridge is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional twenty-five foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for recreation purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Stockbridge property, Berkshire county, Massachusetts, TB-L12-T200-3-49", on file with said town.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 4.** The commissioner of the division of capital planning and operations, acting in consultation with the department of public works, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional twenty-five foot wide permanent easement over a parcel of land located in the town of Sutton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company

over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said parcel number 2-6-UR is an uneconomic remainder owned by the commonwealth under control of the department of public works, taken under Layout 6496 in connection with the laying out of Route 146, Worcester County, recorded in Book 7317, page 37, and shown on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Mass. dept. of public works property, Worcester county, Massachusetts, TB-L12-T200-559", on file with said department of public works.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 5.** The town of Grafton is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company a twenty-five foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for open space purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Richard H. Sayre, et al., trustees of Knowlton Farms Realty Trust and town of Grafton property, Worcester county, Massachusetts, TB-L12-T200-2-598", on file with said town.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 6.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional thirty-five foot wide permanent easement over a parcel of land located in the town of Upton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use

said temporary work space shall expire upon completion of construction. Said land, presently being used for forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Mass. dept. of environmental management property, Worcester county, Massachusetts, TB-L12-T200-2-626", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 7.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional thirty-five foot wide permanent easement over a parcel of land located in the town of Upton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for state forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Mass. dept. of environmental management property, Worcester county, Massachusetts, TB-L12-T200-2-637", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 8.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional thirty-five foot wide permanent easement over a parcel of land located in the town of Upton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions

as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for state forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Mass. dept. of environmental management property, Worcester county, Massachusetts, TB-L12-T200-2-639", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 9.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional thirty-five foot wide permanent easement over a parcel of land located in the town of Hopkinton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for state forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Mass. dept. of environmental management property, Middlesex county, Massachusetts, TB-L12-T200-2-641", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 10.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional permanent easement not more than ten feet wide over a parcel of land located in the town of Upton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent

easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for state forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Massachusetts property, Worcester county, Massachusetts, TB-L12-E266A-100-1", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 11.** The town of Upton is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional permanent easement not more than fifteen feet wide over a parcel of land located in said town, under the control of the conservation commission and the department of public works, adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for conservation and recreation purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Upton property, Worcester county, Massachusetts, TB-L12-E266A-100-7", on file with said town.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 12.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional permanent easement ten feet wide over a parcel of land located in the town of Upton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for state forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of

Mass. dept. of environmental management property, Worcester county, Massachusetts, TB-L12-E266A-100-34", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 13.** The city known as the town of Methuen is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company a thirty foot wide permanent easement over a parcel of land located in said town encompassing an existing pipeline owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for public purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Methuen property, Essex county, Massachusetts, TB-L12-E273B-100-96.01", on file with said town.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 14.** The city of Haverhill is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company a further permanent easement over a parcel of land located in said city within the area of an existing easement owned by said Tennessee Gas Pipeline Company over land in said city, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for public purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Haverhill property, Essex county, Massachusetts, TB-L12-E273B-100-106", on file with said city.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 15.** The city of Haverhill is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company a further permanent easement over a parcel of land located in said city within the area of an existing easement owned by said Tennessee Gas Pipeline Company over land in said city, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon

completion of construction. Said land, presently being used for public purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Haverhill property, Essex county, Massachusetts, TB-L12-E273B-100-112.02", on file with said city.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 16.** The city of Haverhill is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over parcels of land located in said city adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said city under the control of the water department of said city, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for water protection purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Haverhill (water department) property, Essex county, Massachusetts, TB-L12-E273B-100-123", on file with said city.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 17.** The city of Haverhill is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said city adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said city, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for public purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Haverhill property, Essex county, Massachusetts, TB-L12-E273B-100-152", on file with said city.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 18.** The commissioner of the division of capital planning and operations, acting in consultation with the division of fisheries and wildlife is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional

thirty-five foot wide permanent easement over a parcel of land located in the towns of Lee and Tyringham adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said division of fisheries and wildlife, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for wildlife management purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Massachusetts, division of fisheries property, Berkshire county, Massachusetts, TB-L12-T200-3-85.02", on file with said division of fisheries and wildlife.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 19.** The commissioner of the division of capital planning and operations, acting in consultation with the department of environmental management is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional forty foot wide permanent easement over a parcel of land located in the town of Sandisfield adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for state forest purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Massachusetts property, Berkshire county, Massachusetts, TB-L12-T200-3-126", on file with said department of environmental management.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 20.** The town of Wilmington is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of the conservation commission, together with a temporary work



space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for conservation purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Wilmington property, Middlesex county, Massachusetts, TB-L12-E270C-100-54.02", on file with said town.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 21.** The town of Danvers is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company a thirty foot wide permanent easement over a parcel of land located in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for refuse disposal purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Danvers property, Essex county, Massachusetts, TB-L12-E270C-900-124", on file with said town.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 22.** The town of Southamptton is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for refuse disposal purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Southamptton property, Hampshire county, Massachusetts, TB-L12-E260A-300-1", on file with said town.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 23.** The city of Holyoke is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said city adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said city, together with a

temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for public water purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Holyoke property, Hampden county, Massachusetts, TB-L12-E260A-300-14", on file with said city.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 24.** The city of Holyoke is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said city adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said city, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for public water purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Holyoke property, Hampden county, Massachusetts, TB-L12-E260A-300-16", on file with said city.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 25.** The town of Bolton is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for open space purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, town of Bolton property, Worcester county, Massachusetts, TB-L12-E268A-200-1.05", on file with said town.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 26.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved

as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in the town of Lancaster adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said division, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said commissioner may prescribe and as authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for governmental office purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Massachusetts property, Worcester county, Massachusetts, TB-L12-E268A-200-9", on file with said division of capital planning and operations.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 27.** The town of Lancaster is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for cemetery purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the town of Lancaster property, Worcester county, Massachusetts, TB-L12-E268A-200-9.01", on file with said town.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 28.** The commissioner of the division of capital planning and operations, acting in consultation with the division of fisheries and wildlife, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed, approved as to form by the attorney general, to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in the town of Clinton adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town under the control of said department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below, subject to such terms and conditions as said

commissioner may prescribe and as are authorized by law. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for wildlife management purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the Commonwealth of Massachusetts property, Worcester county, Massachusetts, TB-L12-E268A-200-18", on file with said division of fisheries and wildlife.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 29.** The town of Clinton is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said town adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said town, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for recreational purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the inhabitants of the town of Clinton property, Worcester county, Massachusetts, TB-L12-E268A-200-25", on file with said town.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 30.** The city of Westfield is hereby authorized to grant by deed to the Tennessee Gas Pipeline Company an additional ten foot wide permanent easement over a parcel of land located in said city adjacent to an existing easement owned by said Tennessee Gas Pipeline Company over land in said city under the control of the water works department, together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for water protection purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Westfield, water works dept. property, Hampden county, Massachusetts, TB-L12-E260A-200-10", on file with said city.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 31.** The city of Westfield is hereby authorized to grant to the Tennessee Gas Pipeline Company a twenty-five foot wide temporary easement over a parcel of land located in said city adjacent to an existing easement owned

by said Tennessee Gas Pipeline Company over land in said city under the control of the gas and electric light department together with a temporary work space for construction purposes twenty-five feet wide, immediately adjacent to the area of the proposed temporary easement, as shown on the plan of land described below. The right to use said temporary work space shall expire upon completion of construction. Said land, presently being used for gas supply purposes, is described on a plan of land entitled "Tenneco Gas, proposed right-of-way crossing, the city of Westfield, gas and electric light department property, Hampden county, Massachusetts, TB-L12-E260A-200-15", on file with said city.

Said easement shall be used for the installation and maintenance of replacement gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 32.** In consideration for the easements authorized in sections one to thirty-one, inclusive, the Tennessee Gas Pipeline Company shall convey to the respective grantors in fee simple a parcel or parcels of land determined to be equivalent to or in excess of the value of the easements granted or, if the grantors so desire, the Tennessee Gas Pipeline Company shall pay a fair market value price to be determined by one or more independent appraisals approved by said grantors with the costs thereof to be assumed by said Tennessee Gas Pipeline Company.

**SECTION 33.** The commissioner of the division of capital planning and operations is hereby authorized to execute and deliver any deeds or other instruments that may be necessary to effectuate the conveyances authorized in sections four, six, seven, eight, nine, ten, twelve, eighteen, nineteen, twenty-six, and twenty-eight.

Approved December 13, 1991.

**Chapter 362.        AN ACT AUTHORIZING CERTAIN LIQUOR SALES IN  
                             BOSTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, The Marliave Restaurant, Inc., is hereby authorized to sell alcoholic beverages on the fifteenth, twenty-second, and twenty-ninth days of December, nineteen hundred and ninety-one; provided, however, that it otherwise complies with the terms of its license to sell such beverages.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 13, 1991.

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**Chap. 363**

**Chapter 363.        AN ACT RELATIVE TO THE MASSACHUSETTS AERONAUTICS COMMISSION.**

*Be it enacted, etc., as follows:*

Section 31 of chapter 33 of the acts of 1991 is hereby amended by striking out, in line 11, the word "operations" and inserting in place thereof the word:- engineering.

*Emergency Letter: December 19, 1991 @11:37A.M. Approved December 19, 1991.*

**Chapter 364.        AN ACT RELATIVE TO THE HARASSMENT OF HUNTERS, FISHERMEN, AND TRAPPERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 131 of the General Laws is hereby amended by inserting after section 5B the following section:-

Section 5C. No person shall obstruct, interfere with or otherwise prevent the lawful taking of fish or wildlife by another at the locale where such activity is taking place. It shall be a violation of this section for a person to intentionally (1) drive or disturb wildlife or fish for the purpose of interrupting a lawful taking; (2) block, follow, impede or otherwise harass another who is engaged in the lawful taking of fish or wildlife; (3) use natural or artificial visual, aural, olfactory or physical stimulus to effect wildlife in order to hinder or prevent such taking; (4) erect barriers with the intent to deny ingress or egress to areas where the lawful taking of wildlife may occur; (5) interject himself into the line of fire; (6) effect the condition or placement of personal or public property intended for use in the taking of wildlife; or (7) enter or remain upon public lands, or upon private lands without the permission of the owner or his agent, with intent to violate this section. The superior court shall have jurisdiction to issue an injunction to enjoin any such conduct or conspiracy in violation of the provisions of this section. A person who sustains damage as a result of any act which is in violation of this section may bring a civil action for punitive damages. Environmental protection officers and other law enforcement officers with arrest powers shall be authorized to enforce the provisions of this section.

This section shall not apply to the owners of the lands or waters or tenants or other persons acting under the authority of such owners of the lands or waters.

**SECTION 2.** Section 90 of said chapter 131 is hereby amended by adding the following paragraph:-

A person who violates the provisions of section five C shall be punished by a

fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than fourteen days, or both.

Approved December 19, 1991.

**Chapter 365.      AN ACT AUTHORIZING THE TOWN OF EASTON TO  
FINANCE THE REMEDIATION OF AN UNDERGROUND  
GAS SPILL WITH ADDITIONAL BONDING REMAINING  
FROM ITS PRIOR AUTHORIZATION FOR A LANDFILL.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of sections seven, eight and twenty of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Easton is hereby authorized to appropriate a portion of the balance remaining from a prior bonding, under the provisions of clause (24) of said section eight of said chapter forty-four for the purpose of constructing a landfill, to the clean-up of ground contaminated by a gas leak in said town; provided, however, that the amount so appropriated shall not exceed one hundred and thirty thousand dollars.

Approved December 19, 1991.

**Chapter 366.      AN ACT AUTHORIZING THE TOWN OF MARBLEHEAD  
TO ESTABLISH A DEPARTMENT OF PUBLIC WORKS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Marblehead is hereby authorized to establish a department of public works which shall be under the jurisdiction of the board of selectmen. Said department shall be comprised of the highway department, the surface drain construction department and the various motor vehicle maintenance divisions of town departments except the fire department. Motor vehicle maintenance divisions may be added to or excluded from said department of public works, from time to time by by-law. Said board shall have all the powers and duties necessary for the operation of such department including those of surveyors of highways. Said board, subject to appropriation, may annually appoint employees of said department of public works who shall perform their duties under the direction of said board.

**SECTION 2.** All employees of any of the departments and divisions listed in section one on the effective date of this act shall be transferred to said department

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of public works, and shall retain all rights and benefits they were entitled to prior to the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 19, 1991.

**Chapter 367.        AN ACT AUTHORIZING THE REGISTRATION OF CERTAIN PERSONS EMPLOYED BY THE COMMONWEALTH AS LANDSCAPE ARCHITECTS.**

*Be it enacted, etc., as follows:*

Section 101 of chapter 112 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

Notwithstanding the provisions of the preceding paragraph, any individual who has been employed by the commonwealth in the title of landscape architect, for a period of two years who is a graduate of a college or school of landscape architecture approved by the board shall meet the requirements of clause (c).

Approved December 19, 1991.

**Chapter 368.        AN ACT ABOLISHING THE OFF-STREET PARKING COMMISSION OF THE TOWN OF MILFORD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter seventy-two of the acts of nineteen hundred and fifty-seven is hereby repealed.

**SECTION 2.** Upon the effective date of this act, all property, real and personal, then under the jurisdiction of the off-street parking commission of the town of Milford, shall come under the care, custody and jurisdiction of the board of selectmen of said town of Milford, and all money held in any separate accounts by said commission shall be transferred to accounts authorized by section twenty-two C of chapter forty of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 19, 1991.



**Chapter 369.        AN ACT ESTABLISHING THE POSITION OF SUPERVISOR  
OF TRANSPORTATION/CUSTODIANS IN THE CITY OF  
BROCKTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of supervisor of custodians in the city of Brockton is hereby abolished.

**SECTION 2.** There is hereby established the position of supervisor of transportation/custodians in the city of Brockton. Said supervisor of transportation/custodians shall have all the powers and duties previously exercised by the supervisor of transportation and the supervisor of custodians.

**SECTION 3.** The position of supervisor of transportation/custodians shall not be subject to the provisions of chapter thirty-one of the General Laws.

Approved December 19, 1991.

**Chapter 370.        AN ACT FURTHER REGULATING MEDICAL SERVICE  
CORPORATIONS' CONTRACTUAL ARRANGEMENTS.**

*Be it enacted, etc., as follows:*

Section 9 of chapter 176B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

If, at any time, the commissioner determines the corporation is unable to pay a participating physician or other participating professional provider of health services, the participating physician or other participating professional provider of health services shall accept payment on a pro rata basis as determined by the commissioner and shall not be allowed to charge the patient any additional amount for such services. In such case, and notwithstanding the provisions of the third paragraph of section seven, the participating physician or other participating professional provider of health services may give written notice of intent to terminate the provider agreement. Termination under this paragraph shall be effective on the ninety-first day after written notice of intent to terminate is given to the corporation and the commissioner. The corporation may not invoke the so-called "unit system" unless the commissioner has first made the determinations required under this paragraph.

Approved December 19, 1991.

**Chapter 371. AN ACT RELATIVE TO THE AYER LIBRARY.**

*Be it enacted, etc., as follows:*

Chapter 123 of the acts of 1894 is hereby amended by adding the following five sections:-

*Section 8.* Notwithstanding any other provisions of this act, the corporation is organized exclusively for one or more of the purposes as specified in section 501(c)(3) of the Internal Revenue Code, and shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under said section 501(c)(3) of said Code.

*Section 9.* No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual, except that reasonable compensation may be paid for services rendered to or for the corporation, and no member, trustee, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

*Section 10.* No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, except as otherwise provided by section 501(h) of the Internal Revenue Code or participating in, or intervening in, including the publication or distribution of statements, any political campaign on behalf of any candidates for public office.

*Section 11.* In the event of dissolution, all of the remaining assets and property of the corporation shall, after necessary expenses thereof, be distributed to another organization exempt under the provisions of section 501(c)(3) of the Internal Revenue Code, or corresponding provisions of any subsequent federal tax laws, or to the federal government, or state or local government for a public purpose.

*Section 12.* In any taxable year in which the corporation is a private foundation as described in section 501(c)(3) of the Internal Revenue Code, the corporation shall distribute its income for said period at such time and manner as not to subject it to tax under the provisions of section 4942 of said Code, and the corporation shall not engage in any act of self-dealing as defined in section 4951(d) of said Code, retain any excess business holdings as defined in section 4943(c) of said Code, make any investments in such manner as to subject the corporation to tax under the provisions of section 4944 of said Code; or make any taxable expenditures as defined in section 4945(d) of said Code or corresponding provisions of any subsequent federal tax laws.

Approved December 19, 1991.

**Chapter 372.        AN ACT RELATIVE TO THE LIABILITY OF LANDOWNERS  
MAKING LAND AVAILABLE TO THE PUBLIC FOR RECRE-  
ATIONAL PURPOSES.**

*Be it enacted, etc., as follows:*

Section 17C of chapter 21 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following sentence:- No contributions or other voluntary payments not required to be made to use such land shall be considered a charge or fee within the meaning of this section.

Approved December 19, 1991.

**Chapter 373.        AN ACT EXEMPTING CERTAIN SHOOTING RANGES FROM  
CIVIL OR CRIMINAL LIABILITY FOR NOISE POLLUTION.**

*Be it enacted, etc., as follows:*

Chapter 214 of the General Laws is hereby amended by inserting after section 7A the following section:-

Section 7B. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, no owner of a rifle, pistol, silhouette, skeet, trap, blackpowder, or other similar range shall be liable in any civil action or criminal prosecution in any matter relating to noise or noise pollution resulting from use of the range, provided said owner of the range was in compliance with any applicable noise control law, ordinance or by-laws in existence at the time of the construction of such range.

No owner shall be liable in any action for nuisance, and no court shall enjoin the use or operation of said range on the basis of noise or noise pollution, provided said owner was in compliance with any noise control law, ordinance or by-laws in existence at the time of the construction of the range.

No standards in rules adopted by any state, city, or town agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall apply to the ranges exempted from liability under the provisions of this section. Such ranges shall be prohibited from operating between the hours of ten o'clock post meridian and eight o'clock ante meridian unless otherwise allowed by the local governing body.

Approved December 19, 1991.

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**Chap. 374**

**Chapter 374.      AN ACT AUTHORIZING THE LICENSING AUTHORITY OF  
THE TOWN OF BARNSTABLE TO ISSUE A CERTAIN ADDI-  
TIONAL ALL ALCOHOLIC BEVERAGE LICENSE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section twelve of chapter one hundred and thirty-eight of the General Laws with regard to approval of the alcoholic beverages control commissions, the licensing authority of the town of Barnstable is hereby authorized to issue a license for the sale of all alcoholic beverages to be drunk on the premises to Dennis F. Thomas Post 2578 VFW Bldg. Assoc., a corporation whose members are war veterans under the provisions of said section twelve; provided, however, that said corporation shall surrender its existing club license to said licensing authority.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 19, 1991.

**Chapter 375.      AN ACT IMPROVING PUBLIC GOLFING FACILITIES RELA-  
TIVE TO PONKAPOAG GOLF COURSE.**

*Be it enacted, etc., as follows:*

Chapter 29 of the General Laws is hereby amended by inserting after section 2T, inserted by section 108 of chapter 138 of the acts of 1991, the following section:-

Section 2U. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Ponkapoag Recreational Fund. There shall be credited to such fund forty-five percent or four hundred and fifty thousand dollars, whichever is greater, of the total revenues generated from fees or any other revenue device at the Ponkapoag Golf Course in the Blue Hills Reservation in the town of Canton.

Amounts credited to said fund shall be used, subject to appropriation, for capital improvements, equipment, and maintenance of said golf course, including the costs of personnel.

Approved December 19, 1991.

**Chapter 376.      AN ACT RELATIVE TO UNINSURED MOTOR VEHICLE  
COVERAGE.**

*Be it enacted, etc., as follows:*

Paragraph (2) of section 113L of chapter 175 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- The amounts recoverable hereunder shall not be affected by any statutory limits of liability applicable to the tortfeasor, including, but not limited to, amounts recoverable under section fifteen of chapter eighty-four, sections eighty-five G and eighty-five K of chapter two hundred and thirty-one, and section two of chapter two hundred and fifty-eight.

Approved December 19, 1991.

**Chapter 377.        AN ACT RELATIVE TO THE USE OF COLLECTIVE INVESTMENT FUNDS AND COMMON TRUST FUNDS.**

*Be it enacted, etc., as follows:*

Section 3 of chapter 167G of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out paragraph 10A and inserting in place thereof the following paragraph:-

10A. An association or corporation authorized to do a banking business and to exercise trust powers in the commonwealth may invest funds which it holds in a fiduciary capacity in any collective investment fund or common trust fund established by an affiliate of such association or corporation, and any such association or corporation may invest in a collective investment fund or common trust fund established by it pursuant to the provisions of this chapter or chapter two hundred and three A, funds held by any such affiliate in a fiduciary capacity; provided, however, that any such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship. As used in this paragraph, the term "affiliate" shall mean a banking institution as defined in subsection (a) of section one of chapter one hundred and sixty-seven A which is connected through stock ownership with any other such banking institution, as so defined, or any two or more such banking institutions which are connected through stock ownership by a bank holding company, as defined in said chapter one hundred and sixty-seven A, or any two or more banking institutions which exercise trust powers and which are connected through stock ownership with a common parent; and, provided further, that such banking institution or such bank holding company or such common parent owns, directly or indirectly, stock possessing at least eighty percent of the total voting power and at least eighty percent of the total value of the stock of the respective banking institutions.

Approved December 19, 1991.

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**Chap. 378**

**Chapter 378.      AN ACT AUTHORIZING THE RETAIL SALE OF ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES ON CERTAIN SUNDAYS IN FRANKLIN COUNTY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Clause (52) of section 6 of chapter 136 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 175 and 176, the words "of town in Middlesex" and inserting in place thereof the words:- or town in Franklin county, Middlesex.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 20, 1991.

**Chapter 379.      AN ACT PROVIDING THAT THE OFFICE OF TOWN ACCOUNTANT OF THE TOWN OF ACUSHNET SHALL BE EXEMPT FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The office of the town accountant of the town of Acushnet shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of the incumbent of the office of town accountant of the town of Acushnet on the effective date of this act.

**SECTION 3.** This act shall be submitted for acceptance to the voters of the town of Acushnet at a special or annual town election called for that purpose in the form of the following question which shall be placed upon the official ballot to be used for the election of town officers at said election: "Shall an act passed by the general court in the year nineteen hundred and ninety-one entitled 'An Act providing that the office of town accountant of the town of Acushnet shall be exempt from the civil service law', be accepted?" If a majority of the voters vote in the affirmative on this question, this act shall thereupon take full effect, but not otherwise.

Approved December 20, 1991.

**Chapter 380.      AN ACT PROVIDING FOR THE ELECTION OF THE TREASURER/COLLECTOR IN THE TOWN OF HINGHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter one hundred and seventy of the acts of nineteen hundred and ninety-one is hereby repealed.

**SECTION 2.** The treasurer/collector of the town of Hingham shall be elected for a term of three years.

**SECTION 3.** Sections one and two of this act shall take effect on the date of the annual town election in the town of Hingham in the year nineteen hundred and ninety-two.

**SECTION 4.** This act shall take effect upon its passage.

Approved December 20, 1991.

**Chapter 381.      AN ACT PROVIDING FOR A FIVE MEMBER BOARD OF  
SELECTMEN IN THE TOWN OF WESTBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The charter of the town of Westborough which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-2(a) and inserting in place thereof the following section:-

*Section 3-2(a). Composition, Term of Office* - There shall be a board of selectmen consisting of five members elected by the voters for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

**SECTION 2.** There shall be a special election held on June first, nineteen hundred and ninety-two for the purpose of filling the two positions of the board of selectmen created by this act.

Candidates for this election shall be nominated and the election conducted in the same manner as for regular town elections. The candidate receiving the highest number of votes at said special election shall serve for a term of office expiring at the third annual town election following this special election, the candidate receiving the second highest number of votes at said special election shall serve for a term of office expiring at the second annual town election following this special election.

**SECTION 3.** This act shall be submitted for acceptance to the voters of the town of Westborough at the annual town election to be held in the year nineteen hundred and ninety-two in the form of the following question which shall be placed upon the official ballot to be used for the election of town officers:-

"Shall an act passed by the general court in the year nineteen hundred and ninety-one, entitled 'An Act providing for a five member board of selectmen in the town of Westborough', be accepted?" If a majority of the votes cast in answer to

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said question is in the affirmative said act shall take effect but not otherwise.

Approved December 20, 1991.

**Chapter 382.      AN ACT AUTHORIZING THE CITY OF LOWELL TO ESTABLISH A HUNGER AND HOMELESS COMMISSION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lowell is hereby authorized to establish a hunger and homeless commission which shall act as a coordinating council for children, youth and families and assist local agencies, groups and individuals in securing appropriate services.

**SECTION 2.** This act shall take effect upon its acceptance by the city of Lowell.

Approved December 20, 1991.

**Chapter 383.      AN ACT RELATIVE TO THE BOUNDARY LINE BETWEEN THE TOWNS OF GROTON AND PEPPERELL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The following described lines shall hereafter comprise certain portions of the boundary line between the town of Groton and the town of Pepperell:

Beginning at a witness mark (WM1) at the corner of Groton and Pepperell about 60 feet easterly of the center of the Nashua River, said witness mark having coordinates X = 602,975.66, Y = 579,130.05; thence N73° 31' 46" E 6167.02 feet to Corner GP (a) having coordinates X = 604,724.15, Y = 585,044.01; thence S23° 48' 55" W 333.63 feet to Corner GP (b) having coordinates X = 604,418.93, Y = 584,909.29; thence N70° 13' E 1211.651 feet to Corner GP (c) having coordinates X = 604,828.85, Y = 586,049.50; thence N68° 50' 38" W 302.496 feet to Corner GP (d) having coordinates X = 604,928.02, Y = 585,767.39; thence along existing boundary line between Groton and Pepperell N73° 31' 46" E 4290.02 feet to Groton-Pepperell-Dunstable town corner having coordinates X = 606,154.34, Y = 589,881.37.

Coordinates used in this act are based on the Massachusetts Coordinate System, Mainland Zone, as described in sections eight to thirteen, inclusive of chapter ninety-seven of the General Laws.

**SECTION 2.** Notwithstanding any contrary provision of law, taxes on real estate and personal property located in that part of the town of Groton which becomes



part of the town of Pepperell under the provision of section one shall be assessed as of January the first, nineteen hundred and ninety-one, for the fiscal year beginning July first, nineteen hundred and ninety-one by the town of Pepperell although the said property on said date was located in the town of Groton.

**SECTION 3.** Any action taken by the assessors of the town of Pepperell in assessing taxes on real estate and personal property as of January first, nineteen hundred and ninety-one for the fiscal year beginning July first, nineteen hundred and ninety-one, and prior years on property located in the town of Pepperell under the provision of section one, is hereby validated and confirmed as if section one had been in effect when said assessments were made.

**SECTION 4.** The board of assessors of the town of Groton is hereby authorized and directed to abate any taxes assessed by it for the fiscal year beginning July first, nineteen hundred and ninety-one on any property referred to in section three.

**SECTION 5.** This act shall take effect upon its passage.

Approved December 20, 1991.

**Chapter 384.        AN ACT PROVIDING FOR RECALL ELECTIONS IN THE  
                             TOWN OF SOUTHWICK.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any holder of an elective office may be recalled therefrom by the registered voters of the town as herein provided.

**SECTION 2.** One hundred or more qualified voters may make and file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to the ten persons first named on such affidavit a sufficient number of petition blanks demanding such recall, copies of which printed forms he shall keep available. Said petition blanks may be completed by printing or typewriter and they shall contain the names of the ten persons to whom they are issued, the name of the person sought to be recalled, the office from which recall is sought, and the grounds for recall as stated in the affidavit. They shall demand the election of a successor to the office and they shall be dated, signed and sealed by the town clerk. Said recall petition shall be returned to the office of the town clerk not later than three o'clock in the afternoon on or before the first work day following twenty days after the date they are issued, signed by at least twenty-five percent of the total number of qualified persons registered to vote in the town as of the date such affidavit was filed with the town clerk. To every signature shall be added the place of residence of the signer, giving the street and number, if any. One of the ten persons to whom the recall petition forms is issued shall make an affidavit on each page that

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statements therein contained are true, and that each signature appended to the petition is the genuine signature of the person whose name it purports to be.

The town clerk shall, within seventy-two hours following the day of such filing with the office of the town clerk, submit the recall petition forms to the board of registrars of voters which shall, within five working days after the day of receipt, certify in writing thereon the number of signatures which are those of qualified persons registered to vote in the town as of the date such affidavit was filed with the town clerk. The board of registrars of voters, upon the completion of their certification, shall return the recall petition forms to the town clerk.

**SECTION 3.** If said recall petition forms shall be certified by the board of registrars of voters to contain at least twenty-five percent of the qualified persons registered to vote, and if the petition shall be found and certified by the town clerk to be sufficient, the town clerk shall give notice without delay, in writing, to the elected officer whose recall is sought by sending to said officer a copy of the affidavit and the recall petition form together with notice of the number of qualified voters certified by the board of registrars of voters who signed the recall petition forms and the total number of qualified voters in the town as of the most recent town election.

If the officer to whom notice is directed by the town clerk does not resign the office within five days following receipt of the aforesaid notice from the town clerk, the town clerk shall give notice in writing to the board of selectmen not later than one working day following the expiration of the foregoing five days. The board of selectmen shall order a special election to be held not less than sixty nor more than ninety days after the receipt of notice from the town clerk as aforesaid. If, however, any other town election is to be held within one hundred days of receipt by the board of selectmen of notice from the town clerk, the recall election shall be postponed and shall be held at such time and in conjunction with such other election. If a vacancy occurs in the office for any reason after a recall election has been ordered by the board of selectmen, the recall election shall nevertheless proceed as provided for herein.

**SECTION 4.** Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. The number of signatures of qualified voters required to place the name of a candidate on the official ballot for use at a recall election shall not be less than twenty-five. The publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the General Laws regulating elections, unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of this office until the recall election. If then reelected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in section seven. If not reelected in the recall election, he shall be deemed removed

upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** The ballots used at the recall election shall submit the following proposition in the order indicated:

For the recall of (name of officer)

☐

Against the recall of (name of officer)

☐

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (x) may vote for either of such propositions. Under the propositions shall appear the word "Candidates" and the directions for the voters required by law, and beneath the word "Candidates" shall be the names of candidates nominated as hereinabove provided. If a majority of the votes cast is against the recall, the votes for the candidates need not be counted. If a majority of the votes cast is in favor of the recall, the officer shall be deemed to be recalled and the ballots for candidates shall then counted. The candidate receiving the highest number of votes shall be declared elected. If the officer is recalled, he shall be deemed removed upon certification of the election results by the town clerk. The candidate receiving the highest vote and therefore elected, shall serve for the balance of the unexpired term of the officer removed.

**SECTION 7.** No recall petition shall be filed against an officer within six months after he takes office, nor, in the case of an officer elected in a recall election, until six months after that election. No recall shall be filed against an officer subjected to a recall election, and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

**SECTION 8.** No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within one year after such recall or such resignation.

**SECTION 9.** This act shall take effect upon its passage.

Approved December 20, 1991.

## Chapter 385.

## AN ACT RELATIVE TO PARKING FINES IN THE TOWN OF SCITUATE.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section twenty A 1/2 of chapter ninety of the General Laws or any other general or special law to the contrary, the town of Scituate, acting by and through its board of selectmen, is hereby authorized to establish by rule or regulation a schedule of fines for violations subject to said

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section twenty A 1/2 committed within such town; provided, however, that all such fines shall be uniform for the same offense committed in the same zone or district, if any; and provided, further, that any fines established under the provisions of this act shall not exceed fifty dollars whether such fine is paid within twenty-one days or later.

Approved December 20, 1991.

**Chapter 386. AN ACT ALLOWING TUITION CHARGES FOR CERTAIN ADULT EVENING CLASSES.**

*Be it enacted, etc., as follows:*

Section 33 of chapter 74 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following three sentences:- The trustees of the Bristol County Agricultural School, Essex Agricultural and Technical Institute and Norfolk County Agricultural School may require the payment of tuition and related fees from each person enrolled in adult evening courses offered by said schools. The amount of tuition and related fees shall be determined by said trustees. All receipts of such tuition and related fees shall be deposited with the treasurer of the county.

Approved December 20, 1991.

**Chapter 387. AN ACT FURTHER REGULATING BETTERMENT CHARGES FOR SEWERS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the collection of betterment charges by cities and towns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Chapter 83 of the General Laws is hereby amended by inserting after section 15A the following section:-

Section 15B. A city or town may assess and collect estimated sewer assessments in connection with the construction of water pollution collection, pumping, treatment and disposal facilities. The total amount of such estimated sewer assessments shall not exceed one-half of the municipality's liability under all contracts it has entered into for the construction of such facilities, and the total of

such estimated assessments shall be allocated by the same method to be used for the allocation of the actual assessments upon the completion of the work.

When the final costs of construction of the facilities has been determined, the city or town may assess and collect actual sewer assessments. The provisions of chapter eighty relative to the apportionment, division, interest and collection of assessments shall apply to estimated assessments under this section, but the provisions of chapter eighty relating to abatements shall not apply to estimated assessments under this section.

Revenues from estimated assessments under this section shall be dedicated to the payment of the costs of constructing the facilities or to paying the principal and interest on any debt issued in connection with the construction of the facilities, until all such costs and debt service obligations have been paid in full.

Approved December 23, 1991.

**Chapter 388.        AN ACT DESIGNATING A CERTAIN BUILDING AT THE  
WORCESTER STATE HOSPITAL AS THE WILLIAM DALEY  
BUILDING.**

*Be it enacted, etc., as follows:*

The power plant building at the Worcester State Hospital in the city of Worcester shall be designated and known as the William Daley building in honor of William Daley and his nearly forty years of service to said hospital. A suitable marker bearing said designation shall be attached thereto by said hospital.

Approved December 23, 1991.

**Chapter 389.        AN ACT RELATIVE TO THE LIQUOR LIABILITY JOINT  
UNDERWRITING ASSOCIATION.**

*Be it enacted, etc., as follows:*

Chapter 223 of the acts of 1985 is hereby amended by striking out section 13, as most recently amended by chapter 454 of the acts of 1990, and inserting in place thereof the following section:-

*Section 13.* Sections one to twelve, inclusive, of this act shall expire on December thirty-first, nineteen hundred and ninety-four.

*Emergency Letter: January 10, 1992 @ 3:42 P.M.*      Approved December 23, 1991.

**Chapter 390.           AN ACT RELATIVE TO MUNICIPAL COMMISSIONS ON  
DISABILITY.**

*Be it enacted, etc., as follows:*

Chapter 40 of the General Laws is hereby amended by striking out section 8J, inserted by section 10 of chapter 260 of the acts of 1990, and inserting in place thereof the following section:-

Section 8J. A city which accepts the provisions of this section by vote of its city council, subject to the provisions of its charter, or town which accepts the provisions of this section by vote of its inhabitants at an annual meeting or at a special meeting may establish a commission on disability, hereinafter called the commission, to cause the full integration and participation of people with disabilities in said city or town. Such commission shall (1) research local problems of people with disabilities; (2) advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities; (3) coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts office on disability; (4) review and make recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of said city or town as they affect people with disabilities; (5) provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability; (6) coordinate activities of other local groups organized for similar purposes.

Said commission shall keep records of its meetings and actions and shall file an annual report which shall be printed in the city or town annual report and shall have at least ten meetings annually.

Said commission shall consist of not less than five nor more than nine members. In cities, the members shall be appointed by the mayor, subject to the provisions of the city charter except that in cities having a Plan D or Plan E form of government said appointments shall be by the city manager, subject to the provisions of the charter, and in towns they shall be appointed by the selectmen, except towns having a town manager form of government, in which towns appointments shall be made by the town manager, subject to the approval of the selectmen and except towns having a town council form of government, the town manager. A majority of said commission members shall consist of people with disabilities, one member shall be a member of the immediate family of a person with a disability and one member of said commission shall be either an elected or appointed official of that city or town. The terms of the first members of said commission shall be for one, two or three years, and so arranged that the term of one-third of the members expires each year, and their successor shall be appointed for terms of three years

each. Any member of said commission may, after a public hearing, if so requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. The chairperson and other officers shall be chosen by a majority vote of said commission members.

Said commission may receive gifts of property, both real and personal, in the name of the city or town, subject to the approval of the city council in a city or the board of selectmen in a town, such gifts to be managed and controlled by said commission for the purposes of this section.

Approved December 23, 1991.

**Chapter 391.      AN ACT INCREASING THE PENALTY FOR THE MANUFACTURE, DISTRIBUTION, DISPENSING OR POSSESSION OF METHAMPHETAMINE.**

*Be it enacted, etc., as follows:*

Paragraph (c) of section 32A of chapter 94C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "paragraph (a)", in line 26, the words:- or in clause (2) of paragraph (c).

Approved December 23, 1991.

**Chapter 392.      AN ACT FURTHER REGULATING THE NANTUCKET LAND BANK COMMISSION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 669 of the acts of 1983 is hereby amended by adding the following two sentences:- Any vacancy on the commission shall be filled until the next annual town election by majority vote of the remaining commissioners then in office. At the next annual town election a commissioner shall be elected for the balance of the unexpired term.

**SECTION 2.** Section 8 of said chapter 669, as amended by section 3 of chapter 666 of the acts of 1987, is hereby further amended by striking out clauses (c) and (d) and inserting in place thereof the following three clauses:- (c) revenues from fees imposed upon the transfer of real property interests as set forth in section ten occurring after the effective date of this act as set forth in section fifteen, together with payments of interest and penalties under section thirteen; (d) proceeds from disposal of real property or interests; and (e) funds received from any federal, state,

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county, region, district or municipal source. The commission is further authorized to accept state and federal funds to carry out the purposes of this act as if the commission were in fact a district, city, town, region, county, state, or state agency within the meaning of legislation authorizing any grant consistent with the purposes of this act.

**SECTION 3.** Section 12 of said chapter 669 is hereby amended by striking out paragraph (i), as amended by section 6 of said chapter 666, and inserting in place thereof the following paragraph:-

(i) Transfer made to a corporation or partnership at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or section seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains a controlling interest in such corporation after such formation or (ii) with respect to a partnership, the transferor retains after such formation rights to capital interests in excess of fifty percent of the capital interests within such partnership or retains rights to profit interests within such partnership in excess of fifty percent of the total profit interests within such partnership.

**SECTION 4.** This act shall take effect upon its passage.

Approved December 23, 1991.

**Chapter 393.      AN ACT ESTABLISHING THE DATE FOR A SPECIAL ELECTION TO FILL A VACANCY ON THE SCHOOL COMMITTEE OF THE CITY OF LAWRENCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the city of Lawrence shall hold a special election on March tenth, nineteen hundred and ninety-two to fill the vacancy in the office of school committee in said city.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 23, 1991.

**Chapter 394.      AN ACT PROVIDING CIVIL SERVICE STATUS TO DEAN J. DICARLO, ASSISTANT SUPERVISOR OF MOTOR VEHICLES IN THE FIRE DEPARTMENT OF THE CITY OF HOLYOKE.**

*Be it enacted, etc., as follows:*



Notwithstanding the provisions of any general or special law to the contrary, Dean J. DiCarlo, provisional assistant supervisor of motor vehicles in the fire department of the city of Holyoke shall be granted permanent civil service status under the provisions of chapter thirty-one of the General Laws.

Approved December 23, 1991.

**Chapter 395.        AN ACT INCREASING THE PENALTY FOR TRAFFICKING  
                         IN METHAMPHETAMINE.**

*Be it enacted, etc., as follows:*

Paragraph (b) of section 32E of chapter 94C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "paragraph (a)", in line 43, the words:- or in clause (2) of paragraph (c).

Approved December 23, 1991.

**Chapter 396.        AN ACT RELATIVE TO QUARTERLY TAXES IN CITIES  
                         AND TOWNS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the issuance of additional notices of preliminary tax, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section fifty-seven C of chapter fifty-nine of the General Laws or any other general or special law to the contrary, cities and towns that have accepted the provisions of said section fifty-seven C of said chapter fifty-nine are hereby authorized with respect to fiscal year nineteen hundred and ninety-two to issue notices of preliminary tax in addition to such notice of preliminary tax as provided in said section; provided, however, that no additional notice of preliminary tax may issue, however, unless first approved by the commissioner of revenue; and, provided further, that as a condition of any such approval, the commissioner may establish such requirements as he deems appropriate, which may include, but not be limited to, the submission by the board of assessors of all information required to set the tax rate under the provisions of section twenty-three of said chapter fifty-nine, except the assessed valuation of all real and personal property subject to taxation for the current fiscal year.

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In the event that the issuance of an additional notice of preliminary tax is approved by the commissioner of revenue and requires a third quarterly installment payment with respect to fiscal year nineteen hundred and ninety-two, such notice shall be sent on or before December thirty-first, nineteen hundred and ninety-one or on such later date as is approved by the commissioner of revenue and shall be due and payable on February first, nineteen hundred and ninety-two or thirty days after the date of mailing of such notice, whichever is later. The amount of any additional installment payment required pursuant to this act shall not exceed the amount of the first quarterly installment payment for fiscal nineteen hundred and ninety-two as provided for by said section fifty-seven C of said chapter fifty-nine.

If any installment payment as provided for herein is not timely paid, it shall be delinquent and interest at the rate of fourteen percent per annum computed from the due date shall be paid. For purposes of this section, amounts not timely received shall be deemed unpaid.

In the event the actual tax bills for fiscal year nineteen hundred and ninety-two are not mailed by December thirty-first, nineteen hundred and ninety-one, then upon the establishment of the tax rate there shall be a single actual bill due and payable on May first nineteen hundred and ninety-two, or thirty days after the date of mailing of such bill, whichever is later. Such bill shall represent the full balance owed after credit is given for the preliminary tax payments previously made. To the extent not inconsistent with the provisions contained herein, the provisions of said section fifty-seven C of said chapter fifty-nine shall be fully applicable to any additional notice of preliminary tax issued pursuant to the provisions of this section.

Approved December 23, 1991.

**Chapter 397.****AN ACT DESIGNATING A PORTION OF STATE HIGHWAY  
ROUTE 12 IN THE TOWN OF WEST BOYLSTON AS THE  
CORPORAL ALAN R. AUGER MEMORIAL CAUSEWAY.**

*Be it enacted, etc., as follows:*

That portion of state highway route 12 within the Wachusett reservoir in the town of West Boylston shall be designated and known as the Corporal Alan R. Auger Memorial Causeway, in memory of Corporal Alan R. Auger, U.S.M.C., who lost his life while a member of the armed forces of the United States during Operation Desert Storm. The department of public works shall erect and maintain suitable markers along said causeway bearing such designation in compliance with the standards of said department.

Approved December 23, 1991.

**Chapter 398. AN ACT RELATIVE TO FAIR AND EFFECTIVE COMPENSATION OF INJURED WORKERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 23E of the General Laws is hereby amended by striking out section 3, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 3. (a) There shall be within the department a division of administration, under the supervision and control of a director of administration, and a division of dispute resolution, under the supervision and direction of a senior judge, each of whom shall be appointed by the commissioner. Within the division of administration there shall be a first deputy director of administration. Within the division of dispute resolution there shall be a deputy director of dispute resolution.

(b) The division of administration shall be under the supervision and control of the director of administration, who shall be the executive administrative head of said division. The director shall direct and supervise the activities of all employees within such division. The division of administration shall contain the office of claims administration, the office of education and vocational rehabilitation, the office of insurance, the office of administration and data processing, and the office of safety. The division shall have the following responsibilities under chapter one hundred fifty-two:

(1) receiving and maintaining any reports required to be filed with the department;

(2) providing vocational rehabilitation services required of the department;

(3) preparing an annual statistical report of departmental activities including available information regarding insurer practices, injury and litigation patterns and departmental productivity, and filing such report with the clerks of the house and senate of the general court, the advisory council and the commissioner of insurance and responding to other requests for data;

(4) maintaining a toll-free information number for inquiries regarding workers' compensation;

(5) preparing and distributing informational materials regarding workers' compensation and occupational health and safety;

(6) establishing and supervising programs for data collection on workplace injuries and for the education and training of employees and employers in the recognition, avoidance and prevention of unsafe or unhealthful working conditions in employment and advising employees and employers on these issues;

(7) investigating employer violations of mandatory workers' compensation coverage and enforcing stop work provisions;

(8) investigating written allegations of questionable claims handling techniques

or patterns of unreasonably controverting claims by insurers, employers or other entities handling workers' compensation claims and referring its findings to the commissioner of insurance and the party alleging such techniques or patterns; provided, however, that the department shall provide by regulation guidelines for what constitutes questionable claims handling techniques and patterns of unreasonably controverting claims;

(9) licensing and oversight of self-insurers as set forth in section twenty-five B of chapter one hundred and fifty-two;

(10) maintenance of departmental budgetary, personnel, data processing and other administrative services;

(11) collection of assessments, fines and other payments payable to the Workers' Compensation Trust Fund and the Workers' Compensation Special Fund;

(12) analyzing information that shall be required to be sent to the department of industrial accidents from the department of employment and training, the department of revenue, the registry of motor vehicles, the department of welfare, the workers' compensation rating bureau of Massachusetts, the insurance fraud bureau, individual insurers, self-insurers, and self-insurance groups;

(13) other duties as the commissioner may require.

**SECTION 2.** Section 5 of said chapter 23E, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the division of dispute resolution an industrial accident reviewing board, in this chapter and in chapter one hundred and fifty-two called the reviewing board which shall consist of six members, not more than three of whom shall be a member of one political party. Any member appointed to the reviewing board shall be an attorney admitted to the Massachusetts bar or be a current or past member of the industrial accident board or the reviewing board at the time of such appointment.

**SECTION 3.** Section 6 of said chapter 23E, as so appearing, is hereby amended by striking out the first four sentences and inserting in place thereof the following four sentences:- The industrial accident board and the industrial accident reviewing board shall be under the supervision and administrative control of the senior judge. The senior judge shall direct and supervise the activities of all members of the board and the reviewing board. The commissioner shall assign such necessary support staff to the division as he deems necessary. The senior judge shall cause a statistical list to be maintained of all matters heard or conferred on by each board member along with a list of conference orders and decisions filed by each member and all lump sum settlements approved by the reviewing board and at the end of each month shall cause said list to be published forthwith and made available for inspection by the public.

**SECTION 4.** Said section 6 of said chapter 23E, as so appearing, is hereby amended by adding the following six paragraphs:-

There shall be within the department, a division of dispute resolution, under the supervision and direction of a senior judge, who shall be appointed by the commissioner.

The senior judge shall be selected from among the current administrative judges or administrative law judges by the commissioner. The senior judge must possess the following qualifications:

- (i) no less than two years of experience as an administrative judge or administrative law judge at the industrial accident board;
- (ii) proven knowledge of chapter one hundred and fifty-two, its regulations and other relevant laws;
- (iii) demonstrable administrative and management ability; and
- (iv) superior writing skills as may be shown by hearing or review board decisions, law review articles or any other appropriate written materials.

The term of any administrative judge or administrative law judge who is appointed to serve as the senior judge under this section shall be coterminous with the governor. The senior judge may be removed by the governor upon the recommendation of the commissioner. The senior judge may appoint, subject to the approval of the commissioner, such personnel as are necessary for the performance of the senior judge's duties.

The senior judge shall be placed in job group M-X, step seven as set forth in section forty-six C of chapter thirty.

There shall be within the division of dispute resolution a conciliation unit. Such unit shall attempt the informal resolution of disputes, review and approve agreements, and perform such other duties as the senior judge may require.

The senior judge shall be responsible for the operation of the division of dispute resolution. The powers and duties of the senior judge shall include, but not be limited to, the following:-

- (i) the initial training of newly appointed administrative judges and administrative law judges as to their responsibilities and powers including, but not limited to, the conduct of conferences and hearings, the prompt, clear, and concise writing of orders and decisions and the management of claims to assist workers in their return to work;
- (ii) the establishment of an annual workers' compensation judicial training program to instruct all administrative judges or administrative law judges in matters related to their professional development;
- (iii) the establishment of criteria, in conjunction with the commissioner, upon which to perform an annual review of each administrative judge and administrative law judge;
- (iv) the fair allocation of all claims and complaints to ensure each administrative judge receives a balanced and equitable case load during the calendar year;
- (v) the establishment of criteria under which a claimant may claim a hardship

and request a conference on the first available date;

(vi) the training, supervision and review of conciliators, and the association, where feasible, of particular conciliators to particular judges for the purpose of fostering more effective conciliation of disputes.

(vii) the senior judge shall accept motions for expedited conferences relating to fraudulent behavior, illegal discontinuance of compensation, catastrophic injuries, medical emergencies, or denials pursuant to section fifteen A of chapter one hundred and fifty-two. Such session shall be held on a weekly basis if necessary. The motions and the procedure at the sessions shall conform to requirements set forth by the senior judge. The motion sessions shall be presided over by an administrative law judge or conciliator selected by the senior judge. If the administrative law judge, administrative judge or conciliator grants the motion for an expedited conference, said conference shall be held within fourteen days.

(viii) the development of a standard form for pre-conference memoranda to be prepared by the parties.

**SECTION 5.** Section 8 of said chapter 23E, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner and the senior judge shall have authority to initiate proceedings for the removal of a board or reviewing board member when the commissioner and the senior judge are of the opinion that such member has been guilty of misconduct, material neglect of duty, inability to perform the duties required of a member, or incompetence in the conduct of office. Upon recommendation of the commissioner and the senior judge, the governor shall commence an investigation of such member's record and practices, and shall require the commissioner and senior judge to provide any performance evaluations of such member made under the provisions of section nine along with any supporting documentation. Upon completion of his investigation, the governor may, with the advice and consent of the council, remove such member for misconduct, material neglect of duty, inability to perform the duties required of a member or incompetence in the conduct of his office.

**SECTION 6.** Said chapter 23E is hereby further amended by striking out sections 9 to 11, inclusive, as so appearing, and inserting in place thereof the following three sections:-

Section 9. There shall be an industrial accident nominating panel to consist of eleven members. The panel shall include the governor's legal counsel, the secretary of labor, the secretary of economic affairs, the commissioner of the department of industrial accidents, and the senior judge and six members to be appointed by the governor, two of whom shall be representatives of business and two of whom shall be representatives of organized labor, one health care provider and an attorney who does not practice workers' compensation law. One of the representatives of

business shall be the president of the Associated Industries of Massachusetts, or his designee, and one of the representatives of organized labor shall be the president of the Massachusetts AFL-CIO, or his designee. All members of the nominating panel shall serve at the pleasure of the governor. Prior to any submission of nominations for appointment or reappointment to the industrial accident board or industrial accident reviewing board pursuant to section four or section five, the nominating panel shall review applications for such nominations and consider the following factors:

- (1) skills in fact-finding;

- (2) basic understanding of human anatomy and physiology; and

- (3) a bachelor's degree or demonstrated writing ability as evidenced by four or more years in positions in which writing skills are a major job responsibility.

Such review shall be made on the basis of the application, experience, education and training of the applicant, writing samples, interviews, and any other information the panel may require. When the application is for reappointment, the panel shall require, in addition to any other information, a performance evaluation prepared by the senior judge and commissioner for each year since the candidate's last appointment. The performance evaluation shall be a written report which contains the following information:

- (1) Average time for the disposition of cases before the applicant, and, where applicable, a comparison of such applicant's speed of disposition with the other board members;

- (2) three decisions written and selected by the applicant;

- (3) the total number of proceedings scheduled before the applicant and total number of orders and decisions filed;

- (4) where applicable, the total number of cases decided by such applicant heard by an appellate body, and the number of such cases which were remanded for further proceedings;

- (5) any decisions of an appellate body which specifically reference the candidate's judicial demeanor or temperament;

- (6) at the discretion of the commissioner, written complaints from attorneys received by the commissioner regarding the candidate's judicial demeanor or temperament;

- (7) evidence of any demonstrable bias against particular defendants, claimants or attorneys.

In no instance shall a calculation of the number or percentage of orders or decisions made in favor of employees, insurers or employers be a part of any performance evaluation of a member of the board or reviewing board. Any information regarding a candidate compiled by the nominating panel shall be forwarded to the governor and to the workers' compensation advisory council. Said council may rate the candidate as highly qualified, qualified, or unqualified. If such

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candidate is appointed or reappointed by the governor the performance evaluation and any ratings by said council shall be forwarded to the executive council.

**Section 10.** There shall be within the department an office of legal counsel under the direction of a general counsel who shall report to the commissioner. The office shall be responsible for the investigation, defense and claims handling for claims against the Workers' Compensation Trust Fund, and for any other duties the commissioner may assign.

**Section 11.** For the purpose of investigating fraud and collecting data regarding workplace injuries, the department shall have the right to request and receive information from the department of revenue, the department of employment and training, the registry of motor vehicles, the department of welfare, the insurance fraud bureau of Massachusetts, the workers' compensation rating and inspection bureau, and individual insurers, self-insurers and self-insurance groups and shall forward information regarding fraudulent activities to these entities. Such information shall be provided within thirty days unless otherwise authorized by the commissioner. The division of administration shall document evidence of any fraudulent activity and promptly refer such documentation to the office of the attorney general.

**SECTION 7.** Sections twelve, twelve A and thirteen of said chapter twenty-three E are hereby repealed.

**SECTION 8.** Section 17 of chapter 23E of the General Laws, as so appearing, is hereby amended by inserting after the word "system", in line 41, the following paragraph:-

No later than September first, nineteen hundred and ninety-three the advisory council shall conduct a study to evaluate the advantages and disadvantages of adopting an employee's hours worked as a methodology for establishing workers' compensation insurance premiums and conduct a study of the economic impact of changes to the wage replacement rates for partial and temporary total benefits on workers, employers, and insurers.

**SECTION 9.** Paragraph (a) of subdivision (1) of section 14 of chapter 32 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Any period during which an employee is receiving weekly benefits for total incapacity under chapter one hundred fifty-two shall not be counted in computing such employee's sick leave for severance pay purposes; nor may an employee use sick leave accrued during the time of total incapacity during such total incapacity.

**SECTION 10.** Paragraph (c) of said subdivision (i) of said section 14 of said chapter 32, as so appearing, is hereby amended by inserting after the word "thirty-four A", in line 58, the words:- , thirty-four B.

**SECTION 11.** Paragraph (a) of subdivision (2) of said section 14 of said chapter 32, as so appearing, is hereby amended by inserting after the word "thirty-four A",



in line 67, the words:- , thirty-four B.

**SECTION 12.** Paragraph (b) of said subdivision (2) of said section 14 of said chapter 32, as so appearing, is hereby further amended by inserting after the word "thirty-four A", in line 93, the words:- , thirty-four B.

**SECTION 13.** Subsection (1) of section 1 of chapter 152 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Except as provided by sections twenty-six and twenty-seven of chapter one hundred forty-nine, such fringe benefits as health insurance plans, pensions, day care, or education and training programs provided by employers shall not be included in employee earnings for the purpose of calculating average weekly wages under this section.

**SECTION 14.** Subsection (7A) of said section 1 of said chapter 152, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following two sentences:- Personal injuries shall include mental or emotional disabilities only where the predominant contributing cause of such disability is an event or series of events occurring within any employment. If a compensable injury or disease combines with a pre-existing condition, which resulted from an injury or disease not compensable under this chapter, to cause or prolong disability or a need for treatment, the resultant condition shall be compensable only to the extent such compensable injury or disease remains a major but not necessarily predominant cause of disability or need for treatment.

**SECTION 15.** Said section 1 of said chapter 152, as so appearing, is hereby further amended by striking out subsection (12) and inserting in place thereof the following subsection:-

(12) "Vocational rehabilitation", nonmedical services reasonably necessary at a reasonable cost to restore a disabled employee to suitable employment as near as possible to pre-injury earnings. Such services may include vocational evaluation, counseling, education, workplace modification, and retraining, including on-the-job training for alternative employment with the same employer, and job placement assistance. It shall also mean reasonably necessary related expenses.

The department shall promulgate rules concerning the qualifications and performance of any person, agency or institution providing vocational rehabilitation services pursuant to this chapter. The commissioner may remove or suspend a vocational rehabilitation provider from the list of certified providers, or suspend payment to a vocational rehabilitation service provider for cause. Any such provider shall have the right to appeal to the commissioner any such removal or suspension within fourteen days of such provider's receipt of notice of removal or suspension. Upon receipt of such appeal, the commissioner shall refer the matter to the division of administrative law appeals within the executive office of administration and finance which shall have the authority to reverse, uphold or modify the removal or suspension after a hearing held pursuant to chapter thirty

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A. Any party aggrieved by said hearing shall have the right to appeal as set forth in said chapter thirty A.

**SECTION 16.** Section 2A of said chapter 152, as so appearing, is hereby amended by inserting after the word "increases", in line 3, the words:- or decreases;- and by inserting after the word "dependents", in line 4, the words:- including amounts deducted for legal fees.

**SECTION 17.** Section 5 of said chapter 152, as so appearing, is hereby amended by adding the following paragraph:-

Neither an administrative judge nor the reviewing board shall have the authority to repeal, revoke, or otherwise set aside a regulation promulgated by the commissioner; provided, however, that if in any proceeding within the division of dispute resolution it is found that the application of any section of this chapter is made impossible by the enforcement of any particular regulation, the administrative judge or reviewing board shall not apply such regulation during such proceeding only. In any case in which a regulation is not applied as herein provided, the administrative judge or reviewing board shall, on or before the date of the issuance of the decision, inform the commissioner in writing of the explicit contradiction found between the regulation and this chapter.

**SECTION 18.** Section 6 of said chapter 152, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Within seven calendar days, not including Sundays and legal holidays, of receipt of notice of any injury alleged to have arisen out of and in the course of employment which incapacitates an employee from earning full wages for a period of five or more calendar days, the employer shall furnish notice of the injury to the division of administration, the employee and insurer. The notice shall be submitted on a form prescribed by the division and shall contain the name and nature of the business of the employer, the name, age, sex, and occupation of the injured employee, and the date, nature, circumstances and cause of the injury and such additional information as the division shall prescribe.

The commissioner may require employers with those standard industry codes with the highest number of injuries or claims to provide proof of insurance coverage as required by this chapter. The commissioner may utilize information provided by the department of employment and training and the department of revenue to ascertain the addresses of the employers with such industry codes.

**SECTION 19.** Said section 6 of said chapter 152, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Any person who violates the provision of this section three or more times in any year shall be punished by a fine of one hundred dollars for each such violation. Each failure to pay a fine within thirty days of receipt of a bill from the department

shall be considered a separate violation.

**SECTION 20.** Said chapter 152 is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. (1) Within fourteen days of an insurer's receipt of an employer's first report of injury, or an initial written claim for weekly benefits on a form prescribed by the department, whichever is received first, the insurer shall either commence payment of weekly benefits under this chapter or shall notify the division of administration, the employer, and, by certified mail, the employee, of its refusal to commence payment of weekly benefits. The notice shall specify the grounds and factual basis for the refusal to commence payment of said benefits and shall state that if no claim has yet been filed, benefits will not be secured for the alleged injury unless a claim is filed with the department and insurer within any time limits provided under this chapter. Any grounds and basis for noncompensability specified by the insurer shall, unless based upon newly discovered evidence, be the sole basis of the insurer's defense on the issue of compensability in any subsequent proceeding. An insurer's inability to defend on any issue shall not relieve an employee of the burden of proving each element of any case.

(2) If an insurer fails to commence such payment or to make such notification within fourteen days, it shall pay to the employee a penalty in an amount equal to two hundred dollars. Where compensation is later ordered and interest is due the employee under section fifty, such penalty shall be considered compensation for the purpose of computing interest. If the insurer fails to commence such payment or to make such notification of denial within sixty days it shall pay an additional penalty to the department of two thousand dollars into the special fund created pursuant to section sixty-five; provided, however, that such additional penalty shall be ten thousand dollars if said payment is not commenced and said notification is not made within ninety days. Penalties under this section may be waived if an administrative judge finds that the failure to comply with the requirements herein set forth was due to events beyond the control of the insurer or its agents. No additional penalties shall be levied for continuing violations under this section, but the insurer shall be allowed no defenses against any initial claim for weekly benefits until any penalty owed under this section has been paid. No amount paid as a penalty under this section shall be included in any formula utilized to establish premium rates for workers' compensation insurance. An insurer's inability to defend on any issue shall not relieve an employee of the burden of proving each element of any case.

**SECTION 21.** Said chapter 152 is hereby further amended by striking out section 7A, as so appearing, and inserting in place thereof the following section:-

Section 7A. In any claim for compensation where the employee has been killed or found dead at his place of employment or, in the absence of death, is physically or mentally unable to testify, and such testimonial incapacity is causally related to

the injury, it shall be prima facie evidence that the employee was performing his regular duties on the day of injury or death and that the claim comes within the provisions of this chapter, that sufficient notice of the injury has been given and that the injury or death was not occasioned by the willful intention of the employee to injure or kill himself or another.

**SECTION 22.** Chapter 152 of the General Laws, as so appearing, is hereby amended by striking section 7C and inserting in place thereof, the following section:-

Section 7C. Any party appearing before the division of dispute resolution may be heard in person, or may be represented by an attorney or by any other person designated by such party. No person who is not an attorney shall be compensated for representing a claimant in such a proceeding; provided, however, that nothing in this section shall bar payment by a labor organization, employee association, or insurer of any payment of regular wages or salary to a full time employee for time spent in representing a claimant. The senior judge may, for cause, deny or suspend the right of any person to practice or appear before the department. Any person denied or suspended under this provision shall have the right to appeal to the commissioner any denial or suspension within fourteen days of receipt of the notice. Upon receipt of such appeal, the commissioner shall refer the matter to the division of administrative law appeals within the executive office of administration and finance which shall have the authority to reverse, uphold or modify the removal or suspension after a hearing held pursuant to section thirteen of chapter thirty A. Any party aggrieved by said hearing shall have the right to appeal as set forth in section fourteen of said chapter thirty A.

**SECTION 22A.** Chapter 152 of the General Laws, as so appearing, is hereby amended by inserting after section 7F the following section:-

Section 7G. The senior judge in consultation with the commissioner shall promulgate rules setting forth the required documentation to be attached to any claim for benefits or complaint for modification or discontinuance of benefits. The attachment of all required documentation shall be a prerequisite for the acceptance of said claim or complaint for processing by the office of claims administration.

**SECTION 23.** Section 8 of said chapter 152, as so appearing, is hereby amended by striking out subsections (1), (2) and (3) and inserting in place thereof the following two subsections:-

(1) An insurer which makes timely payments pursuant to subsection one of section seven, may make such payments for a period of one hundred eighty calendar days from the commencement of disability without affecting its right to contest any issue arising under this chapter. An insurer may terminate or modify payments at any time within such one hundred eighty day period without penalty if such change is based on the actual income of the employee or if it gives the

employee and the division of administration at least seven days written notice of its intent to stop or modify payments and contest any claim filed. The notice shall specify the grounds and factual basis for stopping or modifying payment of benefits and the insurer's intention to contest any issue and shall state that in order to secure additional benefits the employee shall file a claim with the department and insurer within any time limits provided by this chapter.

Any grounds and basis for noncompensability specified by the insurer shall be the sole basis of the insurer's defense on the basis of compensability, unless based on newly discovered evidence; provided, however, that an insurer's inability to defend on any issue shall not relieve an employee of the burden of proving each element of any case. Any failure of an insurer to make all payments due an employee under the terms of an order, decision, arbitrator's decision, approved lump sum or other agreement, or certified letter notifying said insurer that the employee has left work after an unsuccessful attempt to return within the time frame determined pursuant to paragraph (a) of subsection (2) of this section within fourteen days of the insurer's receipt of such document, shall result in a penalty of two hundred dollars, payable to the employee to whom such payments were required to be paid by the said document; provided, however, that such penalty shall be one thousand dollars if all such payments have not been made within forty-five days, two thousand five hundred dollars if not made within sixty days, and ten thousand dollars if not made within ninety days. No penalty shall be assessed a self-administered public employer or the Workers' Compensation Trust Fund under this paragraph where delivery has been made to the employee or other recipient of a copy of an official request made by such employer or fund to the appropriate authority for the issuance of a check in the appropriate amount to said recipient, provided that delivery of such copy to said employee or recipient has been made within fourteen days of the employer or fund's receipt of the order, decision or agreement.

(2) An insurer paying weekly compensation benefits shall not modify or discontinue such payments except in the following situations:

(a) compensation has been modified or discontinued pursuant to an order or decision of an arbitrator, an administrative judge, the reviewing board or court of the commonwealth;

(b) the compensation recipient has assented thereto in writing on a form prescribed by the department and the original of such form has been filed with the department;

(c) the employee has returned to work; provided, however, that the insurer shall forthwith resume payments if, within twenty-eight calendar days of return to such employment, the employee leaves such employment and, within twenty-one calendar days thereafter, informs the employer and insurer by certified letter that the disability resulting from the injury renders him incapable of performing such

work; provided, further, that if due, compensation shall be paid under section thirty-five;

(d) the insurer has possession of (i) a medical report from the treating physician, or, if an impartial medical examiner has made a report pursuant to section eleven A or subsection (4) of this section, the report of such examiner, and either of such reports indicates that the employee is capable of return to the job held at the time of injury, or other suitable job pursuant to section thirty-five D consistent with the employee's physical and mental condition as reported by said physician and (ii) a written report from the person employing said employee at the time of the injury indicating that such a suitable job is open and has been made available, and remains open to the employee; provided, however, that if due, compensation shall be paid under section thirty-five; provided, further, that if such employee accepts said employment subsequent to a modification or termination pursuant to this paragraph, compensation shall be reinstated at the prior rate if the employee should cease work in accordance with paragraph (c) of this section or should be terminated by the employer because of the employee's physical or mental incapacity to perform the duties required by the job;

(e) payments are terminated or modified pursuant to subsection (1);

(f) the insurer has received a communication from the office of education and vocational rehabilitation authorizing suspension or reduction of payment under section thirty G;

(g) the benefits payable to the employee have been exhausted pursuant to sections thirty-one, thirty-four, or thirty-five;

(h) payments are suspended or reduced pursuant to section eleven D for failure to respond to an insurer's written request to provide an earnings report, or for past overpayments;

(i) payments are suspended pursuant to section forty-five, provided that the department shall provide by rule for the manner of any such suspension, and subsequent reinstatement or forfeiture;

(j) the employee has been incarcerated pursuant to conviction for a felony or misdemeanor and has thereby forfeited any right to compensation during such period; or

(k) payments are suspended or reduced pursuant to section thirty-six B; or

(l) the employee has died. For purposes of clause (d) of this section, any termination of an employee within one year of resumption of work with his prior employer will be presumed to be for the reason that the employee was physically or mentally incapable of performing the duties required by the job or that the job was unsuitable for the employee, unless the insurer demonstrates the contrary by a preponderance of evidence at a subsequent proceeding.

**SECTION 24.** Said section 8 of said chapter 152, as so appearing, is hereby further amended by striking out subsection (4) and inserting in place thereof the

following subsection:-

(4) An insurer who makes prompt payment of benefits pursuant to section seven and continues payment for one hundred eighty days or more, without contesting liability, may, no sooner than sixty days following the referral to the industrial accident board of a complaint for termination or reduction of benefits under section thirty-four, thirty-four A or thirty-five, if no conference order has been issued during such sixty day period, request the senior judge to appoint an impartial physician to examine the employee. The senior judge shall, within seven days of a request for an impartial examination, appoint a physician from the appropriate roster to conduct an examination of the employee and make a report within fourteen days. If such report contains evidence of increased capability to work, the insurer may reduce or terminate benefits in accordance with such report, pursuant to the provisions of section thirty-five D. In such instances, if the requirements of this subsection have been complied with, when an order is issued on the insurer's complaint, if such order requires that retroactive weekly benefits are due the employee, an additional payment equal to two times the average weekly wage in the commonwealth shall also be paid to the employee.

At any time subsequent to the filing of a claim or complaint solely regarding the reasonableness or necessity of a particular course of medical treatment, any party to such claim or complaint may request the senior judge to appoint a physician from the appropriate roster to conduct an examination of the employee and make a report within fourteen days. If the senior judge determines that said claim or complaint involves only the issue of reasonable and necessary medical treatment, he shall make such appointment within seven days. The impartial physician shall determine the appropriateness of any medical treatment claimed or denied by the parties, using any guidelines adopted by the health care services board or promulgated by the department. The determination by the impartial physician shall be binding upon the parties until any subsequent proceeding within the division of dispute resolution. The determination of the impartial physician shall be prima facie evidence of the appropriateness or inappropriateness of the course of medical treatment in question at any hearing at which such treatment is at issue.

**SECTION 25.** Said section 8 of said chapter 152, as so appearing, is hereby amended by striking out subsection (6) and inserting in place thereof the following subsection:-

(6) Any one hundred eighty day payment without prejudice period herein provided may be extended to a period not to exceed one year by agreement of the parties provided that:

(a) the agreement sets out the last day of such extension; and

(b) a conciliator, administrative judge, or administrative law judge approves such agreement as not detrimental to the employee's case.

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All the provisions of subsection (1) of this section shall apply to any period of payment without prejudice extended as provided in this subsection. Any payment without prejudice under this section shall toll the statute of limitations pursuant to section forty-one.

**SECTION 26.** Said chapter 152, is hereby amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

Section 10. (1) Any claim for benefits shall be filed with the division of administration and the insurer on a form prescribed by the division, and shall specifically state the benefits claimed to be due and unpaid. No claim for weekly compensation shall be accepted by the department unless it is either accompanied by a copy of an insurer's notification of denial pursuant to section seven, or at least thirty days have passed from the alleged onset of disability.

Unless otherwise expressly provided, on the receipt of a claim for compensation, a complaint from the insurer requesting a modification or discontinuance of benefits, or a complaint from any party requesting resolution of any other issue arising under this chapter, the division of administration shall notify the parties that it is in receipt of such claim or complaint, and may request the parties to appear and submit relevant information. The conciliation unit within the division of dispute resolution may attempt to resolve the claim or complaint by informal means and the parties shall cooperate with any conciliator assigned to the case. The assigned conciliator shall withdraw without prejudice the claim or complaint of any party that fails to cooperate or to produce requested material.

In order for an attorney's fee to be required under section thirteen A, pursuant to a dispute over a claim for benefits under this chapter, such claim shall have been sent to the insurer by certified mail. No attorney's fee shall be due for services involving a claim sent to the insurer which does not include a copy of a medical report relevant to the alleged claim in the possession of the employee or his attorney. In order for any attorney's fee to be due for services involving a claim for health care services, such claim shall include a copy of any relevant bill and a description from the health care provider of the services rendered. No attorney's fee shall be due for services involving claim for benefits for loss of function or disfigurement under section thirty-six unless such claim includes a copy of a letter from a physician describing the location and extent of the alleged loss of function or disfigurement and the specific amount requested for compensation therefor. No attorney's fee shall be due for services involving claims for mileage reimbursement unless such claims delineate the date and purpose for the travel, identity of the medical provider and mileage of each trip for which reimbursement is sought. No attorney's fee shall be due for any claim solely involving unpaid attorney's fees or expenses for past services.

(2) Any claim or complaint shall be referred to the industrial accident board within fifteen business days of its receipt by the division of administration unless:



(a) the moving party fails to appear on request of the conciliation unit or provide requested information;

(b) a conciliator authorizes an extension of the conciliation period, attaching the reasons therefor to the case file, or

(c) the conciliator receives an agreement signed by the parties, on a form prescribed by the department, indicating that they will abide by the findings of an independent arbitrator chosen by such parties to make findings as to compensation pursuant to section ten B. Any conciliator, within their departmental capacity, may also be chosen by the parties to serve as the arbitrator. Said agreement may specify that any subsequent claim or complaint regarding the instant injury shall, after having been filed with the department, and, provided that such subsequent claim or complaint has not been successfully mediated by the assigned conciliator, be forwarded to the same or other agreed upon arbitrator and not be referred to the division of dispute resolution. When presented with such a signed agreement, the assigned conciliator shall mark the case as forwarded to arbitration.

Any party aggrieved by an extension of the conciliation period or by the conciliator's withdrawal of a claim or complaint may file a written appeal with the senior judge who, if all requested information has been submitted, shall set a date for referral to the industrial accident board.

(3) In any instance in which the respondent to a claim or complaint either fails to appear or is not authorized to negotiate, enter into and sign agreements as to compensation at a conciliation, said claim or complaint shall forthwith be referred to the industrial accident board.

(4) In each instance in which a claim or complaint is referred to the industrial accident board following a conciliation, the conciliator to whom the case was assigned shall forward a written report setting out the issues in controversy and the information he deems to support:

(a) his recommendation that weekly compensation or other benefits should or should not be paid;

(b) his recommendation that weekly compensation or other benefits should or should not be modified or terminated; or

(c) his report that the information available at the conciliation is insufficient for determining whether weekly compensation or other benefits should be paid, modified, or terminated.

(5) In each instance in which a claim for compensation is referred to the industrial accident board, the insurer shall pay a fee of sixty-five percent of the average weekly wage in the commonwealth at that time; provided, however, that in the event that the insurer failed to appear at a scheduled conciliation, and such failure was not beyond the control of said insurer, the referral fee shall be one hundred and thirty percent of the average weekly wage in the commonwealth at that time. In such event the referral fee shall not be included in any formula utilized

to establish premium rates for workers' compensation insurance. Any referral fee shall be paid into the Special Revenue Fund established pursuant to section sixty-five. If, prior to a claim or complaint being scheduled before an administrative judge, the parties shall forward to the senior judge a written arbitration agreement pursuant to section ten B, the department shall refund any referral fee for such claim or complaint paid under this section.

(6) Whenever, with respect to a case in which liability is not an issue, a claim for additional compensation or a complaint to discontinue or modify compensation is the subject of conciliation the case shall not be referred to the industrial accident board until each party shall have filed with the conciliator a written offer which such party believes to be the amount of weekly compensation due the claimant under this chapter. If the claimant fails to file such offer within any time limit set forth by the conciliator assigned to the case, such conciliator shall file, on behalf of such claimant, an amount equal to the last best offer made by such claimant, or if no offer was made, the maximum compensation rate in the commonwealth, indicating that it was filed by said conciliator. If the insurer fails to file such offer within any time limit set forth by the conciliator assigned to the case, such conciliator shall file, on behalf of such insurer, an amount equal to the last best offer made by such insurer, or if no offer was made, the amount of zero, indicating that it was filed by said conciliator.

**SECTION 27.** Subsection (1) of said section 10A of chapter 152, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Except where events beyond the control of the department make such scheduling impracticable, the administrative judge assigned to any case referred to the division of dispute resolution shall retain exclusive jurisdiction over the matter and any subsequent claim or complaint related to the alleged injury shall be referred to the same administrative judge.

**SECTION 28.** Subsection (2) of said section 10A of said chapter 152, as so appearing, is hereby amended by adding the following paragraph:-

Whenever the subject of the conference is a claim or complaint for which written offers have been filed pursuant to section ten, the order or arbitrator's award modifying, terminating, or denying modification or termination of weekly compensation benefits shall reflect the amount so filed by one or other of the parties, or by a conciliator on behalf of a party, and shall not require any payment, modification or termination which has not been proposed by either party unless the judge or arbitrator provides a detailed written explanation of why neither submitted amount could reasonably be believed to accurately compensate the employee for his or her earning capacity. Whenever, with respect to a case in which liability is not an issue, a claim for additional compensation or a complaint to discontinue or modify compensation is among the issues before the administrative judge or arbitrator, if written amounts have not been filed at conciliation as

hereinbefore provided, or are unavailable on the date of the conference or arbitration for any other reason or if the judge or arbitrator determines that a party that has previously filed an amount with a conciliator in good faith has subsequently acquired new information regarding earning capacity not available at the time of conciliation, the administrative judge or arbitrator shall require or, in case of newly discovered information, allow such filings at the close of the conference or arbitration, and the order or award shall reflect one of the offers so filed and not substitute any other amount unless the judge or arbitrator provides a detailed written explanation of why neither submitted amount could reasonably be believed to accurately compensate the employee for his or her earning capacity.

Nothing in this section shall restrict the authority of an administrative judge to order weekly benefits or health care services for a closed period into the future or to order that such benefits or services be initiated, modified, or terminated at a particular date in the future.

**SECTION 29.** Said chapter 152 is hereby further amended by inserting after section 10A the following two sections:-

Section 10B. (1) At any time prior to five days before a conference held pursuant to section ten A, the parties to a claim or complaint may agree to refer the matter to an independent arbitrator; provided, however, that such arbitrator shall not have appeared before an administrative judge or the reviewing board as an advocate on behalf of any party for at least one year. Parties who wish to refer a matter to arbitration shall sign a written agreement to arbitrate which shall be enforceable in accordance with the provisions of section one of chapter two hundred and fifty-one. The agreement shall require that the arbitrator determine all questions regarding this chapter, and, except as provided in subsection four, it shall provide that the parties will abide by the findings and award of the arbitrator which shall be final and binding upon them. The agreement shall also identify all costs and fees which may be payable in the arbitration and shall state which party shall be responsible for the payments.

(2) Upon receipt of a written agreement to arbitrate signed by the parties, the department shall mark the case as forwarded to arbitration, and all further proceedings on the case before the division of dispute resolution shall be stayed. No further claim or complaint may be filed with the department with respect to the same injury or condition that is the subject of the arbitration until the department is in receipt of the arbitrator's award or a written withdrawal from arbitration signed by both parties.

(3) An agreement to arbitrate entered into by the parties may also provide that any subsequent claim or complaint filed by either party with respect to the same injury or condition that is the subject of the initial arbitration must likewise be referred for findings by the same arbitrator or another arbitrator agreed to by the parties. Whenever a subsequent claim or complaint is filed with the department

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after the parties have entered into an agreement for arbitration of successive claims and complaints in accordance with this paragraph, the department shall mark the case as forwarded to arbitration and paragraph two shall apply.

(4) Any arbitration authorized pursuant to this section shall be conducted in accordance with the provisions of chapter two hundred and fifty-one. The arbitrator shall have all of the powers and duties provided in said chapter two hundred and fifty-one, and the arbitrator's award may be reviewed, modified or set aside only as provided in that chapter. The arbitrator's award shall include his findings as to compensation, an order requiring or denying payment of compensation, modifying or terminating compensation, or denying modification or termination of compensation. The arbitrator's award may be enforced pursuant to section twelve of this chapter. The arbitrator shall provide the department with a copy of the arbitration award upon its issuance. Any party seeking to vacate or modify an arbitration award shall do so pursuant to the provisions of sections twelve and thirteen, respectively, of chapter two hundred fifty-one.

(5) At any stage of the proceedings before the department the parties to a claim or complaint may agree to mediate the matter before an independent mediator selected by the parties. Agreement by the parties to mediation shall not result in the postponement or stay of any proceedings before the department, nor shall any party be considered to have waived its right to proceed with its case before the department by virtue of its agreement to mediate. The work product and case files of the mediator shall be confidential and subject to the evidentiary privilege set forth in section twenty-three C of chapter two hundred and thirty-three. The costs and fees of mediation shall be subject to the agreement of the parties and the mediator.

Section 10C. (1) Any employer, and the recognized or certified and exclusive representative of its employees may agree by collective bargaining to establish certain binding obligations and procedures relating to workers' compensation; provided, however, that the scope of the agreement shall be limited to:

(a) benefits supplemental to those provided in sections thirty-four, thirty-four A, thirty-five and thirty-six;

(b) an alternative dispute resolution system which may include but is not limited to arbitration, mediation and conciliation;

(c) the use of a limited list of providers for medical treatment;

(d) the use of a limited list of impartial physicians;

(e) the creation of a light duty, modified job or return to work program;

(f) the adoption of twenty-four hour health care coverage plan;

(g) the establishment of safety committees and safety procedures; and

(h) the establishment of vocational rehabilitation or retraining programs.

**SECTION 30.** Said chapter 152 is hereby further amended by striking out section 11A, as appearing in the 1990 Official Edition, and inserting in place thereof

the following section:-

Section 11A. (1) With the assistance of the medical consultant to the commissioner and the administrative judges, the senior judge shall periodically review and update a roster of impartial medical examiners who are certified specialists in various medical fields and who are willing to make prompt reports and be deposed as hereinafter provided. The department shall establish criteria for being named to and remaining on said roster.

(2) When any claim or complaint involving a dispute over medical issues is the subject of an appeal of a conference order pursuant to section ten A, the parties shall agree upon an impartial medical examiner from the roster to examine the employee and submit such choice to the administrative judge assigned to the case within ten calendar days of filing the appeal, or said administrative judge shall appoint such examiner from the roster. The insurer or any claimant represented by counsel who files such appeal shall also submit a fee equal to the average weekly wage in the commonwealth at the time of the appeal to defray the cost of the medical examination under this section within ten days of filing said appeal; provided, however, that where more than one party appeals, the fee shall be divided equally among all appealing parties; provided, further, that such amount paid by a claimant shall be refunded by the insurer to any claimant who prevails at the hearing.

The impartial medical examiner, so agreed upon or appointed, shall examine the employee and make a report at least one week prior to the beginning of the hearing, which shall be sent to each party. No hearing shall be commenced sooner than one week after such report has been received by the parties. The report of the impartial medical examiner shall, where feasible, contain a determination of the following: (i) whether or not a disability exists, (ii) whether or not any such disability is total or partial and permanent or temporary in nature, and (iii) whether or not within a reasonable degree of medical certainty any such disability has as its major or predominant contributing cause a personal injury arising out of and in the course of the employee's employment. Such report shall also indicate the examiner's opinion as to whether or not a medical end result has been reached and what permanent impairments or losses of function have been discovered, if any. Such impartial physician's report shall constitute prima facie evidence of the matters contained therein.

Failure of an employee to report to an impartial medical examiner agreed upon or appointed under this section or under section eight, after due notice and without cause, and failure to submit to such examiner all relevant medical records, medical reports, medical histories, and any other relevant information requested without good reason, shall constitute sufficient cause for suspension of benefits pursuant to section forty-five. The report of the impartial medical examiner shall be admitted into evidence at the hearing. Either party shall have the right to engage the impartial

medical examiner to be deposed for purposes of cross examination. Notwithstanding any general or special law to the contrary, no additional medical reports or depositions of any physicians shall be allowed by right to any party; provided, however, that the administrative judge may, on his own initiative or upon a motion by a party, authorize the submission of additional medical testimony when such judge finds that said testimony is required due to the complexity of the medical issues involved or the inadequacy of the report submitted by the impartial medical examiner. The fact that the impartial examiner has not treated the employee shall not constitute sufficient reason for finding any report of an impartial medical examiner inadequate.

(3) The fee for the provision of a medical report by any impartial medical examiner engaged under this section shall be a reasonable amount approved by the commissioner, and shall be paid by the department to the physician promptly upon receipt of the report. The fee for the provision of a deposition by any impartial medical examiner engaged under this section shall be a reasonable amount approved by the commissioner, and shall be paid by the deposing party directly to the physician promptly upon receipt of the report; provided, however, that if the decision of the administrative judge is in favor of the employee, the cost of such deposition shall be added to the amount awarded to the employee and be paid by the insurer under the provisions of this chapter. In reviewing and updating said roster, the senior judge shall utilize the criteria developed by the health care services board pursuant to section thirteen.

**SECTION 31.** Section 11C of said chapter 152, as so appearing, is hereby amended by striking out the fifth to eighth sentences and inserting in place thereof the following three sentences:- The reviewing board shall reverse the decision of an administrative judge only if it determines that such administrative judge's decision is beyond the scope of his authority, arbitrary or capricious, or contrary to law. The reviewing board may, when appropriate, recommit a case before it to an administrative judge for further findings of fact. Where the reviewing board affirms the decision of an administrative judge, it may do so in summary fashion and without discussion of the issues raised on appeal.

**SECTION 32.** Said chapter 152 is hereby further amended by inserting after section 11C the following section:-

Section 11D. (1) Any employee entitled to receive weekly compensation under this chapter shall have an affirmative duty to report to the insurer all earnings, including wages or salary earned from self-employment. Insurers shall notify employees of said duty on a form approved by the department. Such form shall indicate that failure to report any earnings may subject the employee to civil or criminal penalties, and shall further indicate that failure to file an earnings report on a form approved by the department within thirty days of an insurer's request for such filing may result in the insurer's suspension of the employee's weekly

benefits; provided, however, that no employee shall be required to file an earnings report more often than once every six months.

(2) An insurer in receipt of an earnings report indicating that overpayments have been made shall be entitled to recover such overpayments by unilateral reduction of weekly benefits, by no more than thirty percent per week, of any remaining compensation owed the employee; provided, however, that the reported earnings are of a kind that could have been considered in the computation of the employee's compensation rate. Where overpayments have been made that cannot be recovered in this manner, recoupment may be ordered pursuant to the filing of a complaint under section ten or by bringing an action against the employee in superior court.

(3) An insurer that has paid compensation pursuant to a conference order, shall, upon receipt of a decision of an administrative judge or a court of the commonwealth which indicates that overpayments have been made be entitled to recover such overpayments by unilateral reduction of weekly benefits, by no more than thirty percent per week, of any remaining compensation owed the employee. Where overpayments have been made that cannot be recovered in this manner, recoupment may be ordered pursuant to the filing of a complaint pursuant to section ten or by bringing an action against the employee in superior court.

(4) Where an order of recoupment against an employee has not been fulfilled, and weekly benefits are owed to an employee under this chapter by an insurer other than that to which recoupment has been ordered, such insurer shall reduce by thirty percent said weekly benefits payable to the employee, and shall pay such thirty percent excess directly to the insurer to whom recoupment has been ordered, until full recovery has been made.

**SECTION 32A.** Section 12 of said chapter 152 is hereby amended by adding at the end of subsection (2), the following:- and provided further that clause (e) of paragraph seven of section fourteen of chapter thirty A shall not apply to such appeals.

**SECTION 33.** Subsection (1) of section 13 of said chapter 152, as appearing in the 1990 Official Edition, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:-

The rate of payment by insurers for health care services adjudged compensable under this chapter shall be established by the rate setting commission under the provisions of chapter six A; provided, however, that a different rate for services may be agreed upon by the insurer, the employer and the health care service provider.

Except as provided above, no insurer shall be liable for hospitalization expenses adjudged compensable under this chapter at a rate in excess of the rate set by the rate setting commission, or for other health services in excess of the rate established for that service by the rate setting commission regardless of the setting in which the service is administered. Requests for reimbursement for health

services under this chapter must be signed by the person performing such service and must be accompanied by a detailed description of the service rendered as well as the name and licensure number of the person performing such service. All health services provided under this chapter shall be subject to the provisions of section three of chapter one hundred and seventy-five H and 42 CFR 1001.951-1001.953, the so-called "safe harbor regulations" as adopted by the federal government on July twenty-nine, nineteen hundred and ninety-one. No employee shall be liable for health care services adjudged compensable under this chapter.

**SECTION 34.** Subsection (3) of said section 13 of said chapter 152, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following eight sentences:- The health care services board shall receive and investigate complaints from employees, employers and insurers regarding health care providers who provide services under this chapter who are alleged to have engaged in patterns of (i) discrimination against compensation claimants, (ii) overutilization of procedures, (iii) unnecessary surgery or other procedures, or (iv) other inappropriate treatment of compensation recipients. Where such board finds a pattern of abuse, it shall refer its findings to the appropriate board of registration. No member of the health care services board shall be liable for damages resulting from any investigation under this paragraph in any action brought by any party against such board or any individual member thereof, provided that the performance of the duties of such member were undertaken in good faith. The health care services board shall develop itself or the commissioner may contract with one or more organizations with demonstrated expertise in the treatment of work-related injuries and illnesses to develop written guidelines for appropriate and necessary treatment based on diagnosis of injuries and illnesses. Said guidelines shall include appropriate mechanisms for deviation of treatment. The board shall no later than July first, nineteen hundred and ninety-two, distribute said guidelines in draft form for public comment and no later than January first, nineteen hundred and ninety-three, endorse the first version of said guidelines for use by health care providers in the treatment of injuries and illnesses under this chapter. The board shall at least annually review and where appropriate revise said guidelines. The cost of any contract for development, review, revision or dissemination of said guidelines shall be paid out of the Workers' Compensation Special Fund pursuant to section sixty-five.

The health care services board shall develop criteria in order to select and maintain a roster of qualified impartial physicians to provide objective medical opinions pursuant to sections eight and eleven A of this chapter. Said criteria shall further be used, when necessary, to remove any impartial physicians from the roster when a medical provider fails to comply with the criteria. Upon the establishment of criteria, the health care services board shall refer said criteria to the senior administrative judge who shall develop a roster of impartial physicians.



The commissioner shall have the authority to hire the personnel necessary to carry out the duties of the board pursuant to this section.

**SECTION 35.** Said chapter 152 is hereby further amended by striking out section 13A, as so appearing, and inserting in place thereof the following section:-

Section 13A. (1) Whenever an insurer contests an initial liability claim for benefits submitted on a form prescribed by the department, by failing to commence the compensation requested within twenty-one days of receipt of such claim, and then, at any time prior to a conference held under section ten A, the insurer agrees to pay, with or without prejudice, the compensation claimed to be due, said insurer shall pay an attorney's fee to the employee's counsel in the amount of seven hundred dollars, plus necessary expenses; provided, however, that only one such fee shall be paid with respect to any such written claim under this paragraph. An insurer shall reduce such a fee to three hundred fifty dollars when pursuant to a conciliator's finding said attorney failed to appear at a scheduled conciliation and such failure was not beyond the control of said attorney. Only one fee under this paragraph shall be paid with respect to any written claim. A conciliator shall have the authority to extend the twenty-one day period within which no attorney's fee is due to no more than thirty-five days, if in the opinion of the conciliator such extension increases the likelihood of the payment of the claim prior to referral to the industrial accident board. Such extensions shall be granted after consultation with the parties and a written indication shall be appended to the case file.

(2) Whenever an insurer contests an initial liability claim for benefits as provided by subsection (1), and then is ordered to pay such benefits by an administrative judge pursuant to a conference held under section ten A, said insurer shall pay an attorney's fee to the employee's counsel in the amount of one thousand dollars, plus necessary expenses; provided, however, that an administrative judge may increase or decrease such fee based on the complexity of the dispute or the effort expended by the attorney; provided, further, that only one such fee under this paragraph shall be paid with respect to any such written claim. An insurer shall reduce such a fee to five hundred dollars when, pursuant to a conciliator's finding said attorney failed to appear at a scheduled conciliation and such failure was not beyond the control of said attorney.

(3) Whenever an insurer contests a claim for benefits on a form prescribed by the department other than an initial liability claim as provided by subsection (1), by failing to commence the compensation requested within twenty-one days of receipt of such claim and then, at any time prior to a conference pursuant to section ten A the insurer agrees to pay the compensation claimed to be due, said insurer shall pay an attorney's fee to the employee's counsel in the amount of five hundred dollars, plus necessary expenses; provided, however, that only one such fee shall be paid with respect to any such written claim under this paragraph. An insurer shall reduce such a fee to two hundred fifty dollars when, pursuant to a conciliator's

finding, said attorney failed to appear at a scheduled conciliation and such failure was not beyond the control of said attorney. For purposes of this subsection, the filing of a subsequent written request on a prescribed form shall be deemed an additional written claim for benefits. A conciliator shall have the authority to extend the twenty-one day period within which no attorney's fee is due to no more than thirty-five days, if, in the opinion of the conciliator, such extension increases the likelihood of the payment of the claim prior to referral to the industrial accident board. Such extensions shall be granted after consultation with the parties and a written indication shall be appended to the case file.

(4) Whenever an insurer files a complaint to reduce or discontinue an employee's benefits or whenever an insurer contests a claim for benefits on a form prescribed by the department other than an initial liability claim as provided by subsection (1), by failing to commence the compensation requested within twenty-one days of receipt of such claim, if the order of the administrative judge pursuant to a conference held under section ten A, reflects the written offer submitted by the claimant or by a conciliator on the claimant's behalf, pursuant to section ten or section ten A, said insurer shall pay an attorney's fee to the employee's counsel in the amount of seven hundred dollars, plus necessary expenses. If the order of the administrative judge, reflects the written offer submitted by the insurer or by a conciliator on the insurer's behalf, pursuant to section ten or section ten A, no attorney's fee shall be payable to the employees' counsel. If the order reflects an amount different from both submissions, the fee shall be in the amount of three hundred fifty dollars, plus necessary expenses. Any fee payable under this paragraph shall be reduced by half when the attorney failed to appear at a scheduled conciliation, and such failure was not beyond the control of said attorney. Only one such fee shall be paid with respect to any particular written claim under this paragraph.

(5) Whenever an insurer files a complaint or contests a claim for benefits and then either (i) accepts the employee's claim or withdraws its own complaint within five days of the date set for a hearing pursuant to section eleven; or (ii) the employee prevails at such hearing the insurer shall pay a fee to the employee's attorney in an amount equal to three thousand five hundred dollars plus necessary expenses. An administrative judge may increase or decrease such fee based on the complexity of the dispute or the effort expended by the attorney.

(6) Whenever an insurer appeals a decision of an administrative judge and the employee prevails in the decision of the reviewing board, the insurer shall pay a fee to the employee's attorney in the amount of one thousand dollars, plus necessary expenses. An administrative judge may increase or decrease such fee based on the complexity of the dispute or the effort expended by the attorney.

(7) Whenever an employee appeals a decision of an administrative judge and the employee prevails in the decision of the reviewing board, the employee shall

pay an attorney's fee sufficient to defray the reasonable costs of counsel retained by said employee. Subject to the approval of the reviewing board, such fee shall be an amount agreed to by the employee and his attorney.

(8) Whenever an insurer and an employee agree to a settlement under section forty-eight, the attorney's fee shall be paid from the settlement in accordance with the following provisions:

(a) when the insurer and the employee reach such settlement prior to insurer acceptance of liability or prior to a decision of an administrative judge, the reviewing board, or the appeals court of the commonwealth finding insurer liability, such fee shall be no more than fifteen percent of the amount of such settlement;

(b) when the insurer and the employee reach such settlement subsequent to insurer acceptance of liability or subsequent to a decision of an administrative judge, the reviewing board, or the appeals court of the commonwealth finding insurer liability which is in effect at the time such agreement is entered into, such fee shall be no more than twenty percent of amount of such settlement.

(9) In any hearing or review requested by an insurer aggrieved by an order or decision with respect to an injury occurring prior to November first, nineteen hundred and eighty-six or in a proceeding brought by an insurer or self-insurer as to the continuance of compensation being paid under this chapter for an injury occurring prior to November first, nineteen hundred and eighty-six, there shall be awarded an amount sufficient to compensate the employee for the reasonable costs of such hearing review or proceeding including reasonable counsel fees and expenses, provided that the employee prevails at such hearing review or proceeding. Such amounts shall be paid by the insurer. Any other attorneys' fees for services provided claimants for injuries prior to November first, nineteen hundred and eighty-six, shall be of an amount agreed upon between the employee and the attorney.

(10) The attorneys' fees specified in this section shall be the only fees payable for any services provided to employees under this chapter unless otherwise provided by an arbitration agreement pursuant to section ten B. In any instance in which an attorney's fee under subsection (1) to (6), inclusive, is due as a result of a cash award being made to the employee either voluntarily, or pursuant to an order or decision, the insurer may reduce the amount payable to the employee within the first month from the date of the voluntary payment order or decision, by the amount owed the claimant's attorney; provided, however, that the amount paid to the employee shall not be reduced to a sum less than seventy-eight percent of what the employee would have received within that month if no attorney's fee were payable. The dollar amounts specified in said subsections (1) to (6), inclusive, of this section shall be changed October first of each year by the percentage change in adjusted benefits from the preceding year as calculated and limited in paragraph

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(a) of section thirty-four B. The department shall provide by rule the necessary expenses that are reimbursable under this section. No fees shall be payable under subsection (1), (2), (3) or (4) unless the claim subject to the dispute was filed according to the provisions of section ten.

(11) In any proceeding at which a penalty pursuant to section seven or section eight is awarded an employee by an administrative judge, the attorney's fee payable for such proceeding shall not be included in any formula utilized to establish premium rates for workers' compensation.

**SECTION 36.** Section 14 of said chapter 152, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) Except as provided in subsection three, if any administrative judge or administrative law judge determines that any proceedings have been brought, prosecuted, or defended by an insurer without reasonable grounds:

(a) the whole cost of the proceedings shall be assessed upon the insurer; and

(b) if a subsequent order requires that additional compensation be paid, a penalty of double back benefits of such amount shall be paid by the insurer to the employee, and such penalty shall not be included in any formula utilized to establish premium rates for workers' compensation insurance.

If any administrative judge or administrative law judge determines that any proceedings have been brought or defended by an employee or counsel without reasonable grounds, the whole cost of the proceedings shall be assessed against the employee or counsel, whomever is responsible.

**SECTION 37.** Said section 14 of said chapter 152, as so appearing, is hereby further amended by striking out subsection (2) and inserting in place thereof the following subsection:-

(2) If it is determined that in any proceeding within the division of dispute resolution, a party, including an attorney or expert medical witness acting on behalf of an employee or insurer, concealed or knowingly failed to disclose that which is required by law to be revealed, knowingly used perjured testimony or false evidence, knowingly made a false statement of fact or law, participated in the creation or presentation of evidence which he knows to be false, or otherwise engaged in conduct that such party knew to be illegal or fraudulent, the party's conduct shall be reported to the general counsel of the insurance fraud bureau. Notwithstanding any action the insurance fraud bureau may take, the party shall be assessed, in addition to the whole costs of such proceedings and attorneys' fees, a penalty payable to the aggrieved insurer or employee, in an amount not less than the average weekly wage in the commonwealth multiplied by six. A copy of any order or decision requiring the payment of penalties by an attorney under this section shall be referred to the board of bar overseers. Any expert medical witness who knowingly makes false statements in any medical report or deposition or who

provides testimony of any kind in a proceeding under this chapter on behalf of a party he knows to be engaging in a fraudulent claim or defense, shall be subject to the same penalties applicable to attorneys herein. A copy of any order or decision requiring the payment of penalties by a physician under this section shall be reported to the appropriate board of registration. Any action provided in this subsection shall be brought by an employee or insurer in the department, or by an employee, employer or insurer in the superior court department of the trial court for the county in which the injury occurred or in the county of Suffolk; provided, however, that if presented to the superior court for the county of Suffolk, the court may, on motion of any party in interest, order the case removed to the superior court for the county in which the injury occurred.

**SECTION 38.** Said section 14 of said chapter 152, as so appearing, is hereby further amended by adding the following subsection:-

(3) Notwithstanding any provision of section one hundred and eleven A of chapter two hundred and sixty-six to the contrary, any person who knowingly makes any false or misleading statement, representation or submission or knowingly assists, abets, solicits or conspires in the making of any false or misleading statement, representation or submission, or knowingly conceals or fails to disclose knowledge of the occurrence of any event affecting the payment, coverage or other benefit for the purpose of obtaining or denying any payment, coverage, or other benefit under this chapter; and any person or employer who knowingly misclassifies employees or engages in deceptive employee leasing practices for the purpose of avoiding full payment of insurance premiums; and any law firm, healthcare establishment or agent thereof that employs or contracts persons or firms to personally coerce or encourage individuals to file compensation claims, shall be punished by imprisonment in the state prison for not more than five years or by imprisonment in jail for not less than six months nor more than two and one-half years or by a fine of not less than one thousand nor more than ten thousand dollars, or by both such fine and imprisonment.

The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant's crime. A person found guilty of violating this section shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution for any financial loss sustained to an aggrieved person as a result of the commission of the crime. Such restitution shall be ordered in accordance with the provisions contained in section one hundred and eleven B of chapter two hundred and sixty-six and shall be reduced by any amount previously recovered under subsection (2).

**SECTION 38A.** Chapter 152 of the General Laws, as so appearing, is hereby amended by inserting after section 14, the following section:-

Section 14A. (1) As used in this section, the following words shall have the

following meanings:-

(a) "Client company", a person, association, partnership, corporation or other entity that utilizes workers provided by an employee leasing company pursuant to a contract.

(b) "Commissioner", the commissioner of insurance.

(c) "Employee leasing company", a sole proprietorship, partnership, corporation or other form of business entity whose business consists largely of leasing employees to one or more client companies under contractual arrangements that retain for such employee leasing companies a substantial portion of personnel management functions, such as payroll, direction and control of workers, and the right to hire and fire workers provided by the employee leasing company; provided, however, that the leasing arrangement is long term and not an arrangement to provide the client company temporary help services during seasonal or unusual conditions.

(2) The commissioner may establish by regulation the circumstances and conditions, if any, under which any employee leasing company may be the policyholder of a workers' compensation insurance policy providing coverage to employees leased to client companies, and the manner and method of determining the appropriate premiums of client companies and employee leasing companies.

(3) An employee leasing company that does not meet the requirements of this section shall be subject to the provisions of section twenty-five C and where applicable, section fourteen.

**SECTION 39.** Chapter 152 of the General Laws, as so appearing, is hereby amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. Where the injury for which compensation is payable was caused under circumstances creating a legal liability in some person other than the insured to pay damages in respect thereof, the employee shall be entitled, without election, to the compensation and other benefits provided under this chapter. Either the employee or insurer may proceed to enforce the liability of such person, but the insurer may not do so unless compensation has been paid in accordance with sections seven, eight, ten A, eleven C, twelve or nineteen nor until seven months following the date of such injury. The sum recovered shall be for the benefit of the insurer, unless such sum is greater than that paid by it to the employee, in which event the excess shall be retained by or paid to the employee. For the purposes of this section, "excess" shall mean the amount by which the gross sum received in payment for the injury exceeds the compensation paid under this chapter. The party which brings the actions or which pays the costs associated with the action, if the party bringing the action does not pay those costs, shall be entitled to retain those costs recovered in the action. Any interest received in such action shall be apportioned between the insurer and the employee in proportion to the amounts

received by them respectively, exclusive of interest and costs. The expenses of attorney's fees shall be divided between the insurer and the employee in proportion to the amounts received by them respectively, under this section. Except in the case of settlement by agreement by the parties to, and during a trial of, such an action at law, no settlement by agreement shall be made with such other person without the approval of either the board, the reviewing board, or the court in which the action has been commenced after a hearing in which both the employee and the insurer have had an opportunity to be heard. At such hearing the court shall inquire and make a finding as to the taking of evidence on the merits of the settlement, on the fair allocation of amounts payable to the employee and the employee's spouse, children, parents and any other member of the employee's family or next of kin who may have claims arising from the injury for which are payable, under this chapter in which the action has been commenced after an opportunity has been afforded both the insurer and the employee to be heard on the merits of the settlement and on the amount, if any, to which the insurer is entitled out of such settlement by way of reimbursement, and on the amount of excess that shall be subject to offset against any future payment of benefits under this chapter by the insurer, which amount shall be determined at the time of such approval. In determining the amount of "excess" that shall be subject to offset against any future compensation payment the board, the reviewing board, or the court in which the action has been commenced shall consider the fair allocation of amounts payable to and amongst family members who may have claims arising from the injury for which said compensation is payable. In the case of a settlement by agreement by the parties to and during a trial of such an action at law, only the justice presiding at the trial shall have and exercise, relative to the approval of such settlement by agreement and to the protection of the rights and interests of the employee, his family members, and the insurer, the powers granted in the preceding sentence. Nothing in this section, or in section eighteen or twenty-four shall be construed to bar an action at law for damages for personal injuries or wrongful death by an employee against any person other than the insured person employing such employee and liable for payment of the compensation provided by this chapter for the employee's personal injury or wrongful death and said insured person's employees. For purposes of this section, the Workers' Compensation Trust Fund, as established under subsection (2) of section sixty-five, shall be deemed an insurer.

**SECTION 40.** Section 26 of said chapter 152, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

If an employee is injured by reason of such physical activities of fellow employees and the department finds that such activities are traceable solely and directly to a physical or mental condition resulting from the service of any of such

fellow employees in the armed forces of the United States, the entire amount of compensation that may be found due shall be paid by the insurer, self-insurer or self-insurance group; provided, however, that upon an order or pursuant to an approved agreement of the department, the insurer, self-insurer or self-insurance group shall be reimbursed by the state treasurer from the trust fund established by section sixty-five for all amounts of compensation paid under this section.

**SECTION 41.** Subsection (1) of section 19 of said chapter 152, as so appearing, is hereby amended by striking out the last sentence.

**SECTION 42.** Subsection (2) of said section 19 of said chapter 152, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following four sentences:- The parties shall be deemed to have agreed to all of the findings contained in a written decision of an arbitrator on a case forwarded to arbitration pursuant to the provisions of section ten. The department shall approve any agreement received on a prescribed form unless such agreement is deemed to be in violation of law. Any agreement not approved shall be returned to the party submitting it. Except as provided by section ten B, a party to any agreement under this chapter may file a complaint with the superior court to vacate or modify such agreement on grounds of law or equity.

**SECTION 43.** Said chapter 152, as so appearing, is hereby further amended by striking section 24, as so appearing, and inserting in place thereof, the following section:-

Section 24. An employee shall be held to have waived his right of action at common law or under the law of any other jurisdiction in respect to an injury that is compensable under this chapter, to recover damages for personal injuries, if he shall not have given his employer, at the time of his contract of hire, written notice that he claimed such right, or, if the contract of hire was made before the employer became an insured person or self-insurer, if the employee shall not have given the said notice within thirty days of the time said employer became an insured person or self-insurer. An employee who has given notice to his employer that he claimed his right of action as aforesaid may waive such claim by a written notice, which shall take effect five days after it is delivered to the employer or his agent. The notices required by this section shall be given in such manner as the department may approve. If an employee has not given notice to his employer that he preserves his right of action at common law as provided by this section, the employee's spouse, children, parents and any other member of the employee's family or next of kin who is wholly or partly dependent upon the earnings of such employee at the time of injury or death, shall also be held to have waived any right created by statute, at common law, or under the law of any other jurisdiction against such employer, including, but not limited to claims for damages due to emotional distress, loss of consortium, parental guidance, companionship or the like, when such loss is a result of any injury to the employee that is compensable under this chapter.



**SECTION 44.** Section 25A of said chapter 152, as so appearing, is hereby amended by adding the following paragraph:-

(4)(a) The commissioner of insurance shall require each insurer issuing a policy under this chapter to offer, as a part of the policy or as an optional endorsement to the policy, deductibles, including reasonable small deductibles optional to the policyholder for benefits payable under this chapter. Deductible amounts offered shall be fully disclosed to the prospective policyholders in writing in amounts determined by the commissioner. The policyholder exercising the deductible option shall choose only one deductible amount.

(b) If the policyholder exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for benefits paid for each compensable claim of work injury suffered by an employee. The insurer shall pay all or part of the deductible amount, whichever is applicable, to a compensable claim, to the person or medical provider entitled to the benefits conferred by this chapter and then seek reimbursement from the insured employer for the applicable deductible amount. The payment or nonpayment of deductible amounts by the insured employer to the insurer shall be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums.

(c) Optional deductibles shall be offered in each policy insuring liability for workers' compensation that is issued, delivered, issued for delivery, or renewed under this chapter on or after a date to be determined by the commissioner, unless an insured employer and insurer agree to renegotiate a workers' compensation policy in effect, so as to include a provision allowing for a deductible.

(d) Premium reductions for deductibles shall be determined by the commissioner of insurance.

(e) This subsection shall not apply to employers who are approved to self-insure against liability for workers' compensation or group self-insurance funds for workers' compensation established pursuant to the provisions of this chapter.

(f) The commissioner of insurance may promulgate regulations to enforce the provisions of this section.

**SECTION 45.** Subsection (1) of section 25C of said chapter 152, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "ten days after the date of" and inserting in place thereof the words:- immediately upon.

**SECTION 45A.** Said section 25C of said chapter 152, as so appearing, is hereby further amended by adding at the end thereof the following subsection:-

(9)(a) Any person or firm that loses a competitive bid for a contract including but not limited to construction, repair, remodeling, alteration, conversion, modernization, replacement or renovation of a building, roadway or structure may bring an action for damages against another person who is awarded the contract for

which the bid was made, if the other person was awarded the contract because of cost advantages achieved by violating the provisions of section twenty-five A or section twenty-five C of this chapter or by the deliberate misclassification of employees for the purpose of avoiding full payment of workers' compensation insurance premiums.

(b) A person or firm bringing an action under this section must establish a violation of said subsection or chapters by a preponderance of the evidence. Upon establishing that the violation occurred, the person bringing the action shall recover, as liquidated damages, ten percent of the total amount bid on the contract, or fifteen thousand dollars, whichever is lesser.

(c) An action under this subsection shall be commenced within one year from the date when the contract is awarded.

(d) No plaintiff shall be allowed to recover any amounts under this subsection if said plaintiff was in violation of sections twenty-five A or twenty-five C at the time of making the bid on the contract.

(e) In any action under this section, the prevailing party shall be entitled to an award of reasonable attorneys fees.

**SECTION 45B.** Said section 25C of said chapter 152 of the General Laws is hereby amended by adding at the end thereof the following subsection:-

(10) In addition to being subject to the civil penalties herein provided, an employer who fails to provide for insurance or self insurance as required by this chapter or knowingly misclassifies employees, to avoid higher premium rates, will be immediately debarred from bidding or participating in any state or municipal funded contracts for a period of three years and shall when applicable be subject to penalties provided for in section fourteen.

**SECTION 46.** Chapter 152 of the General Laws, as so appearing, is hereby amended by striking section 25D and inserting in place thereof, the following section:-

Section 25D. A self-insurer may engage a service company, third party administrator, or like organization to investigate, adjust or settle claims under this chapter. The insurance commissioner shall promulgate regulations governing the conduct and practices of service companies, third party administrators, or like organizations.

**SECTION 47.** Section 25E of said chapter 152, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The commissioner may promulgate rules and regulations as necessary to carry out the provision of sections twenty-five E to twenty-five U, inclusive.

**SECTION 48.** The definition of "workers' compensation self insurance group" or "group" in the second paragraph of section 25E of said chapter 152, as so appearing, is hereby amended by inserting after the word "association", in line 42, the words:- or a corporation formed under the provisions of chapter one hundred

and eighty.

**SECTION 48A.** Section 25E of chapter 152 of the General Laws, as so appearing is hereby amended by inserting after the word "years" in line 46 the following words:- or who are parties to the same or related collective bargaining agreements.

**SECTION 49.** Paragraph (c) of subsection (2) of section 25G of said chapter 152, as so appearing, is hereby amended by the following paragraph:-

The commissioner may periodically review a group's security deposit or bond and excess and aggregate insurance to determine if the minimum requirements established by the commissioner are being met.

**SECTION 50.** Subsection (2) of section 25J of said chapter 152, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) Designate an administrator to carry out the policies of the board of trustees and to provide day to day management of the group. The board shall enter into a written agreement with the administrator, which shall include, but not be limited to, a description of the duties, responsibilities and compensation for the administrator, subject to the commissioner's approval. The group shall demonstrate to the commissioner's satisfaction that any administrator designated by the board of trustees is of good repute, is in sound financial condition and is experienced in the area of workers' compensation claims administration.

**SECTION 51.** Section 25K of said chapter 152, as so appearing, is hereby amended by adding the following subsection:-

(6) Whenever, as a result of the addition of new members, or a material change in the size of any existing member or its parent or subsidiaries, the total annual premium of the group increases by ten percent or more, the board of trustees shall submit the approved applications of the new members, or new information regarding existing members or their parents or subsidiaries, to the commissioner, along with revised premium and payroll data. The commissioner shall review the information and may require changes in the form and amount of security and excess insurance for the group, and require the group to make other changes as the commissioner deems appropriate to ensure that the group is able to meet its workers' compensation obligations.

**SECTION 51A.** Chapter 152 of the General Laws is hereby amended by inserting after section 27 the following section:-

Section 27A. In any claim for compensation where it is found that at the time of hire the employee knowingly and willfully made a false representation as to his physical condition and the employer relied upon the false representation in hiring such employee, when such employee knew or should have known that it was unlikely he could fulfill the duties of the job without incurring a serious injury, then the employee shall, if an injury related to the condition misrepresented occurs, not be entitled to benefits under this chapter. Retention of an employee who rectifies

any misrepresentation made to his employer regarding his physical condition subsequent to the hire but prior to the injury shall restore any right to compensation under this chapter.

**SECTION 52.** Section 29 of said chapter 152, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- If incapacity extends for a period of twenty-one days or more, compensation shall be paid from the date of onset of incapacity. If incapacity extends for a period of at least five but less than twenty-one days, compensation shall be paid from the sixth day of incapacity. Except as otherwise provided in this chapter, no compensation shall be paid for any period for which any wages were earned.

**SECTION 53.** Said chapter 152 is hereby further amended by striking out section 30, as so appearing, and inserting in place thereof the following section:-

Section 30. The insurer shall furnish to an injured employee adequate and reasonable health care services, and medicines if needed, together with the expenses necessarily incidental to such services, and in the case of an injured employee, a physical examination shall be given at least once a year while the employee is hospitalized. Except for the employee's first scheduled appointment, which, pursuant to the terms of a preferred provider arrangement entered into under this section may be required to be with a health care provider within the plan, the employee may select a treating health care professional other than any provided or agreed to by the insurer and may switch to another such professional once. When referred by the treating health care professional to another provider in a particular specialty, the employee may also change once to a different provider in such specialty. In cases of emergency or where the insurer or administrative judge agrees, the employee may seek treatment from additional providers. Where services are provided to employees under this section, the reasonable and necessary cost of such services shall be paid by the insurer.

On or before July first, nineteen hundred and ninety-three, the commissioner shall promulgate regulations regarding the provision of adequate and reasonable health care services. In doing so, he shall utilize the treatment guidelines developed and endorsed under the provisions of section thirteen. Any provision of health care services in material compliance with such regulations shall be presumed to be adequate and reasonable. Any material departure from said regulations shall be presumed to be either an inadequate or unreasonable provision of health care services.

An employee receiving benefits from the Workers' Compensation Trust Fund may be required to choose a treating physician from a health maintenance organization which has been chosen by the fund. In any instance in which the fund requires such a choice of an employee, the fund shall pay all co-payments, deductibles, or other costs required by the health maintenance organization for

necessary and reasonable medical and hospital services under this chapter.

In any case where an administrative judge, the reviewing board, the office of education and vocational rehabilitation or the health care services board is of the opinion that the fitting of an employee eligible for compensation with an artificial eye or limb, or other mechanical appliance, will promote his restoration to or continue him in industry, it may be ordered that such employee be provided with such item, at the expense of the insurer. The provisions of this section shall be applicable so long as such services are necessary, notwithstanding the fact that maximum compensation under other sections of this chapter may have been received by the injured employee.

Any insurer may enter into a preferred provider arrangement in compliance with the requirements of chapter one hundred and seventy-six I of the General Laws and the regulations thereunder. Notwithstanding any other provision of this chapter, if an insurer enters into a preferred provider arrangement for health care services required under this chapter, those employees who are subject to the arrangement shall receive such care in the manner prescribed by the arrangement; provided, however, that a worker may receive immediate emergency treatment from a health care provider who is not a member of the managed care organization, and the insurer shall pay the reasonable and necessary costs of such treatment. Notwithstanding the provisions of this section, if an employee requests the services of a health care provider licensed or certified under the provisions of chapter one hundred and twelve and such specialty is not represented within the preferred provider organization with whom the employer has contracted, and the employee utilizes the services of such provider, the insurer or preferred provider organization shall pay the reasonable and necessary costs of such service. Said employee shall be allowed to choose any such health care provider.

Any insurer, with the written consent of the insured employer may, except as provided by the terms of a collective bargaining agreement, if any, approved under this chapter enter into a preferred provider arrangement for the employees of such employers in compliance with the requirements of chapter one hundred and seventy-six I and the regulations thereunder. If an insurer enters into a preferred provider arrangement for health care services required under this chapter, those employees who are subject to the arrangement shall receive such care in the manner prescribed by the arrangement consistent with this section.

Notwithstanding the provisions of this section if an employee requests, for his first scheduled appointment, the services of a health care provider licensed or certified under the provisions of chapter one hundred twelve and the specialty of said health care provider is not represented within the preferred provider organization with which the employer has contracted, and the employee utilizes the services of such provider, the insurer or preferred provider organization shall pay the reasonable and necessary costs of such service as provided under this

chapter. In no instance shall employees be required to make copayments or pay deductibles.

**SECTION 54.** The first paragraph of section 30G of said chapter 152, as so appearing, is hereby amended by adding the following three sentences:- An insurer may reduce by fifteen percent the weekly benefits payable to any employee deemed suitable for vocational rehabilitation services by said office when such employee refuses such services, during the period of such refusal. No lump sum settlement shall be reached between an insurer and any employee who has been deemed suitable for vocational rehabilitation services by the office of education and vocational rehabilitation who has not completed an appropriate rehabilitation program pursuant to this section thirty, without the express written consent of said office. Any employee aggrieved by a reduction in weekly benefits or the prohibition of a lump sum settlement under this section may file a claim for reinstatement of such benefits or removal of such prohibition; provided, however, that compensation shall not be reinstated nor the settlement allowed unless the claimant demonstrates that no vocational rehabilitation program of any kind would be appropriate for such claimant.

**SECTION 55.** Section 30H of said chapter 152, as so appearing, is hereby amended by striking out, in line 11, the word "fifty-two" and inserting in place thereof the words:- one hundred and four.

**SECTION 56.** Said section 30H of said chapter 152 of the General Laws is hereby further amended by adding the following paragraph:-

A public employer or public employer self-insurance group which has filed a notice of non-participation according to the provisions of section sixty-five, and which has appealed the determination of the office to the commissioner as specified above shall be bound by the decision of the commissioner and, if required by such decision, shall provide the vocational rehabilitation program developed by the office. Such decision shall be enforceable in the same manner as an order pursuant to section twelve.

**SECTION 58.** Said chapter 152 is hereby further amended by striking section 33, as so appearing, and inserting in place thereof the following section:-

Section 33. In all cases, the insurer shall pay the reasonable expenses of burial, not exceeding four thousand dollars.

**SECTION 59.** Said chapter 152 is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. While the incapacity for work resulting from the injury is total, during each week of incapacity the insurer shall pay the injured employee compensation equal to sixty percent of his or her average weekly wage before the injury, but not more than the maximum weekly compensation rate, unless the average weekly wage of the employee is less than the minimum weekly compensation rate, in which case said weekly compensation shall be equal to his

average weekly wage.

The total number of weeks of compensation due the employee under this section shall not exceed one hundred fifty-six.

**SECTION 60.** Chapter 152 of the General Laws is hereby amended by striking section 34A and inserting in place thereof the following section:-

Section 34A. While the incapacity for work resulting from the injury is both permanent and total, the insurer shall pay to the injured employee, following payment of compensation provided in sections thirty-four and thirty-five, a weekly compensation equal to two-thirds of his average weekly wage before the injury, but not more than the maximum weekly compensation rate nor less than the minimum weekly compensation rate.

**SECTION 61.** Said chapter 152 is hereby further amended by striking out section 34B, as so appearing, and inserting in place thereof the following section:-

Section 34B. October first of each year shall be the review date for the purposes of this section.

Any person receiving or entitled to receive benefits under the provisions of section thirty-one or section thirty-four A whose benefits are based on a date of personal injury at least twenty-four months prior to the review date shall have his weekly benefit adjusted, without application, in accordance with the following provisions; provided, however, that no increase in benefits shall be payable which would reduce any benefits the recipient is receiving pursuant to federal social security law.

(a) The director of administration shall determine the percentage change between the average weekly wage in the commonwealth on the date of the injury and the average weekly wage in the commonwealth on the review date. For purposes of this section, no increase in the average weekly wage in the commonwealth shall exceed the lesser of the following: (i) the percentage change in the most recent annual consumer price index calculated by the Bureau of Labor Statistics of the United States Department of Labor for the northeast region for all urban consumers; (ii) five percent.

(b) The death benefit under section thirty-one or the permanent and total disability benefit under section thirty-four A that was being paid prior to any adjustments under this section shall be the base benefit. The base benefit shall be changed on each review date by the percentage change as calculated in paragraph (a); the resulting amount shall be termed the adjusted benefit and is the amount of benefit to be paid on and after the review date. If the adjusted benefit is larger than the base benefit, the difference shall be termed the supplemental benefit. In no instance shall the adjusted benefit under this section be greater than three times the base benefit.

(c) The supplemental benefits under this section shall be paid by the insurer concurrent with the base benefit. Insurers shall be entitled to quarterly reimburse-

ments for supplemental benefits, pursuant to section sixty-five, for cases involving injuries that occurred on or before October first, nineteen hundred and eighty-six, and for those cases occurring thereafter, to the extent such supplemental benefits are due to the increase of greater than five percent in the average weekly wage in the commonwealth in any single year. No self-insurer, self-insurance group or municipality that has chosen non-participation in the assessment provisions for funding such reimbursements pursuant to section sixty-five shall be entitled to such reimbursements.

**SECTION 63.** Said chapter 152 is hereby further amended by striking out section 35, as so appearing, and inserting in place thereof the following section:-

Section 35. While the incapacity for work resulting from the injury is partial, during each week of incapacity the insurer shall pay the injured employee a weekly compensation equal to sixty percent of the difference between his or her average weekly wage before the injury and the weekly wage he or she is capable of earning after the injury, but not more than seventy-five percent of what such employee would receive if he or she were eligible for total incapacity benefits under section thirty-four. An insurer may reduce the amount paid to an employee under this section to the amount at which the employee's combined weekly earnings and benefits are equal to two times the average weekly wage in the commonwealth at the time of such reduction.

The total number of weeks of compensation due the employee under this section shall not exceed two hundred sixty; provided, however, that this number may be extended to five hundred twenty if an insurer agrees or an administrative judge finds that the employee has, as a result of a personal injury under this chapter, suffered a permanent loss of seventy-five percent or more of any bodily function or sense specified in paragraph (a), (b), (e), (f), (g), or (h) of subsection (1) of section thirty-six, developed a permanently life-threatening physical condition, or contracted a permanently disabling occupational disease which is of a physical nature and cause. Where applicable, losses under this section shall be determined in accordance with standards set forth in the American Medical Association Guides to the Evaluation of Permanent Impairments. Where the insurer agrees or the administrative judge finds such permanent partial disability as is described in this paragraph, the total number of weeks the employee may receive benefits under both this section and section thirty-four shall not exceed five hundred twenty. Where there has been no such agreement or finding the number of weeks the employee may receive benefits under these sections shall not exceed three hundred sixty-four.

**SECTION 65.** Subsection (5) of section 35D of said chapter 152, as appearing in the 1990 Official Edition, is hereby amended by adding the following sentence:- The fact that an employee has enrolled or is participating in a vocational rehabilitation program paid for by the insurer or the department shall not be used



to support the contention that the employee's compensation rate should be decreased in any proceeding under this chapter.

**SECTION 66.** Section 35E of said chapter 152, as so appearing, is hereby amended by striking out the first sentence, and inserting in place thereof the following sentence:- Any employee who is at least sixty-five years of age and has been out of the labor force for a period of at least two years and is eligible for old age benefits pursuant to the federal social security act or eligible for benefits from a public or private pension which is paid in part or entirely by an employer shall not be entitled to benefits under sections thirty-four or thirty-five unless such employee can establish that but for the injury, he or she would have remained active in the labor market. The presumption of non-entitlement to benefits created by this section shall not be overcome by the employee's uncorroborated testimony, or that corroborated only by any of his family members, that but for the injury, such employee would have remained active in the labor market.

**SECTION 67.** Section thirty-five F of said chapter one hundred and fifty-two is hereby repealed.

**SECTION 68.** Subsection (1) of section 36 of said chapter 152, as appearing in the 1990 Official Edition, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

In addition to all other compensation to the employee shall be paid the sums hereafter designated for the following specific injuries; provided, however, that the employee has not died from any cause within thirty days of such injury:.

**SECTION 69.** Said section 36 of said chapter 152, as so appearing, is hereby amended by striking out, in lines 76 and 77, the words "the average weekly wage in the commonwealth at the date of injury multiplied by thirty-two" and inserting in place thereof the following words:- fifteen thousand dollars.

**SECTION 69A.** Paragraph (k) of said Section 36 of said Chapter 152 as so appearing is hereby amended by adding at the end thereof the following sentence:- No amount shall be payable under this section for disfigurement that is purely scar-based, unless such disfigurement is on the face, neck or hands.

**SECTION 70.** The second paragraph of section 36A of said chapter 152, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- In no event shall payments be made under this section to any employee where the death of such employee occurs within forty-five days of the injury.

**SECTION 71.** Said chapter 152 is hereby further amended by striking out section 37, as so appearing, and inserting in place thereof the following section:-

Section 37. Whenever an employee who has a known physical impairment which is due to any previous accident, disease or any congenital condition and is, or is likely to be, a hindrance or obstacle to his employment, and who, in the course of and arising out of his employment, receives a personal injury for which

compensation is required by this chapter and which results in a disability that is substantially greater by reason of the combined effects of such impairment and subsequent personal injury than that disability which would have resulted from the subsequent personal injury alone, the insurer or self-insurer shall pay all compensation provided by this chapter. If said subsequent injury is caused by the preexisting impairment or if said subsequent personal injury of such an employee shall result in the death of the employee, and it shall be determined that the death would not have occurred except for such pre-existing physical impairment, the insurer shall pay all compensation provided by this chapter.

Insurers making payments under this section shall be reimbursed by the state treasurer from the trust fund created by section sixty-five in an amount not to exceed seventy-five percent of all compensation due under sections thirty-one, thirty-two, thirty-three, thirty-four A, thirty-six A, and, where benefits are due under any of such sections, section thirty; provided, however, that the insurer is not a self-insurer, a group self-insurer or municipality that has chosen not to be subject to the assessments which fund said reimbursements; and, provided, further, that no reimbursement shall be made for any amounts paid during the first one hundred and four weeks from the onset of disability or death.

There shall be no reimbursement under this section unless the employer had personal knowledge of the existence of such pre-existing physical impairment within thirty days of the date of employment or retention of the employee by such employer from either a physical examination, employment application questionnaire, or statement from the employee. Proof of the pre-existence of such impairment shall be established only by the production of medical records existing prior to the date of employment or retention in employment of the employee. Nothing in this paragraph shall be construed to allow employers to compel an employee or job applicant to disclose any information regarding physical impairments in violation of any applicable law.

The office of legal counsel shall in all instances have the authority to defend claims against the fund. Such office shall have the right to contest any amount accredited to the above named sections which has been redeemed by an insurer by payment of a lump sum settlement pursuant to section forty-eight, but reimbursement shall not require the approval of the lump sum by said office or by the state treasurer. No reimbursement shall be made for payments due during the first one hundred and four weeks from the date of onset of disability or death, whether paid under an agreement, decision, or lump sum settlement. Any petition for reimbursement under this section shall be filed no later than two years from the date on which the benefit payment for which the reimbursement request is being filed was made.

**SECTION 72.** The first paragraph of section 45 of said chapter 152, as so appearing, is hereby amended by adding the following sentence:- The employee's

right to compensation shall also be suspended during any period the employee refuses the insurer's written request that the employee be evaluated by a vocational rehabilitation specialist within the department. This written request may occur only once every six months.

**SECTION 73.** Section 46 of said chapter 152, as so appearing, is hereby amended by adding the following sentence:- Nothing in this section shall be deemed to prohibit the parties from entering into an agreement to submit to binding arbitration pursuant to the provisions of section ten as an exclusive alternative to proceedings within the division of dispute resolution.

**SECTION 74.** Section 48 of said chapter 152, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) Under the conditions and limitations specified in this chapter, the insurer and employee may, with the written consent of the employer if such employer is an experience modified insured, by an agreement pursuant to section nineteen, redeem any liability for compensation, in whole or in part, by the payment by the insurer of a lump sum amount. Where the employee is not represented by counsel, where the parties seek determination by an administrative judge or administrative law judge of the fair and reasonable amount to be paid out of the lump sum to discharge a lien cognizable under section forty-six A, or where any party requests that such agreement be approved by an administrative judge or administrative law judge prior to the filing of such agreement with the department, a lump sum agreement shall not have been perfected until and unless approved by an administrative judge or administrative law judge as being in the claimant's best interest. In all other cases the agreement shall not have been perfected until reviewed and approved as complete by a conciliator, administrative judge or administrative law judge as appropriate. A conciliator shall be made available in each regional office to review settlements without appointment.

**SECTION 74A.** Subsection (2) of said section 48 of said chapter 152, as so appearing, is hereby amended by adding at the end thereof of the following words:- ; provided, however, that no employee shall be entitled to vocational rehabilitation benefits for any injury, unless such employee shall have requested such benefits within two years of the perfection of any settlement under this section of benefits due for said injury.

**SECTION 75.** Said section 48 of said chapter 152, as so appearing, is hereby amended by striking out subsections (3), to (6), inclusive, and inserting in place thereto the following three subsections:-

(3) No lump sum agreement shall contain as part of a settlement a general or specific release that would serve as a bar to (i) employment with any employer, (ii) the receipt by the employee of any pay or benefits due him by an employer, (iii) the bringing of any future workers' compensation claim or (iv) the bringing of

any claims of wrongful discharge or breach of contract. All such general or specific releases shall be null and void. Any employer, insurer, employer or attorney attempting to obtain such release from an employee shall be punished by a fine of ten thousand dollars. Where the employee has been found suitable for vocational rehabilitation services pursuant to section thirty G, lump sum agreements shall be valid only where the employee returned to continuous employment for a period of six or more months; or completed an approved rehabilitation plan; or received express written consent from the office of education and vocational rehabilitation; or an order or decision from an administrative judge or administrative law judge authorizing such agreement. Any employee who receives an amount in violation of this paragraph shall have the right to re-open his or her claim for compensation. Any employee who accepts a lump sum settlement for benefits claimed under section 34A shall be precluded from any further lump sum settlements for said benefits.

(4) Whenever a lump sum agreement has been perfected in accordance with the terms of this section, such agreement shall affect only the insurer and the employee who are parties to such lump sum agreement and shall not affect any other action or proceeding arising out of a separate and distinct injury under this chapter, whether the injury precedes or arises subsequent to the date of settlement, and whether or not the same insurer is claimed to be liable for such separate and distinct injury.

Notwithstanding any provision of this section or of sections seventy-five A or seventy-five B, the acceptance of any amount in return for the right to claim future weekly benefits shall create a presumption that the employee is physically incapable of returning to work with the employer where the alleged injury occurred. Such presumption shall continue for a period of one month for each fifteen hundred dollar amount included in the settlement for future weekly benefits. No re-employment rights shall inure to such employee under this chapter during any period of presumption of incapacity as herein provided.

(5) Whenever a lump sum agreement or payment has been approved by the reviewing board in accordance with the terms of this section, such agreement shall affect only the insurer and employee who are parties to such lump sum agreement and shall not affect any other action or proceeding arising out of a separate and distinct injury resulting in an incapacity whether the injury precedes or arises subsequent to the date of settlement.

**SECTION 76.** Section 49 of said chapter 152, as so appearing, is hereby amended by striking out, in lines 2 and 7, the word "time" and inserting in each place thereof, in each instance, the word:- date.

**SECTION 77.** Section 50 of said chapter 152, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Whenever payments of any kind are not made within sixty

days of being claimed by an employee, dependent or other party, and an order or decision requires that such payments be made, interest at the rate of ten percent per annum of all sums due from the date of the receipt of the notice of the claim by the department to the date of payment shall be required by such order or decision.

**SECTION 78.** Said chapter 152 is hereby further amended by striking section 51, as so appearing, and inserting in place thereof the following section:-

Section 51. Whenever an employee is injured under circumstances entitling him to compensation, if it be established that the injured employee was of such age and experience when injured that, under natural conditions, in the open labor market, his wage would be expected to increase, that fact may be considered in determining his weekly wage. A determination of an employee's benefits under this section shall not be limited to the circumstances of the employee's particular employer or industry at the time of injury.

**SECTION 80.** Section 52C of said chapter 152, as appearing in the 1990 Official Edition, is hereby amended, by striking out, in lines 96, 97, and 98, the words “, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers”.

**SECTION 81.** Section 53A of said chapter 152, as so appearing, is hereby amended by striking out subsection (2) and inserting in place thereof the following subsection:-

(2) Such classifications of risks and premiums shall be filed at least every two years and on any additional date that the commissioner of insurance may designate. Within sixty days after any filing the commissioner shall conduct a hearing to determine whether the classifications and rates are not excessive, inadequate or unfairly discriminatory for the risks to which they respectively apply and that they fall within a range of reasonableness.

**SECTION 82.** Said section 53A of said chapter 152, as so appearing, is hereby further amended by striking out subsection (4) and inserting in place thereof the following subsection:-

(4) Where a claim against an insured that has affected such insured's experience rating has been found non-compensable, or where an insurer recovers previously paid workers' compensation benefits from a negligent third party, or where an insurer has been reimbursed by the insured or the Workers' Compensation Trust Fund for payments made pursuant to subsection two of section sixty-five, the insurer shall submit a revised statistical unit report to the appropriate rating bureau within sixty days of such finding, recovery or reimbursement. The commissioner shall establish a procedure for reviewing and adjusting the premium of any insured subject to experience rating whose premium is adversely affected by changes in claim valuation by its insurer after those claims are removed from the experience rating calculation. A pattern or practice of making such changes shall be an unfair

or deceptive act or practice under chapter one hundred and seventy-six D.

**SECTION 83.** Said section 53A of said chapter 152, as so appearing, is hereby further amended by adding the following six subsections:-

(12) Notwithstanding the provisions of section fifty-two C, the commissioner of insurance shall not approve any classifications or rates that contain provisions for any dividends, unabsorbed premium deposits, savings, or other payments allowed or returned by insurers to their policyholders, members, subscribers, or stockholders, or that contain provisions for expenses that exceed the expense need of the insurance company filing classifications or rates under this section or that exceed the average expense need of the members and subscribers authorizing the rating organization to file classifications or rates under this section, or that contain provisions for the agent or broker commission allowance that are not demonstrated both to be reasonable and to reflect the actual cost to agents or brokers of the services they provide.

(13) The commissioner shall make a finding on the basis of information submitted in any filing made pursuant to this section that the insurer or insurers employ cost control programs and techniques acceptable to the commissioner which have had or are expected to have a substantial impact on fraudulent claim costs, unnecessary health care costs, and any other unreasonable costs and expenses, as well as on the collection of the appropriate premium charges owed to the insurer or insurers. If the commissioner does not so find, the commissioner may disapprove such filing. The commissioner shall also have authority to make findings, after a hearing on any filing made pursuant to this section, that the proposed rates or classifications are excessive and that the excess is due to the failure of the insurer or insurers to utilize adequate programs to control costs or expenses or to collect the appropriate premium charges. If the commissioner so finds, he shall disapprove such a filing or, in the alternative, shall limit in any manner he determines to be appropriate the amount of any adjustment in premium charges based upon changes in costs, expenses, and premium collections. The commissioner may issue regulations designed to further achievement by insurers of adequate controls on costs and expenses and of adequate collection of the appropriate premium charges owed to the insurers.

(14) Unless otherwise authorized by the commissioner, classifications or rates approved under this section shall remain in effect for a period of not less than twelve months.

(15) Notwithstanding the provisions of section fifty-two C the commissioner of insurance shall, prior to April first, nineteen hundred and ninety-two, and at such later times as the commissioner authorizes, establish after a hearing the amounts of all agent or broker commission fees paid to licensed insurance agents or brokers in connection with workers' compensation insurance policies written through the reinsurance pool. The amounts of the fees must be reasonable and must consider

the actual cost to agents or brokers of the services they provide. When the commissioner sets the commission fees for the reinsurance pool established pursuant to section sixty-five C, the commissioner may also consider incentives to agents and brokers to place such insurance policies through their customary markets when that is practicable. The commissioner shall set commission fees paid on original issue of coverage and on each renewal or reissue thereof.

(16) The commissioner of insurance shall establish loss control standards for insureds that meet criteria designed to identify those insureds that would significantly benefit from the adoption of a program to control workers' compensation costs. Such criteria shall be established by the commissioner and may include the number of persons employed by the insured, the amount of the insured's annual payroll, the amount of the insured's workers' compensation insurance premium, the experience modifier of the insured, the class code of the insured, the injury and illness lost workday rate of the insured, and any other relevant criteria as the commissioner may determine. Said loss control standards may require that an insured, in cooperation with its insurer, establish and maintain a safety committee, prepare and maintain a plan for medical evaluation and treatment, including immediate post-injury offsite care, establish and maintain a written plan for providing reasonable accommodation for injured workers to return to work, and implement other cost control measures acceptable to the commissioner. The commissioner shall have the authority to establish a rating plan to effectuate compliance with the loss control standards established pursuant to this subsection. In establishing any such rating plan, the commissioner may create financial incentives to employees of insureds to encourage said employees to assist in controlling workers' compensation costs.

(17) The commissioner may promulgate rules and regulations as necessary to carry out the provisions of this section.

**SECTION 84.** Said chapter 152 is hereby further amended by inserting after section 55, the following section:-

Section 55A. Notwithstanding any general or special law to the contrary, a mid-term notice of cancellation of a workers' compensation policy shall be effective only if based on one or more of the following reasons: (i) nonpayment of premium; (ii) fraud or material misrepresentation affecting the policy or insured; (iii) a substantial increase in the hazard insured against. Nothing in this section shall limit an insurer's right to refuse to renew a workers' compensation policy.

**SECTION 85.** Section 65 of said chapter 152, as appearing in the 1990 Official Edition, is hereby amended by striking out subsection (2) and inserting in place thereof the following subsection:-

(2) There is hereby established a trust fund in the state treasury, known as the Workers' Compensation Trust Fund, the proceeds of which shall be used to pay or reimburse the following compensation: (a) reimbursement of adjustments to

weekly compensation pursuant to section thirty-four B; (b) reimbursement of adjustments to weekly compensation pursuant to section thirty-five C; (c) reimbursement of certain apportioned benefits pursuant to section thirty-seven; (d) payment of vocational rehabilitation benefits pursuant to section thirty H; (e) payment of benefits resulting from approved claims against employers subject to the personal jurisdiction of the commonwealth who are uninsured in violation of this chapter; provided, however, that (i) the claimant is not entitled to workers' compensation benefits in any other jurisdiction; (ii) no benefits pursuant to section twenty-eight and no interest pursuant to section fifty shall be payable out of the trust fund; (f) reimbursement of benefits pursuant to section twenty-six; and (g) reimbursement of certain apportioned benefits pursuant to section thirty-seven A. No reimbursements from the Workers' Compensation Trust Fund shall be made under clauses (a) to (g), inclusive, to any non-insuring public employer, self-insurer or self-insurance group which has chosen not to participate in the fund as hereinafter provided.

The reasonable and necessary costs of administering and representing the Workers' Compensation Trust Fund may be paid out, without appropriation, of said trust fund. Such costs shall include, but not be limited to: the taking of depositions, the hiring of private investigators, the filing and service of summonses and subpoenas and other associated court costs, the retention of outside legal counsel and medical providers, and the provision of services relating to the management of the fund. Revenues for the special fund and the trust fund established herein shall be raised by an assessment on all employers subject to this chapter.

No private employer with a license to self-insure and no private self-insurance group shall be required to pay assessments levied to pay for disbursements under clauses (a) to (g), inclusive, and neither the commonwealth, nor any city, town, or other political subdivision of the commonwealth or public employer self-insurance group shall be required to pay assessments levied to pay for disbursements under clause (a), (b), (c), (d), (e), (f) or (g) if such employer or group has given up an entitlement to reimbursement under said clauses by filing a notice of non-participation with the department. Such notice shall be made to the commissioner on or before March first of any year in order to be effective as of July first of that year. Notice of non-participation shall be irrevocable and shall be signed by the chief executive officer or board of trustees of the employer or group. Non-participation shall not be allowed any employer or group that has not paid all assessments due at the time of the department's receipt of notice of non-participation. No private employer or group shall be relieved of the requirement to pay assessments levied to fund disbursements under clause (d) or (e).

A public employer which has a policy with a workers' compensation insurer shall have the ability to file a notice of non-participation as specified above; provided, however, that its insurer shall not be entitled to reimbursement from the



from the Workers' Compensation Trust Fund, and the insured public employer shall be required to reimburse its insurer for any payments the insurer makes on its behalf that would otherwise be subject to reimbursement under clauses (a) to (g), inclusive.

**SECTION 86.** Subsection (4) of section 65 of said chapter 152, as so appearing, is hereby amended by striking out paragraph (d) and inserting in place thereof the following paragraph:-

(d) For each assessment payor, except for the commonwealth and any of its political subdivisions subject to this chapter, the assessment rate shall be determined by dividing the sum of the special fund and the total of those portions of the private employer trust fund and the total of those portions of the private employer trust budget from which such payor is entitled to seek reimbursement pursuant to subsection (2) by the sum of the base amounts reported by such assessment payors pursuant to subsection (3). For the commonwealth and any of its political subdivisions subject to this chapter, the assessment rate shall be determined by dividing the total of those portions of the public employer trust fund budget from which such payor is entitled to seek reimbursement pursuant to subsection (2) by the sum of the base amounts reported by such assessment payors pursuant to subsection (3).

**SECTION 87.** The second paragraph of subsection (5) of said section 65 of said chapter 152, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Each failure to pay an assessment within thirty days of the payor's receipt of any bill from the department shall result in a separate fine in the amount of five percent of the balance of any such overdue assessment.

**SECTION 88.** Said section 65 of said chapter 152, as so appearing, is hereby amended by striking out subsection (8) and inserting in place thereof the following subsection:-

(8) If the trust fund pays compensation to a claimant pursuant to clause (e) of subsection (2), it may seek recovery from the uninsured employer for an amount equal to the amount paid on behalf of the claimant under this chapter, plus any necessary and reasonable attorney fees. Any action by the trust fund to seek recovery from the uninsured employer shall be commenced within twenty years of the claimant's filing a claim for benefits under this chapter against the trust fund.

**SECTION 89.** Said section 65 of said chapter 152, as so appearing, is hereby further amended by striking out subsection (13) and inserting in place thereof the following subsection:-

(13) Claims against the Worker's Compensation Trust Fund for payment of compensation pursuant to clause (e) of subsection (2) shall be handled in accordance with section ten; provided, however, that no penalty pursuant to section seven shall be levied against the fund and no referral fee pursuant to section

ten or filing fee pursuant to section eleven A or eleven C shall be required of the fund. No voluntary payment for any period of time shall alone be held to foreclose the fund from defending any issue involved in a claim for compensation. On a motion of a claimant or representative of the fund, an administrative judge may join the uninsured employer as a party.

**SECTION 90.** Said chapter 152 is hereby further amended by striking out section 65A, as so appearing, and inserting in place thereof the following section:-

Section 65A. (1) Any employer whose application for workers' compensation insurance has been rejected or not accepted within five days by two insurers may appeal to the commissioner of insurance and if it shall appear that such employer has complied with or will comply substantially with all laws, orders, rules and regulations in force and effect relating to the welfare, health and safety of his employees, and shall not be in default of payment of any premium for such insurance, then the commissioner shall designate an insurer who shall forthwith, upon the receipt of the payment for the premium therefore, issue to such employer a policy of insurance contracting to pay the compensation provided for by this chapter. The commissioner of insurance shall make equitable distribution of such risks among insurers in a reasonable manner that, so far as practicable, does not discriminate against any insurer or group of insurers. Subject to subsection (4), the commissioner may establish a servicing carrier fee for insurers, third party administrators or other claims service handling companies as authorized by the commissioner which shall be paid by the reinsurance pool established under section sixty-five C, and which shall not be unreasonable or discriminatory.

(2) The commissioner of insurance may delegate his duties under this section to the rating organization designated by him under section sixty-five C to administer the reinsurance pool established under that section; provided, however, that such organization shall adopt rules and procedures for assigning rejected risks, shall incorporate such rules and procedures into its plan of operation subject to the approval of the commissioner under section sixty-five C, and shall each year submit to the commissioner a report of the assigned risks for the preceding year. The commissioner of insurance may, upon reasonable notice to the rating organization designated by him under section sixty-five C and after a hearing, revoke the delegation of authority provided for by this section.

(3) The commissioner may require one or more insurers to be servicing carriers issuing policies of insurance to employers qualified hereunder. The commissioner may also designate third party claims administrators to service claims for policies issued by the plan. The commissioner may competitively bid any contract to service the claims for the plan. The commissioner shall adopt rules and regulations governing the conduct of any third party administrator approved to provide claim services to the plan.

(4)(a) Except as provided under paragraph (b) and (c), the servicing carrier fee

shall not exceed twenty-five percent of the total written premium serviced by the servicing carrier or administrator.

(b) The commissioner may authorize an additional service fee of up to five percent of the total written premium serviced by the servicing carrier or administrator. In determining whether to authorize an additional service fee amount the commissioner shall consider:

(i) the performance of the carrier, third party administrator, or other claims service handling companies as authorized by the commissioner in reducing the loss costs of the insured risks to which it was assigned during the previous calendar year;

(ii) evidence that the carrier, administrator, or other claims service handling company as authorized by the commissioner has aggressively and effectively assisted employers to improve workplace safety;

(iii) whether the carrier, administrator, or other claims service handling company as authorized by the commissioner has complied in all respects with established performance standards approved by the commissioner; and

(iv) whether the carrier, administrator, or other claims service handling company as authorized by the commissioner has a superior record in handling and investigating claims promptly and properly.

(c) The commissioner may establish a different service carrier fee than is specified in paragraphs (a) and (b) if the commissioner holds a hearing regarding the appropriate service fee to be established and determines that a different fee is indicated. Thereafter, the commissioner may, after a hearing, establish a new service carrier fee whenever the commissioner determines that such a fee is appropriate.

**SECTION 90A.** Chapter 152 of the General Laws is hereby amended by striking out section 65B, as so appearing, and inserting in place thereof the following section:-

Section 65B. If, after the issuance of a policy under section sixty-five A, it shall appear that the employer to whom the policy was issued is not or has ceased to be entitled to such insurance, the insurer may cancel or otherwise terminate such policy in the manner provided in this chapter; provided, however, that any insurer desiring to cancel or otherwise terminate such a policy shall give notice in writing to the rating organization and the insurer of its desire to cancel or terminate the same. Such cancellation or terminations shall be effective unless the employer, within ten days after the receipt of such notice, files with the department's office of insurance objections thereof, and, if such objections are filed, the commissioner, or his designee shall hear and decide the case within a reasonable time thereafter. Further appeal of the decision of the department may be taken to the superior court for the county of Suffolk.

**SECTION 92.** Said chapter 152 is hereby further amended by striking out

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section 65 O, as so appearing, and inserting in place thereof the following section:-

Section 65 O. Any employer to whom an insurer is assigned under the provisions of section sixty-five A shall be entitled to designate any licensed insurance agent or insurance broker to assist him in dealing with said insurer to which he is assigned and with the reinsurance pool described in section sixty-five C. The said agent or broker shall be entitled to a commission fee as set by the commissioner of insurance pursuant to section fifty-three A. An employer may apply directly to the workers' compensation plan of Massachusetts for coverage under section sixty-five A or sixty-five D. The plan may not charge a service fee, an application fee, or a transaction fee to any employer who makes an application for coverage directly to the plan.

**SECTION 93.** Section 66 of said chapter 152, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

Actions brought against employers to recover damages for personal injuries or consequential damages sustained within or without the commonwealth by an employee in the course of his employment or for death resulting from personal injury so sustained shall be commenced within twenty years from the date the employee first became aware of the causal relationship between the disability and his employment. In such actions brought by said employees or by the Workers' Compensation Trust Fund pursuant to the provisions of subsection (8) of section sixty-five, it shall not be a defense:.

**SECTION 93A.** Section 7 of chapter 176D of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

In addition to any other powers provided in this section, the commissioner may order that restitution be made by an insurer or its agent to any claimant who has suffered actual economic damage as a result of a violation of this chapter.

**SECTION 94.** Section 75B of said chapter 152, as so appearing, is hereby amended by adding the following subsection:-

(4) Upon a determination by the commissioner that a request for data maintained by the department is intended to be used in such a manner as to violate the purposes of this section, the commissioner may find that the disclosure of such data constitutes an unwarranted invasion of personal privacy pursuant to chapter four and deny said request. Nothing in this section shall be construed to prohibit an insurer's right to obtain any information held by the department regarding any employee who has filed a claim against such insurer.

**SECTION 94A.** Chapter 175 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after section 25 the following section:-

Section 25A. The commissioner of insurance shall provide by regulation for an

annual report to be filed by each insurer writing workers' compensation insurance in the commonwealth. Such regulations shall require the reporting of litigation expenses incurred by insurers, including the payments made for claimants' attorneys' fees, defense counsel fees, medical testimony, and any other information deemed relevant by the commissioner. Insurers shall also be required to specify the number of claims and portion of their indemnity benefits paid out periodically, and the number of claims and portion of indemnity benefits paid out as lump sum settlements. The commissioner shall also order the rating bureau created under the provisions of section eight E of chapter twenty-six to perform closed claim studies regarding losses and expenses related to vocational rehabilitation, physical therapy, chiropractic services, safety programs or such other matters as he deems appropriate.

**SECTION 94B.** Section one of Chapter 176I of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word seventy-six G, in line 32 the following:-

an insurer as defined in paragraph seven of section one of chapter one hundred and fifty-two.

**SECTION 94C.** Section three of Chapter 176I of the General Laws, as so appearing, is hereby further amended by inserting after the word organizations in line 1, the following:-

but not an insurer as defined in paragraph seven of section one of chapter one hundred and fifty-two.

**SECTION 94D.** Chapter 176I of the General Laws, as so appearing, is hereby amended by inserting after section 3 the following section:-

Section 3A. The requirement of subsections (b) (c) and (d) of section three shall apply to organizations that furnish workers' compensation medical services through a preferred provider arrangement.

**SECTION 94E.** Section 7 of Chapter 176I of the General Laws, as so appearing is hereby amended by inserting, after the word "plans" in line 5 the following:-

and workers' compensation insurance or self-insured workers' compensation plans,.

**SECTION 94F.** Said section 7 of Chapter 176I of the General Laws, is further amended by inserting after the word "plans" in line 7 the following:-

and workers' compensation insurance or self-insured workers' compensation plans,.

**SECTION 94G.** Section 9 of Chapter 176I of the General Laws, as so appearing is hereby amended by inserting after the word "plan" in line 2 the following:-  
or furnishes workers' compensation,.

**SECTION 94H.** Section 11 of Chapter 176I of the General Laws, as so appearing is hereby amended by inserting after the word "organization" in line 1 the following words:-

other than a workers' compensation insurer,.

**SECTION 95.** Section 4 of chapter 180 of the General Laws, as so appearing, is hereby amended by striking out clause (m) and inserting in place thereof the following two clauses:-

(m) for the purpose of purchasing, holding, preserving and maintaining burial grounds in accordance with the provisions of chapter one hundred and fourteen;

(n) for establishing a not-for-profit association of employers as authorized by section twenty-five E of chapter one hundred and fifty-two, including such not-for-profit associations of employers organized as nonprofit corporations.

**SECTION 95A.** Section 60G of chapter 231 of the General Laws, as so appearing in the 1990 Official Edition, is hereby amended by striking paragraph (a) and inserting in place thereof, the following paragraph:-

(a) In every action for malpractice, negligence, error, omission, mistake, or the unauthorized rendering of professional services against a provider of health care in which the plaintiff seeks to recover for the costs of medical care, custodial care or rehabilitation services, loss of earnings or other economic loss, if the jury returns a verdict specifying the type and amount of such damages under subsection (a) of section sixty F of this chapter, or the court finds the type and amount of such damages as required under subsection (b) of section sixty F of this chapter, on motion by a defendant or upon its own motion, the court shall hear evidence of any amount of such damages incurred prior to the judgment which the defendant or defendants claim was replaced, compensated or indemnified pursuant to the United States Social Security Act, any state or federal income-disability act, any health, sickness or income-disability insurance, any accident insurance that provides health benefits or income-disability coverage, any contract or agreement of any group, organization, partnership, or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services, any contract or agreement to continue to pay, in whole or in part, the plaintiff's wages or income, or any other collateral source of benefits whatsoever, except for gratuitous payments or gifts, or benefits received pursuant to chapter one hundred and fifty-two of the General Laws. If the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount the plaintiff himself paid or contributed to secure his right to the benefits concerning which the defendant has introduced evidence.

**SECTION 96.** Section 1 of chapter 251 of the General Laws, as so appearing, is hereby amended, by inserting after the word fifty C, in line 8, the following words:- , except as provided by the provisions of chapter one hundred and fifty-two.

**SECTION 98.** Section 3 of chapter 132 of the acts of 1991 is hereby amended by striking out, in line 2, the word "policies" and inserting in place thereof the following word:- notices.

**SECTION 99.** Chapter 338 of the acts of 1990 is hereby amended by striking out sections one and two and inserting in place thereof the following two sections:-

*Section 1.* (a) Notwithstanding the provisions of any general or special law to the contrary, the Automobile Insurance Bureau of Massachusetts, or its successor licensed under the provisions of section eight of chapter one hundred and seventy-five A of the General Laws, and the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor licensed under the provisions of section fifty-two of chapter one hundred and fifty-two are hereby authorized to create an insurance fraud bureau with the powers and duties specified in this section for the prevention and investigation of fraudulent insurance transactions.

(b) Said insurance fraud bureau shall be governed by a board consisting of fifteen members, one of whom shall be the secretary of the executive office of public safety, one of whom shall be the secretary of the executive office of labor, one of whom shall be the registrar of motor vehicles, one of whom shall be the commissioner of insurance, one of whom shall be the commissioner of the department of industrial accidents, five of whom shall be members of the governing committee of the Automobile Insurers Bureau of Massachusetts, or its successor, and five of whom shall be members of the governing committee of the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor.

(c) The governing board of said insurance fraud bureau shall employ an executive director and a general counsel. The executive director shall be responsible for the administrative operation of said insurance fraud bureau and shall perform such other tasks as said board may direct. The executive director shall ensure that appropriate resources of the insurance fraud bureau are dedicated to the investigation of fraudulent workers' compensation insurance transactions as well as other fraudulent insurance transactions. The general counsel shall be the chief legal officer of said insurance fraud bureau.

(d) The executive director shall appoint other employees of said insurance fraud bureau as necessary. The executive director may expend for legal, investigative, clerical and any other expenses in such sums as may be necessary. The executive director shall also disseminate provisions of this act by the publishing of informational brochures and other materials which encourage the public to report workers' compensation fraud and shall maintain a toll free number to receive such reports. All costs of administration and operation of said insurance fraud bureau shall be equally borne by the Automobile Insurers Bureau of Massachusetts, or its successor, and by the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor. The executive director shall determine the estimated costs for the operation of said insurance fraud bureau and, upon approval by said board, shall assess the Automobile Insurers Bureau of Massachusetts and the Workers' Compensation Rating and Inspection Bureau of Massachusetts for such estimated costs. The estimated costs shall be paid to the executive director and he

shall subsequently make adjustments to future assessments for any variation between estimated and actual costs on a fair and reasonable basis.

(e) The executive director shall designate such authorized personnel employed by said insurance fraud bureau to have access to the following information and records when the same are relevant to any said insurance fraud bureau investigation: records kept within the registry of motor vehicles; records kept within the department of industrial accidents; records kept within the department of revenue, records kept within the department of welfare, records kept within the Workers' Compensation Rating and Inspection Bureau, records kept within the department of employment and training; records kept by insurance companies; and criminal offender record information pursuant to clause (b) of section one hundred and seventy-two of chapter six of the General Laws; provided, however, that access to such information and records shall be solely for the use by such authorized personnel in the performance of their official duties and responsibilities within said insurance fraud bureau.

(f) Any insurer licensed pursuant to the provisions of chapter one hundred and seventy-five of the General Laws, and any person engaged in the business of insurance in the commonwealth exempted from compliance with the licensing requirements of said chapter one hundred and seventy-five, or other similar entity, having reason to believe that an insurance transaction may be fraudulent, or having knowledge that a fraudulent insurance transaction is about to take place, or has taken place, shall within thirty days after determination that the transaction may be fraudulent, send to said insurance fraud bureau, on a form prescribed by the executive director, the information requested by the form and such additional information relative to the transaction and the parties involved as the executive director may require. Fraudulent insurance transactions shall include, but not be limited to, fraud and abuse of the system by attorneys, insurers, employers, medical providers, vocational rehabilitation providers, agents for attorneys or other service providers, claimants, or any other individuals or companies alleged to have engaged in unlawful acts under the provisions of section fourteen of chapter one hundred and fifty-two, sections one hundred and eleven A or one hundred and eleven B of chapter two hundred and sixty-six or other laws of the commonwealth concerning insurance fraud.

(g) Said insurance fraud bureau shall review each such report and undertake such further investigation as it deems necessary and proper to determine the validity of the transaction. Upon receipt of such report pursuant to subsection (f), or other information which provides reason to believe that any person has violated any law of the commonwealth concerning insurance fraud, said insurance fraud bureau may conduct an investigation within or without the commonwealth. A person having material which is located outside the commonwealth and is requested by the executive director may make it available to the executive director



or his representative to be examined at the place where it is located. The executive director may designate representatives, including officials of the state in which the material is located, to inspect the material on his behalf, and may respond to similar requests from officials of other states.

(h) The executive director, or his designee, may request the attendance and testimony of witnesses and the production of books and records relevant to an investigation. If a person neglects or refuses to comply with any request to provide testimony or produce books and records relevant to the investigation, the executive director may refer the matter to the attorney general, the district attorney, or the United States attorney.

(i) Whenever the executive director is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or purported insurance transaction, or that a violation of subsection three of section fourteen of chapter one hundred and fifty-two or sections one hundred and eleven A and one hundred and eleven B of chapter two hundred and sixty-six of the General Laws, or other laws of the commonwealth concerning insurance fraud has occurred, the executive director shall refer the matter to the attorney general, the district attorney or the United States attorney. The executive director shall also report any suspected violation of law to the appropriate licensing agencies of the state and federal governments.

(j) In the absence of malice or bad faith, no insurer, member of said insurance fraud bureau, member of said governing board, or an employee or agent of said insurance fraud bureau or other person subject to the provisions of this section, or an employee or agent of such insurer or person, shall be subject to civil liability for damages by reason of any statement, report or investigation made pursuant to the provisions of this section.

(k) Beginning August first, nineteen hundred and ninety-two and every six months thereafter said insurance fraud bureau shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on insurance and to the joint legislative committee on commerce and labor and a similar report shall be filed with the attorney general which shall include appropriate information, unless otherwise prohibited by law, on the disposition of matters referred to said insurance fraud bureau. Beginning August first, nineteen hundred and ninety-two and every six months thereafter the attorney general shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on insurance and to the joint legislative committee on commerce and labor and a similar report shall be filed with said insurance fraud bureau which shall include appropriate information, unless prohibited by law, on the disposition of matters referred to the attorney general by said insurance fraud bureau. Said insurance fraud bureau shall periodically report to insurers regarding the status of matters reported to said insurance fraud bureau

by insurers, the outcome of all investigations and prosecutions conducted by said insurance fraud bureau, and patterns and practices of fraudulent insurance transactions identified in the course of performing its duties. Said insurance fraud bureau shall perform such research functions and data collection efforts as directed by the governing board to assist in the prevention, detection and prosecution of fraudulent insurance transactions.

(1) A person convicted for the violation of any law concerning insurance fraud, following the investigation and referral for prosecution by said insurance fraud bureau, shall be ordered to make restitution to the insurer for any financial loss sustained as a result of such violation.

**SECTION 100.** Notwithstanding the provisions of section four of chapter twenty-three E of the General Laws, or any other general or special law to the contrary, the governor, with the advice and consent of the council, shall appoint, in addition to the members of the industrial accident board provided for in section four of said chapter twenty-three E, six additional members of said board; these six additional positions shall be for three year terms. Said three year term members may be recalled pursuant to section seven of said chapter twenty-three E. Said three year term members shall receive the same salary as that paid to members of the board appointed under said section four. Said three year term members shall devote their full time during normal business hours to the duties of their office. Should any three year term position become vacant before the three year term has expired, any person appointed to fill the vacancy shall be appointed for the unexpired portion of such term. The three year term positions created in this section shall expire February first, nineteen hundred and ninety-five.

**SECTION 101.** Notwithstanding any general or special law to the contrary, any insurer who insured for the first time a workers' compensation policy in the commonwealth between January thirty-first, nineteen hundred and ninety-one and March first, nineteen hundred and ninety-one for an employer who had received a notice of intent not to renew from its prior insurer, shall be permitted to receive a credit against their assessment for every dollar of such premium written for a period not to exceed three years from the inception date of the policy.

**SECTION 101A.** The insurance commissioner may initiate a pilot program under which participating employers, up to a total of ten, may meet the requirements to provide medical coverage under chapter one hundred and fifty-two by providing such coverage through a health insurance policy or plan or self funded health plan. The program shall only include those employers that pay the whole cost or premium of the health insurance policy or plan, or self funded health plan. The insurance commissioner shall authorize participation in the pilot program by July first, nineteen hundred and ninety-two, for a period of three years. On January first, nineteen hundred and ninety-three and each six months thereafter during the pilot period the insurance commissioner shall report to the general court

on the status of the pilot program, including any recommendation for legislation, if necessary, to improve the efficiency of said program.

**SECTION 101B.** Notwithstanding any general or special law to the contrary, for the November first, nineteen hundred and ninety-one filing of classifications and rates made by the Workers' Compensation Rating and Inspection Bureau pursuant to section fifty-three A of chapter one hundred and fifty-two of the General Laws, the commissioner of insurance shall, in the application of subsection (13) of said section, as appearing in section eighty-four of this act, take into consideration the fact that on the date of said filing no specific cost control standards had been set forth in regulations promulgated pursuant to chapter thirty A of the General Laws.

**SECTION 101C.** Notwithstanding any general or special law to the contrary, for the purpose of classification of risks and premiums pursuant to section fifty-three A of chapter one hundred and fifty-two of the General Laws, those businesses for which the National Council on Compensation Insurance Code "7390- Beer or Ale Dealer - Wholesale - & Drivers" now applies shall be assigned new classifications in common with Liquor and Wine Distributors. Drivers and helpers who were previously classified under Code 7390 will now be classified as "7380- Driver, Chauffeurs and Their Helpers NOC" and Warehouse Personnel who were previously classified as Code 7390 will be classified as "8018- Store - Wholesale NOC.

**SECTION 102.** Sections 48 and 95 of this act shall apply to all nonprofit corporations regardless of date of incorporation.

**SECTION 103.** Notwithstanding the provisions of section two A of chapter one hundred and fifty-two of the General Laws, subsections (1) to (9), inclusive, and subsection (11) of section thirteen A of chapter one hundred and fifty-two of the General Laws as appearing in section thirty-five of this act shall apply to all services performed after the effective date of this act.

**SECTION 104.** Notwithstanding the provisions of section two A of chapter one hundred and fifty-two of the General Laws, sections thirty-six, thirty-seven, thirty-eight, thirty-eight A and ninety-nine of this act shall apply to all fraudulent activity occurring after the effective date of this act.

**SECTION 105.** Notwithstanding the provisions of section two A of chapter one hundred and fifty-two of the General Laws, section seventy-seven of this act shall apply to only those claims filed on or after the effective date of this act.

**SECTION 106.** For purposes of section two A of chapter one hundred and fifty-two of the General Laws, and sections fourteen, forty-three, fifty-two, fifty-five, fifty-eight, fifty-nine, sixty, sixty-one, sixty-three, sixty-seven, sixty-eight, sixty-nine, sixty-nine A, seventy, seventy-one, seventy-four A and ninety-three of this act and subsection (10) of section thirteen A of chapter one hundred and fifty-two of the General Laws shall be deemed to be substantive in character.

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**SECTION 107.** Except as specifically provided by sections one hundred and three to one hundred and six, inclusive, of this act, all sections of this act shall, for purposes of section two A of chapter one hundred and fifty-two of the General Laws, be deemed to be procedural in character.

**SECTION 108.** Sections twenty-six, twenty-eight, and twenty-nine of this act shall take effect February first, nineteen hundred and ninety-two.

**SECTION 109.** The last two paragraphs of section 13 of chapter 152, as appearing in section thirty-four and all of section forty-four of this act shall take effect on May first, nineteen hundred and ninety-two.

**SECTION 110.** Sections twenty-four, thirty and the last four paragraphs of section thirty of chapter one hundred and fifty-two of the General Laws, as appearing in section fifty-three of this act shall take effect on July first, nineteen hundred and ninety-two.

**SECTION 111.** Except as otherwise provided herein, all sections of this act shall take effect upon its passage.

*Emergency Letter: January 24, 1991 @1:20 P.M.*      Approved December 23, 1991.

**Chapter 399.      AN ACT ESTABLISHING CERTAIN ASSESSMENTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 8E of chapter 26 of the General Laws, as so appearing in the 1990 Official Edition, is hereby amended by adding the following three paragraphs:-

There shall also be within the rating bureau at least the following persons who shall perform the duties of the rating bureau relating to workers' compensation insurance: an actuary, a rate attorney, a mathematician, a researcher and an accountant. The actuary shall be a member of the Casualty Actuarial Society or shall have attained a doctoral degree in a related discipline. The mathematician shall be engaged in the program of study recommended by said Casualty Actuarial Society or shall have substantial mathematical and statistical training.

Such actuary, rate attorney, mathematician, researcher and accountant shall be appointed by the commissioner and shall be exempt from the provisions of chapter thirty and chapter thirty-one.

The commissioner is authorized to make an assessment against any corporation, unincorporated association, partnership or individual licensed as a rating organization pursuant to section fifty-two C of chapter one hundred and fifty-two to pay for the rating bureau's expenses as they relate to workers' compensation. Such assessment shall be deposited into the Rating Bureau's Workers' Compensation Trust Fund. All monies deposited into the trust fund shall be expended, without

appropriation, exclusively by the rating bureau. Such assessment shall be made at a rate sufficient to produce five hundred thousand dollars in nineteen hundred and ninety-two, and may be increased annually thereafter by a rate not to exceed the most recent annual consumer price index calculated by the Bureau of Labor Statistics of the United States Department of Labor for the northeast region for all urban consumers. In addition to such assessment, the commissioner of insurance shall also collect, for the persons within the rating bureau who perform the duties relating to workers' compensation insurance, an amount equal to the cost of fringe benefits as established by the commissioner of administration pursuant to section five D of chapter twenty-nine to be credited to the General Fund. Said amount shall be expended, without appropriation, to pay for such persons' fringe benefits. If the commissioner shall fail to expend any money collected under this paragraph in any fiscal year, such unexpended amount shall be credited against the assessment to be made in the following year and the assessment in the following year shall be reduced accordingly. Funds collected under this section may be used to compensate consultants retained by the rating bureau and to defray its reasonable operating expenses and administrative overhead costs. The assessment, including the collection for fringe benefits, shall be collected by the commissioner of insurance. Any rating organization licensed pursuant to section fifty-two C of chapter one hundred and fifty-two shall pay the amount assessed within thirty days after the date of the notice of assessment from the commissioner. The rating bureau shall regularly perform market conduct examinations as often as the commissioner deems appropriate.

**SECTION 2.** Chapter 152 of the General Laws is hereby amended by striking out section 65C, as so appearing, and inserting in place thereof the following section:-

Section 65C. (1) All losses incurred under policies issued to employers under section sixty-five A shall be equitably distributed among all insurers authorized to transact and transacting workers' compensation insurance in the commonwealth. Such distribution of losses shall be effected through a reinsurance pool constituted by and comprised of all insurers writing workers' compensation insurance in the commonwealth. No insurer, as defined in subparagraph (7) of section one, and including any insurance company, reciprocal or interinsurance exchange which has contracted with an employer to pay the compensation provided for by this chapter, shall be authorized to write or to continue to write workers' compensation insurance in this commonwealth unless such insurer is a member of the reinsurance pool established herein.

The commissioner of insurance shall designate a rating organization, duly qualified under section fifty-two C, to administer the reinsurance pool in such manner as shall be approved by the commissioner. Such rating organization shall adopt a plan of operation, which shall be submitted for approval to the

commissioner of insurance and, upon approval by the commissioner, shall be binding upon all members of the reinsurance pool. If a rating organization fails to adopt a plan of operation within a reasonable period of time of its designation by the commissioner, the commissioner may promulgate a plan of operation for the administration of the reinsurance pool. Such plan of operation shall contain rules and procedures for the allocation of losses of the reinsurance pool among its members consistent with this section, and shall otherwise be consistent with law. Amendments to such plan of operation may be made by the rating organization designated by the commissioner or may be made at the direction of the commissioner upon reasonable notice to such rating organization and after a hearing. All amendments to the plan of operation proposed by the rating organization designated to administer the reinsurance pool shall be submitted for approval to the commissioner of insurance.

(2) Notwithstanding the provisions of subsection (1), in order to reduce the number of risks in and the volume of premium in the reinsurance pool the commissioner shall establish and maintain cost containment programs in the reinsurance pool, including a program requiring service carriers to establish and maintain a comprehensive employer safety assistance program, and may take any or all of the following actions:

(a) require all insurers that write workers' compensation insurance to participate as service carriers, but allow any such carrier to contract with another insurer or third party administrator approved by the commissioner to service the claims;

(b) in conjunction with paragraph (a), require insurers to assume a percentage of losses for an individual risk for which the insurer is designated as the servicing carrier, such percentage to be as the commissioner shall reasonably determine;

(c) consider, in allocating the losses of the pool, the number of risks and the volume of premium rejected, non-renewed, cancelled, or terminated by an insurer;

(d) prohibit a service carrier, in its handling and servicing of claims, from differentiating claims originating from insureds in the pool and claims originating from insureds written voluntarily by the insurer;

(e) establish credits, discounts or other incentives to encourage insurers to voluntarily write coverage;

(f) impose an assessment on insurers to pay for the pool's cost containment and anti-fraud programs; and

(g) establish rates or rating plans which reasonably estimate the additional risk of business in the reinsurance pool.

(3) On or before January fifteen, nineteen hundred and ninety-two, the commissioner shall hold a hearing regarding the development of a plan, based on the powers authorized under this section, designed to reduce the number of risks and amount of premium in the pool. The commissioner may issue regulations designed to implement the plan. These regulations shall be effective no later than

April first, nineteen hundred and ninety-two.

(4) In developing the plan required to be submitted under this section, the insurance commissioner shall attempt to reduce the number of risks, at a minimum, in the pool as percentage of all risks in the state to sixty percent by September first, nineteen hundred and ninety-two, fifty percent by February first, nineteen hundred and ninety-three; forty-five percent by September first, nineteen hundred and ninety-three; and thereafter, such reductions as the commissioner may determine are reasonable and appropriate.

**SECTION 3.** The commissioner of insurance is hereby authorized and directed to make an annual assessment each year in the amount of one hundred thousand dollars against the Automobile Insurers Bureau of Massachusetts, or its successor licensed under the provisions of section eight of chapter one hundred and seventy-five A of the General Laws and also to make an annual assessment each year in the amount of one hundred thousand dollars against the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor licensed under the provisions of section fifty-two C of chapter one hundred and fifty-two of the General Laws. Said assessments shall be paid to the commissioner within thirty days after the date of notice from the commissioner of said assessment. Said assessments shall be utilized by the attorney general for the purpose of the investigation and prosecution of automobile insurance fraud matters and workers' compensation insurance fraud matters referred to the attorney general by said insurance fraud bureau established pursuant to the provisions of chapter three hundred and thirty-eight of the acts of nineteen hundred and ninety. The attorney general shall designate at least one assistant attorney general who shall devote full-time to the investigation and prosecution of automobile insurance fraud matters which are referred by said insurance fraud bureau, and shall designate at least one assistant attorney general who shall devote full-time to the investigation and prosecution of workers' compensation insurance fraud matters which are referred by said insurance fraud bureau. The attorney general may designate additional assistant attorney generals for the investigation and prosecution of insurance fraud matters as deemed necessary.

*Emergency Letter: December 24, 1991 @ 1:20 P.M. Approved December 23, 1991.*

**Chapter 400.      AN ACT RELATIVE TO THE USE OF CERTAIN PROPERTY  
                         UNDER THE CONTROL OF THE DEPARTMENT OF FOOD  
                         AND AGRICULTURE.**

*Be it enacted, etc., as follows:*

Chapter 317 of the acts of 1983 is hereby amended by striking out section 2 and

inserting in place thereof the following section:-

*Section 2.* Notwithstanding the provisions of any general or special law to the contrary, the commissioner of capital planning and operations is hereby authorized to transfer to the department of food and agriculture, subject to the provisions of a written agreement to be executed between said division and said department, for purposes including, but not limited to, those described in sections thirteen to nineteen, inclusive, of chapter twenty of the General Laws and likewise including, but not limited to, research and development activities having potential agricultural applications, for the uses set forth in section three, and for the development of farmers' markets to enhance commercial agriculture in the central Massachusetts region, the control of thirty-five acres of land, more or less, of the land described as follows:

Beginning at a point on the westerly sideline of Plantation Street at the most southeasterly corner of the Parcel to be described; said point also being the most northeasterly corner and of land now or formerly known as Parcel 10 of the Amended Definitive Subdivision Plan for Worcester Business Development Corporation, dated January 3, 1990, and recorded in the Worcester District Registry of Deeds, Plan Book 663, Plan 78;

THENCE N 71° 47' 26" W along land known as Parcel 10, a distance of 921.45 feet to a point on a stone wall;

THENCE N 15° 38' 45" W following a stone wall, a distance of 475.09 feet to a point at the end of a stone wall;

THENCE N 83° 00' 00" W, a distance of 461.28 feet to a point at the end of a stone wall;

THENCE N 21° 04' 00" W along a stone wall, a distance of 287.33 feet to an angle in said stone wall;

THENCE N 52° 10' 50" W continuing along said stone wall, a distance of 247.05 feet to an angle in said wall;

THENCE N 34° 56' 04" W continuing along said stone wall, a distance of 22.29 feet to an angle in said wall;

THENCE N 66° 40' 00" E continuing along said stone wall, a distance of 833.90 feet to an angle in said stone wall;

THENCE S 43° 22' 40" E continuing along said stone wall, a distance of 739.50 feet to an angle in said stone wall;

THENCE S 67° 21' 50" E continuing along said stone wall, a distance of 730.17 feet to a point on the westerly sideline of Plantation Street;

THENCE along the westerly sideline of Plantation Street, in part by a stone wall, the following four (4) courses:

S 18° 21' 30" W, a distance of 87.41 feet to a point;

S 15° 19' 30" W, a distance of 238.20 feet to a point;

S 10° 37' 00" W, a distance of 271.77 feet to a point;



AND S 19° 17' 00", a distance of 181.70 feet to the Point of Beginning;  
The above described Parcel contains 32.4086 acres, more or less.

Said department, with the prior approval of said deputy commissioner, may enter into lease agreements for the use of all, or portions of, said parcel with any non-profit entity legally incorporated in the commonwealth, the term of which may be for a maximum of fifty years and which shall include an option allowing the lessee to renew said lease for up to ten additional five year lease terms; provided, however, that in the event said parcel is not used for the purposes described in this section within ten years the parcel shall revert to the commonwealth under such terms and conditions as the deputy commissioner may prescribe.

The deputy commissioner shall provide to the inspector general, the house and senate committees on ways and means, and the joint committee on state administration a copy of said original lease or leases or any optional extensions thereof at least thirty business days prior to the execution thereof by said division. The inspector general shall review and comment on said lease or leases or any optional extensions thereof within fifteen business days of the receipt of said lease or leases or optional extensions thereof. A copy of said review and comment and any recommendations thereof shall be forwarded by the inspector general to the house and senate committees on ways and means and the committee on state administration.

Said lease or leases, or any optional extensions thereof shall contain language which shall permit the state auditor or his designee to inspect, and to audit, any of the lessee's financial books and records relating to such lease or leases, or any optional extensions thereof at any time upon reasonable notice. Upon the conducting of such an audit the state auditor shall file a copy of the same with the deputy commissioner who shall forward a copy of such audit to the clerk of the house of representatives, who shall forward the same to the house and senate committees on ways and means and the joint committee on state administration.

Said lease or leases or any optional extensions thereof shall require the developer to obtain an annual financial audit of the financial accounts, books, and records relating to any sub-lease executed by said developer for any portion of the parcel described and authorized by this section by an independent certified public accountant or an accounting firm which shall have no direct or indirect involvement or interest with the developer or any employees thereof and approved or in writing by said deputy commissioner; provided, however, that the commonwealth shall in addition have the audit rights described in this act.

The deputy commissioner shall annually, on or before September first file a copy of such audit with the state auditor, and the clerk of the house of representatives, who shall forward the same to the house and senate committees on ways and means and the joint committee on state administration.

Approved December 23, 1991.

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**Chap. 401****Chapter 401.      AN ACT RELATIVE TO EMINENT DOMAIN JUDGMENTS  
AGAINST THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a uniform post judgment procedure in eminent domain cases, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 22 of chapter 79 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Judgment shall be entered and execution issued as in other civil actions, except that if final judgment is entered in favor of the plaintiff against the commonwealth for damages, the clerk of the superior court for the county where such judgment is entered shall, within seven days after the final disposition of the case and the expiration of all rights to appeal therefrom, transmit a certified copy of the docket entries and a certificate of such judgment showing the amount due from the commonwealth, to the comptroller who shall notify the governor. The governor shall draw his warrant for such amount on the state treasurer, who shall pay the same, with such interest as is authorized by section thirty-seven.

**SECTION 2.** This act shall apply to all judgments entered after April fifteenth, nineteen hundred and ninety-two.

**SECTION 3.** All executions issued against the commonwealth but unsatisfied as of April fifteenth, nineteen hundred and ninety-two shall be returned to the clerk of the superior court which issued the same and the clerk shall forthwith issue certificates of judgment in their stead in conformity with the procedures contained in section one and as to such certificates the provisions of said section one shall apply.

Approved December 23, 1991.

**Chapter 402.      AN ACT PROVIDING PENALTIES FOR THE IMPROPER  
DISPOSAL OF MEDICAL WASTE.**

*Be it enacted, etc., as follows:*

Section 127A of chapter 111 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "offense", in line 4, the words:- or not more than twenty-five thousand dollars or up to two years

in a house of correction for violations involving the improper disposal of infectious or physically dangerous medical or biological waste.

Approved December 23, 1991.

**Chapter 403.        AN ACT AUTHORIZING THE ISSUANCE OF CERTAIN  
REFUNDING BONDS BY THE OLD COLONY REGIONAL  
VOCATIONAL TECHNICAL HIGH SCHOOL DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The Old Colony Regional Vocational Technical High School District is hereby authorized to borrow at one time or from time to time such sums as it may determine to be necessary not exceeding, in the aggregate, one million dollars to refund all or a portion of said district's bonds coming due in the years nineteen hundred and ninety-two to nineteen hundred and ninety-four, inclusive, in the principal amount of seven hundred fifty-five thousand dollars; to refund all or a portion of said district's revenue anticipation notes which were issued in the principal amount of two hundred and thirty-five thousand dollars to pay principal on bonds of said district that came due in August, nineteen hundred and ninety-one; and to pay expenses of issue in connection with the refundings.

**SECTION 2.** For the purposes described in section one, said district may issue its refunding bonds or notes. Each authorized issue of such refunding bonds or notes shall constitute a separate loan and such loans shall be payable in not more than ten years from their dates. The maturities of each issue of the refunding bonds or notes shall be arranged so that the annual combined payments of principal and interest shall be as nearly equal as practicable in the opinion of the district treasurer of said district or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. Indebtedness incurred hereunder shall, except as provided herein, be subject to the applicable provisions of chapters forty-four and seventy-one of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 23, 1991.

**Chapter 404.        AN ACT RELATIVE TO EXEMPTING MUNICIPAL AIR-  
PORT COMMISSIONS FROM CERTAIN REQUIREMENTS  
OF THE UNIFORM PROCUREMENT ACT.**

*Be it enacted, etc., as follows:*

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**Chap. 405**

Subsection (b) of section 1 of chapter 30B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following clause:-

(15) any contracts, agreements or leases entered into by a municipal airport commission established under the provisions of section fifty-one E of chapter ninety; provided, however, that such contracts, agreements or leases apply to aviation uses or the sale of aviation fuel.

Approved December 23, 1991.

**Chapter 405.        AN ACT RELATIVE TO VETERANS OF THE PERSIAN GULF  
CONFLICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 5 of chapter 59 of the General Laws is hereby amended by striking out clause Eighteenth, as amended by section 1A of chapter 7 of the acts of 1991, and inserting in place thereof the following clause:-

Eighteenth, Any portion of the estates of persons who by reason of age, infirmity and poverty, or financial hardship resulting from a change to active military status, not including initial enlistment are in the judgment of the assessors unable to contribute fully toward the public charges.

**SECTION 2.** Section 1 of chapter 121B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the definition of "Veteran" and inserting in place thereof the following definition:-

"Veteran", any person who is a veteran as defined in clause Forty-third of section seven of chapter four. The word "veteran" as used herein shall also include the spouse, surviving spouse, parent or other dependent of such person.

Approved December 23, 1991.

**Chapter 406.        AN ACT DESIGNATING THE WILD TURKEY AS THE  
GAME BIRD OF THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

Chapter 2 of the General Laws is hereby amended by adding thereto the following section:-

Section 36. The wild turkey (*Meleagris Gallopavo*) shall be the game bird and game bird emblem of the commonwealth.

Approved December 23, 1991.

**Chapter 407. AN ACT AUTHORIZING MINORS TO PUMP GASOLINE.**

*Be it enacted, etc., as follows:*

Section 61 of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "vehicles", in line 29, the words:- ; or in any gasoline service establishment; provided, however, that such minor may be employed solely to dispense gasoline and oil and to provide courtesy service outside of the service bay area of any such gasoline service establishment.

Approved December 26, 1991.

**Chapter 408. AN ACT RELATIVE TO CERTAIN RECORDS OF DECEASED PERSONS.**

*Be it enacted, etc., as follows:*

Section 70 of chapter 111 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words "or by his attorney upon delivery of a written authorization from said patient" and inserting in place thereof the words:- , his attorney upon delivery of a written authorization from said patient, the duly appointed executor or administrator of the deceased person's estate or the attorney for such executor or administrator upon delivery of a written authorization from such executor or administrator.

Approved December 26, 1991.

**Chapter 409. AN ACT RELATIVE TO PROBATE JUDGES IN HAMPDEN COUNTY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 217 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be six judges of probate in the county of Middlesex, four judges of probate in the counties of Norfolk, Suffolk and Plymouth, three judges of probate in each of the counties of Essex, Worcester, Bristol, and Hampden, and two judges of probate in the county of Barnstable.

**SECTION 2.** Section 3C of said chapter 217, as so appearing, is hereby amended by striking out, in line 1, the word "six", and inserting in place thereof the word:-

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**Chap. 410**

five.

**SECTION 3.** The associate justice affected by the reduction of justices in section three C of chapter two hundred and seventeen of the General Laws shall be assigned to the Hampden county division of the probate and family court department of the trial court and shall be and perform the duties of a full-time justice in said county or such other county as the administrative justice may designate. Nothing in this act shall be construed to establish a new judicial position nor abolish the tenure of the associate justice so affected.

Approved December 26, 1991.

**Chapter 410.        AN ACT AUTHORIZING THE TOWN OF SAVOY TO CONVEY CERTAIN LAND TO THE SPRUCE CORNER CEMETERY CORPORATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Savoy, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of land located on the corner of Barnard road and Scott road in said town to the Spruce Corner Cemetery Corporation on such terms as said board deems advisable. Said parcel is a rectangle whose bounds are 148.09 feet on its easterly bound, 156.75 feet on its northerly bound, 148.09 feet on its westerly bound and 156.75 feet on its southerly bound, with an approximate area of 23,213 square feet.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 26, 1991.

**Chapter 411.        AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT CERTAIN EASEMENTS.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations to grant certain easements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The division of capital planning and operations, acting for and on

behalf of the commonwealth and in consultation with the department of environmental management, is hereby authorized and directed, notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to grant by deed approved as to form by the attorney general, to Freudenberg Nonwovens Limited Partnership, its successors and assigns and all others lawfully entitled, certain permanent easements along certain canal walls in the city of Lowell, which were acquired for park purposes. Said easements shall be non-exclusive and shall not be inconsistent with the commonwealth's use and operation of the canal system as a state park. The easements to be granted shall be for the purpose of installing a steam and condensate return pipe line along the walls of the Merrimack and Pawtucket canals. Such easements are bounded and described as follows:

Beginning at a point on the existing Lowell Cogeneration steam feed line to Joan Fabrics, Located thirty feet (30') more or less, westerly from the southwesterly corner of Joan Fabrics' building, thence running along the face of the Pawtucket Canal wall as follows:

Beginning at the steam meter connection on the Lowell Cogeneration steam line to Joan Fabrics, along the south face of the building situated on top of the north wall of the Pawtucket Canal, at a R=556', a distance of nine hundred and fifty-three feet (953') more or less, to the abutment of the MBTA railroad bridge (former B & M railroad bridge).

Southeasterly, suspended on the MBTA railroad bridge, across the Pawtucket Canal, R=1000.73', a distance of one hundred and ten feet (110') more or less, to the south face of the Pawtucket Canal wall.

Reference: Plan of Steam Line Feed, Robert M. Gill, Associates, Inc., dated July 25, 1991.

Beginning at D.H. (SET) at MBTA railroad bridge granite pier, N 57-32'-42" E Pawtucket Canal south wall, running thirty-eight and nine tenths feet (38.90') more or less, to D.H. (SET) at the east/northeasterly point of MBTA railroad bridge granite pier.

N 50-48'-09" E at a point beginning at the east/northeasterly point of MBTA railroad bridge granite pier, two hundred twenty-four and thirty-five hundredths feet (224.35') more or less, N 45-27'-18" E to Sbdh(FD) at S 30-15'-09" E. (1957 State Highway Layout - Thorndike Street, SH.H.L.O. No. 4596).

Beginning at a point at N 48-27'-19" E, State Highway Bridge concrete pier on the south wall of the Pawtucket Canal, crossing under State Highway Bridge, ninety-five feet (95') more or less, to the north side of Pawtucket Canal at bridge concrete pier, thence continuing easterly, eighty feet (80') more or less, on bridge concrete pier to termination point of pier at the juncture of the Pawtucket and Western Canals.

Reference: LOWELL HERITAGE STATE PARK - LOWELL CANAL SYSTEM

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Atlantic Engineering and Survey Consultants dated July 1, 1983 - Sheet 10 of 38

Beginning at the juncture of the Pawtucket and the Western Canal end of the Lowell Sampson Connector State Highway bridge concrete pier, northerly  $R=345.00'$ ; sixty feet (60') more or less, to easterly side of the Western Canal granite wall, thence southeasterly twenty-five feet (25') more or less, along said canal wall.

West/Northwesterly six feet (6') more or less, from the juncture of the Western and Merrimack N 33-12'-30" E six hundred and seventy-one feet (671') more or less, from east wall of the Western Canal, Underground within the line of easement and the north wall of the Merrimack Canal to the Saco Mill Bridge, thence southeasterly under the Saco Mill Bridge sixty feet (60') more or less, to D.E.M. property line at N 43-41'-11" E (Water line edge of the south wall of the Merrimack Canal).

Reference: LOWELL - 1985 CITY LAYOUT - Sheet No. 5 of 9 - dated 10/3/85  
Layout No. 6612 - Federal Aid Project No. M-000S(066)

N 43-41'-11" E Southeastern S 46-18'-49" E twenty and three hundredths feet (20.03) more or less across D.E.M. property.

Reference: Lowell Heritage state park - Lowell Canal System

Atlantic Engineering and survey consultants

Dated July 13, 1983 - Sheet 13 of 38.

N 43-41'-11" E from the southeasterly line of D.E.M. property, southeasterly across LOT -A1" (property owned by Canal Place Trust 11), terminating on Freudenberg Nonwoven's L.P. property.

Reference: SUBDIVISION PLAN OF LAND -LOWELL, MASS.

Harry R. Feldman, Inc., Land Surveyors

Dated May 25, 1982.

The division of capital planning and operations intends to convey only such easement rights as they may have acquired by virtue of an Order of Taking dated December 1, 1986 and recorded in the northern district registry of deeds in Middlesex county in Book 3830, Page 70.

In the event that all or a portion of the description of any of the parcels set forth within this chapter contradicts or is inconsistent with the description of such parcels as shown upon said plans of record, then said plans of record and any subsequent plans of record shall control as to the accuracy and correctness of such description.

**SECTION 2.** Said easements shall be subject to such conditions and restrictions as may be deemed necessary or appropriate by the commissioner of the division of capital planning and operations, in consultation with the department of environmental management and shall provide for compensation from Freudenberg Manufacturing Limited Partnership, to be agreed upon prior to said conveyance.

**SECTION 3.** In the event that the easements as described above cease to be used for the purposes for which they are conveyed, said easements shall revert to the commonwealth upon such terms and conditions as determined by the commissioner of capital planning and operations, in consultation with the



department of environmental management.

**SECTION 4.** Notwithstanding the foregoing provisions it is recognized that state law prohibits the investment of state pension funds in companies during business in South Africa. It is also the policy of the commonwealth that no state agency shall procure goods or services originating in South Africa or from companies doing business in said country, unless the state purchasing agent or other authorized state agents consider such procurement essential to the needs of the commonwealth. It shall be the policy of the commonwealth that a commissioner or head of a state department may not grant to any person doing business in or with the Republic of South Africa the right to lay, construct, maintain or operate pipe lines through, over, across or under land, water, park, reservation or highway of the commonwealth, its agencies or its political subdivisions.

The aforesaid state law and policy relating to South Africa shall not apply, however, to laws authorizing the granting of easements for the installation by Freudenberg Nonwovens Manufacturing Limited of steam and condensation return pipe lines across lands of the commonwealth, its agencies or its political subdivisions.

Approved December 26, 1991.

**Chapter 412.        AN ACT TO CONSOLIDATE CERTAIN POLICE FORCES IN  
THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately consolidate the state's police forces, therefore it is deemed to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The metropolitan district commission police force, the division of the state police force, the capitol police force and the division of law enforcement of the registry of motor vehicles shall be consolidated as one police force. Such consolidation shall begin on July first, nineteen hundred and ninety-two and shall be completed by July first, nineteen hundred and ninety-three, with a one-year transition period, so called, so that after such transition period, said four police forces shall be deemed consolidated and merged, and the consolidated police force shall be called the department of state police. The consolidated department of state police shall be deemed to be the police force of the commonwealth, so that it shall be the force with jurisdictional authority over state property, except as otherwise provided in section one A, and it shall be required to respond to calls for assistance

for public safety services by any other police force in the commonwealth or any of its political subdivisions.

**SECTION 1A.** There is hereby established a special joint committee for the purpose of conducting an investigation and study of the need to establish a separate department of police or security with jurisdiction within the state house and other state properties.

The members of said committee shall be comprised of the senate and house chairmen of the joint committee on public safety, the senate and house chairmen of the joint committee on public service, one minority member of the house of representatives to be appointed by the house minority leader and one minority member of the senate to be appointed by the senate minority leader.

The special committee shall make recommendations relative to the need for such department, and shall make its findings on or before March thirty-first, nineteen hundred and ninety-two, and shall file its report, including any recommendations for legislation, with the joint committee on rules and the clerk of the senate and house of representatives.

**SECTION 2.** Section 116 of chapter 6 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 3, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 2A.** Section 116B of said chapter 6, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "sixteen of chapter twenty-two" and inserting in place thereof the following words:- thirty-two of chapter twenty-two C.

**SECTION 3.** Section 156 of said chapter 6, as so appearing, is hereby amended by striking out, in line 6, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 4.** Chapter 6A of the General Laws is hereby amended by striking out section 18, as amended by section 253 of chapter 138 of the acts of 1991, and inserting in place thereof the following section:-

Section 18. The following state agencies are hereby declared to be within the executive office of public safety: the department of public safety and all other state agencies within said department, including the boards established by sections eleven A and fourteen of chapter twenty-two, the boards established by sections seventy-one A and seventy-one H of chapter one hundred and forty-three, and the board of school house structural standards established by section one of chapter six hundred and seventy-five of the acts of nineteen hundred and fifty-five; the registry of motor vehicles; the governor's highway safety committee; the Massachusetts criminal justice training council; the criminal history systems board; the security and privacy council; the state board of building regulations and standards; the statewide emergency telecommunications board; the architectural access

board; the Massachusetts fire training council; the department of correction, including the parole board and all other agencies within said department; and the department of state police.

**SECTION 5.** Section 18B of said chapter 6A, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words "superintendent of the metropolitan district commission police" and inserting in place thereof the following words:- colonel of state police.

**SECTION 6.** Sections thirty Q to thirty T, inclusive, of chapter seven of the General Laws are hereby repealed.

**SECTION 7.** Section 11C of chapter 12 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the second paragraph.

**SECTION 8.** Section 9 of chapter 16 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 to 12, inclusive, the words "supervising inspectors, investigators and examiners authorized to be appointed by the registrar under section twenty-nine of chapter ninety," and inserting in place thereof the following words:- and supervising inspectors.

**SECTION 9.** Sections ten, eleven and eleven A of said chapter sixteen are hereby repealed.

**SECTION 10.** Section 3 of chapter 22 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 3, the words "division of state police under his own immediate charge, a".

**SECTION 11.** Said section 3 of said chapter 22, as so appearing, is hereby further amended by striking out the second paragraph.

**SECTION 11A.** Sections three A and three B of said chapter twenty-two are hereby repealed.

**SECTION 11B.** Section 6 of said chapter 22, as so appearing, is hereby amended by striking out, in line 2, the word "officers,".

**SECTION 11C.** Said section 6 of said chapter 22, as so appearing, is hereby further amended by striking out, in line 3, the words "in section nine or nine A or".

**SECTION 11D.** Said section 6 of said chapter 22, as so appearing, is hereby further amended by striking out, in line 4, the words "officers and".

**SECTION 12.** Section 6A of said chapter 22, as so appearing, is hereby amended by striking out, in line 2, the words "officer or".

**SECTION 13.** Section 7 of said chapter 22, as so appearing, is hereby amended by striking out, in line 1, the words "officer and".

**SECTION 14.** Said section 7 of said chapter 22, as so appearing, is hereby further amended by striking out, in line 4, the words "officer or".

**SECTION 15.** Section 7A of said chapter 22, as so appearing, is hereby amended by striking out, in line 4, the words "trainee, officer or".

**SECTION 16.** Section 7B of said chapter 22, as so appearing, is hereby amended by striking out, in lines 1, 4 and 6, the words "officer or".

**SECTION 17.** Section seven C of said chapter twenty-two is hereby repealed.

**SECTION 18.** Section 8 of said chapter 22, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "officer or".

**SECTION 19.** Sections nine to nine U, inclusive, of said chapter twenty-two are hereby repealed.

**SECTION 19A.** Sections sixteen to nineteen, inclusive, of said chapter twenty-two are hereby repealed.

**SECTION 20.** Said chapter 22 is hereby further amended by inserting after section 15 the following sections:-

Section 15A. There shall be a fraudulent claims commission in the executive office of public safety, hereinafter called the commission, which shall establish rules and regulations for the investigation of fraud under any assistance program administered by the department of public welfare. The commission shall consist of the colonel of the state police or his designee, the commissioner of public welfare, or his designee, and the attorney general, or his designee. The colonel of the state police, or his designee, shall be the chairman of the commission.

Section 15B. There shall be in the department of public safety of the executive office of public safety a bureau of special investigations, headed by a director, who shall be appointed by the secretary of public safety upon the recommendation of the commission, shall be a person of ability and experience and shall devote his entire time to the duties of the office. Said commission may appoint such other experts and officers as it deems necessary to carry out the work of the bureau. Appointments to the positions of director, legal counsel and confidential administrative secretary, shall not be subject to chapter thirty-one or to section nine A of chapter thirty.

Section 15C. The director may expend for legal, investigative, clerical and other assistance and expenses such sums as may be appropriated therefor.

Section 15D. The director shall initiate investigations and investigate complaints including complaints initiated by recipients, which indicate the possibility of either a fraudulent claim for payment or services under any assistance program administered by the department of social services or any program administered by the department of social services or a receipt of payment or services by a person not entitled thereto. The director, in conformity with the rules and regulations of the fraudulent claims commission, shall:

(1) Initiate investigations and review procedures in order to discover any fraudulent claim or wrongful receipt under any assistance program administered by the department of public welfare or any program administered by the department of social services;

(2) Examine the records and accounts of the department of public welfare, department of social services, division of industrial accidents, state retirement board, department of employment and training and veteran's services, and for such

purposes the director shall have access to such records and accounts at reasonable times and may require the production of books, documents and vouchers relating to any matter within the scope of such investigation;

(3) Examine upon written request to the commissioner of revenue the tax returns, wage reports, papers or other documents on file with said commissioner concerning any person where there is reason to believe that such person has committed fraud under any assistance program administered by the department of public welfare or any program administered by the department of social services, and may require the production of such returns, papers and other documents; provided, however, that nothing herein shall be construed to authorize the examination or disclosure, directly or indirectly, of any information, returns or their records received from the federal internal revenue service;

(4) Examine the records and accounts of any vendor claiming or receiving payment for services rendered under any program administered by the department of public welfare or the department of social services insofar as such records and accounts relate to any matter within the scope of such investigation;

(5) Report to the attorney general or a district attorney for such action as he may deem proper any case in which, after investigation, he finds there is probable cause that a fraudulent claim or payment has been made;

(6) Report in writing to the governor and the general court the nature and extent of his activities for each month of the fiscal year, said report to be made not later than thirty days after the expiration of each month, which report shall be made available to the public;

(7) Examine the records and accounts of any person domiciled or doing business in the commonwealth, and any state, county or municipal department, agency, office, bureau, board, commission or division who employ or had employed an individual who is the subject matter of an investigation insofar as those records and accounts pertain to dates, hours and nature of employment of services rendered and the amounts of salary, wages, or other things of value paid and deductions therefrom including information concerning the prior employment history of the individual who is the subject matter of an investigation;

(8) Examine the records and accounts of any bank, as defined in section one of chapter one hundred and sixty-seven, national bank, federal savings and loan association, benefit association, insurance company, safe deposit company or loan company authorized to do business in the commonwealth relative to individuals who are the subject matter of an investigation insofar as the records and accounts pertain to deposits, withdrawals, loans, insurance transactions, claims settlements and payments; and

(9) Examine the student records of any school or other institution of higher learning within the commonwealth relative to a student who is the subject matter of an investigation or the child, ward or dependent of the subject matter of an

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investigation insofar as those records pertain to enrollment, attendance, and family history but excluding academic, medical, and evaluative records.

A written request of the director, or an authorized representative of the director, for examination of information, records or accounts as provided in clauses (4), (7), (8), and (9) hereof shall be complied with within a reasonable period of time.

**SECTION 21.** Chapter twenty-two B of the General Laws is hereby repealed.

**SECTION 22.** The General Laws are hereby further amended by inserting after chapter 22B the following chapter:-

**CHAPTER 22C.**

**THE DEPARTMENT OF STATE POLICE.**

Section 1. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:-

"Colonel", the colonel of state police, the head of the department of state police.

"Department", the department of state police.

"Commissioned officer", a member of the state police holding a title of the rank of lieutenant, detective lieutenant, captain or detective captain.

"Noncommissioned officer", a member of the state police holding a title of sergeant.

"Staff officer", a member of the state police holding a title of the rank of major, lieutenant colonel or colonel.

"Uniformed member", member of the state police who has been appointed under the provisions of section ten.

"Veteran", any person who:

(1) comes within the definition of a veteran pursuant to the provisions of the forty-third clause of section seven of chapter four;

(2) comes within such definition except that instead of having performed "wartime service" as defined therein, he has been awarded the Congressional Medal of Honor or one of the following campaign badges: Second Nicaraguan Campaign, Yangtze Service, Navy Occupation Service, Army of Occupation or Medal for Humane Action; or

(3) is a person eligible to receive the Congressional Medal of Honor or one of the campaign badges enumerated in clause (2) and who presents proof of such eligibility which is satisfactory to the personnel administrator; provided that a veteran shall not include active duty for training in the army national guard or air national guard or active duty for training as a reservist in the armed forces of the United States.

Section 2. There shall be within the executive office of public safety a department of state police under the supervision and control of the colonel of state police.

Section 3. The colonel shall be the executive and administrative head of the department and shall have charge of the administration and organization thereof.

The colonel may, subject to the approval of the governor and the secretary of public safety and except as otherwise provided, organize such divisions, bureaus, sections and units as he deems necessary for the effective management of the department and, when he deems necessary for such purpose, may abolish or consolidate such divisions, bureaus, sections or units. The colonel shall, except as otherwise provided, direct all inspections and investigations. The colonel shall make all necessary rules and regulations for the government of the department, for reports to be made by employees of the department and for the performance of the duties of said employees. The colonel shall make an annual report to the governor and the secretary of public safety.

The colonel shall be appointed by the governor, upon the recommendation of the secretary of public safety, and shall be a person who has been employed by the department in a rank above the rank of lieutenant immediately prior to such appointment and shall serve for a term coterminous with that of the governor. The colonel shall devote his full time during business hours to the duties of the office.

Section 4. There shall be within the department of state police four divisions which shall be known as: (a) the division of field services; (b) the division of investigation and intelligence; (c) the division of special police services; and (d) the division of support services. The head of each division shall be designated by the colonel and shall hold such rank or temporary rank as the colonel may determine.

Section 5. There shall be within the division of field services two bureaus, which shall be designated as the bureau of eastern field operations and the bureau of western field operations. The head of each such bureau shall be designated by the colonel and shall hold such rank or temporary rank as the colonel may determine. The colonel may from time to time assign to each such bureau such uniformed members and other employees of the department as he may deem necessary to carry out its duties.

Section 6. There shall be within the division of investigation and intelligence two bureaus, which shall be designated as the bureau of investigative services/eastern region and the bureau of investigative services/western region. The head of each such bureau shall be designated by the colonel and shall hold such rank or temporary rank as the colonel may determine. The colonel may from time to time assign to each such bureau such uniformed members and other employees of the department as he may deem necessary to carry out its duties.

Section 7. There shall be within the division of special police services three bureaus, which shall be designated as the bureau of facility security, the bureau of motor vehicle enforcement and the bureau of metropolitan district operations which shall provide services, including but not limited to, school crossing guards and the protection of watershed properties managed by the metropolitan district commission. The head of each such bureau shall be designated by the colonel and

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shall hold such rank or temporary rank as the colonel may determine. The colonel may from time to time assign to each bureau such uniformed members and other employees of the department as he may deem necessary to carry out its duties.

Section 8. There shall be within the division of support services two bureaus, which shall be designated as the bureau of administrative services and the bureau of technical services. The head of each such bureau shall be designated by the colonel and shall hold such rank or temporary rank as the colonel may determine. The colonel may from time to time assign to said bureau such uniformed members and other employees of the department as he may deem necessary to carry out its duties.

Section 9. The colonel may appoint, transfer and remove experts, clerks and other assistants as he may deem necessary for the operation of the department; provided, however, that all such actions shall be exempt from the provisions of chapter thirty-one; and provided, further, that such positions shall be subject to the provisions of sections forty-five, forty-six and forty-six C of chapter thirty.

Section 10. Whenever the governor shall deem it necessary to provide more effectively for the protection of persons and property and for the maintenance of law and order in the commonwealth, he may authorize, in writing, the colonel to make appointments to the department of state police, together with such other employees as the governor may deem necessary for the proper administration thereof. The appointment of the officers herein provided for shall be by enlistment for terms not exceeding two years, and such appointees shall be exempt from the requirements of chapter thirty-one; provided, however, that the classification of such positions shall be subject to the provisions of section forty-five of chapter thirty. Said officers shall have and exercise within the commonwealth all the powers of constables, except the service of civil process, and of police officers and watchmen. The colonel may, subject to the provisions of this chapter and of chapter one hundred and fifty E, make rules and regulations for the force, including matters pertaining to the discipline, organization, government, training, compensation, equipment, rank structure, and means of swift transportation; provided that no member of said force shall be used or called upon for service in any industrial dispute, unless actual violence has occurred therein; and then only by order, in writing, of the governor. Any member of said force violating any of the rules and regulations for said force shall be subject to discipline and discharge in accordance with said rules and regulations. The colonel may expend annually for the expenses of administration, organization, government, training, compensation, equipment and maintenance such amount as the general court may appropriate.

No person who has not reached his nineteenth birthday nor any person who has passed his thirty-fifth birthday shall be enlisted for the first time as an officer of the state police. Subsequent to January first, nineteen hundred and eighty-eight, no person who smokes any tobacco product shall be eligible for appointment as



a uniformed member of the department of state police, and no person so appointed after said date shall continue in such office or position if such person thereafter smokes any tobacco product; the personnel administrator shall promulgate regulations for the implementation of the provisions of this sentence. No person shall be enlisted as an officer of the state police until he shall have undergone an initial medical and physical fitness examination and shall have met such initial medical and physical fitness standards as prescribed by rules and regulations promulgated by the colonel.

No person shall be enlisted as a uniformed member of the state police except in accordance with the provisions of this section; provided further, that no person employed as a police officer for an agency other than the department of state police, including but not limited to, any agency of the commonwealth or any of its political subdivisions, shall be allowed to transfer into a position as a uniformed member of the state police.

Except as otherwise provided, no officer appointed under this section shall be denied reenlistment if he has served satisfactorily for six years or more; provided, however, that at the date of each such reenlistment he shall have undergone an in-service medical and physical fitness examination and shall have met such in-service medical and physical fitness standards as prescribed by rules and regulations by the colonel to ensure that any such officer appointed under this section is physically able to perform the necessary duties and functions necessary to the normal operation of the department of state police. If any such officer fails to meet such in-service standards, he shall be eligible to undergo a reexamination within sixty days of the date of the in-service medical or physical fitness examination failed. If he fails the reexamination, he shall be eligible to undergo a second reexamination within ninety days of the date of the first reexamination. If he fails to pass the second reexamination, his reenlistment shall be denied; provided, however, that if the failure to meet such in-service standards is due to a temporary injury, illness or incapacity, such officer shall continue to be employed with duties adapted to such injury, illness or incapacity until such time as such officer shall pass such in-service standards. An officer whose reenlistment is denied because of his failure to meet such in-service medical or physical fitness standards shall not be presumed by virtue of such denial to be disabled for the purposes of chapter thirty-two.

The colonel may assign, reassign or transfer any uniformed member of the state police at any time to any duties in any of said divisions or said bureaus within the department. All such uniformed members within the department without exception and regardless of rank, assignment or duties regularly performed shall be subject to all duties of the uniformed members of the state police including, but not limited to, emergency duties.

Section 11. Each appointment for initial enlistment as a uniformed member of

the state police shall be made from a list established as the result of a competitive examination conducted under the direction of the colonel, after consultation with the personnel administrator, who shall determine their form, method and subject matter. Each such competitive examination shall fairly test the knowledge, skills, and abilities which can be fairly and reliably measured and which are actually required to perform the primary or dominant duties of the position of uniformed member of the state police.

The names of persons who pass such examinations for appointment for initial enlistment as a uniformed member shall be placed on an eligible list in the order of their respective scores; provided however, that veterans shall receive two additional points to their score on the examination for the purpose of such eligible list; and provided, further, that the son or daughter of any uniformed member who passes the written examination for such initial enlistment shall have his or her name placed on said eligible list for such initial enlistment if said uniformed member while in the performance of his duties was killed or sustained injuries which resulted in his death.

Any appointment for such initial enlistment shall be made from the first three names on such list who are eligible for such appointment and are willing to accept such appointment.

The colonel shall make rules and regulations relative to the right of any applicant for appointment for enlistment to the department of state police to appeal (i) a marking of the applicant's answers to the questions on such promotional examination; (ii) a finding by the colonel that an applicant does not meet the entrance requirements for such examination or exceeds the mandatory entrance age for enlistment; and (iii) the suitability of a question to test the fitness of such member to perform the primary and dominant duties of the position for which the examination was held. The colonel shall promulgate regulations specifying the time within which any vacancy in the department shall be filled.

Section 12. Any uniformed member of the state police may, upon view of any misdemeanor committed in his presence while on duty, arrest the person committing such misdemeanor, where such misdemeanor was committed in any building or grounds owned or occupied, wholly or in part by the commonwealth, or on streets adjacent to any such building, and shall enforce all traffic rules, regulations and ordinances on streets adjacent to buildings owned or occupied, wholly or in part, by the commonwealth.

Section 13. Any uniformed member of the state police who has served for one year or more and against whom charges have been preferred shall be tried by a board to be appointed by the colonel or, at the request of the officer, may be tried by a board consisting of the colonel. Any person aggrieved by the finding of such trial board may within sixty days after being notified thereof, bring a petition in the district court within the judicial district of which he resides, or in the municipal court

of the city of Boston addressed to the justice of the court asking that the action of the department trial board be reviewed by the court, and after such notice to the colonel as the court deems necessary, it shall review such finding and determine whether or not upon all the evidence such finding and punishment was justified. In conducting such review, the court, in its discretion, may direct that the record of the departmental trial board be supplemented by such additional evidence or testimony as the court deems necessary for a just resolution of such review. If the court finds that such finding and punishment was justified, the action of the department trial board shall be affirmed; otherwise it shall be reversed and the petitioner shall be reinstated to his office without loss of compensation or other benefits. The decision of the court shall be final and conclusive upon the parties, and a copy of the decision shall be forwarded forthwith by the clerk of the court to the colonel. A uniformed officer of the state police who has been dismissed from the force after trial before such a trial board, or who resigns while charges to be tried by a trial board are pending against him, shall not be reinstated by the colonel.

Section 14. No person who has been convicted of a felony or an offense punishable under chapter ninety-four C shall be appointed as an employee of the department, including but not limited to a uniformed member, clerk, assistant or expert.

Any member of the state police who directly or indirectly receives a reward, gift or gratuity on account of his official services shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months and shall also be discharged from office. Any such member who fails to faithfully perform his duties shall be immediately discharged from office.

Section 15. Each officer shall, before entering upon the performance of his duties, be sworn to the faithful performance thereof, and unless his oath of office is taken within ten days after the date of his appointment, the appointment shall be void.

Section 16. The colonel may authorize the payment, out of any appropriation made for traveling or other expenses of the department, of the reasonable hospital, medical and surgical expenses incurred by any trainee or officer of the department when temporarily or permanently disabled by reason of injuries sustained while in the course of his employment without serious and willful misconduct by such trainee or officer. In determining the right of any such trainee or officer of the department performing police service, or his legal representatives, to receive compensation under any provision of law on account of injuries or death suffered by such trainee or officer during the course of his employment, such trainee or officer shall be deemed to be so engaged while travelling on public ways from his home to his station of duty and from such station to his home.

Section 17. The colonel shall forward to the secretary of public safety and the commissioner of administration his estimate of expenses for the department as

required under section three of chapter twenty-nine, a statement of the approximate proportion of the time of the department devoted to the service of patrolling the highways of the commonwealth for the purpose of controlling and supervising traffic. Said statement shall be the basis for a recommendation by the governor as to the proportion of the appropriations made for expenses of said department which it appears may fairly be charged to the Highway Fund.

Section 18. The colonel may, in the event of any public emergency, or of any unusual demand for the services of members of the state police serving in any bureau of the department, or whenever he deems it in the public interest, require such members to work additional hours of duty and prevent such members from taking time off when entitled thereto, or at the time assigned therefor; provided, however, that such members shall be compensated for any additional work in accordance with the provision of section thirty C of chapter one hundred and forty-nine.

The colonel may grant further time off to such members, in every instance without loss of compensation.

Section 19. The colonel shall promulgate rules and regulations to provide a standard form or forms of uniform to be worn by members of the state police and to authorize such members to carry badges, revolvers, clubs, handcuffs, twisters or such other articles as may be required in the performance of their duties.

A uniform or any distinctive part thereof so prescribed shall be worn only by members of said department entitled thereto under said rules and regulations. Violations of this paragraph shall be punishable by a fine of not less than five hundred nor more than one thousand dollars.

Section 20. The colonel shall prescribe a training program for persons who shall be enlisted for the first time in the department such that no person shall exercise police powers as such a uniformed member until he shall have been assigned to and satisfactorily completed such training program. The colonel shall also prescribe an in-service training program for uniformed members of the state police.

Section 21. The colonel may conduct programs for training police officers of the cities and towns of the commonwealth and for those employees who are authorized to exercise police powers in the various state departments or agencies and the colonel shall appoint necessary instructors. Said programs shall be conducted and instructors appointed in accordance with the provisions of section one hundred and eighteen of chapter six. Cities, towns, state departments and agencies voluntarily participating in such training shall reimburse the commonwealth for the necessary expense thereof. Attendance at such programs by police officers of any city or town and those employees who are authorized to exercise police powers in the various state departments or agencies shall be on a voluntary basis.

Section 22. Except as otherwise provided by a collective bargaining agreement

in accordance with the provisions of chapter one hundred and fifty E, evaluation reports of the performance of each member of the state police shall be submitted annually to the colonel by the supervisor to whom such member has directly reported for said annum; provided, however, that whenever possible, if the supervisor of such member shall be changed by transfer of said supervisor or by transfer of such member, such evaluation report be completed prior to such change in supervision. Such evaluation reports shall be filed annually on the anniversary date of such member's initial enlistment and no such member shall be reenlisted until such report has been so submitted.

Section 23. There shall be within the department of state police an office of affirmative action which shall report to the secretary of public safety; provided, that such office shall be responsible for implementing policies of nondiscrimination, equal opportunity, and affirmative action, as such policy relates to the employment practices of said department. Such office shall prepare, submit and review the affirmative action plan of said department.

All appointments and promotions made under the provisions of this chapter may take into consideration female and minority candidates for the positions of uniformed members, non-commissioned officers, commissioned officers, and staff officers.

Such office shall annually issue a report describing efforts undertaken by such office during the previous year to expand the pool of qualified women and minority candidates for enlistment to said department and to increase the promotional opportunities for said qualified women and minority candidates within said department; provided that such report be filed with the clerks of the house of representatives and senate on or before the first Wednesday in December.

Section 24. If uniformed members of the state police in positions in the same rank are to be separated from such positions because of lack of work, lack of money or abolition of positions, said uniformed members shall be separated from such employment according to their seniority in such rank and shall be reinstated to such position in such rank according to such seniority, so that members senior in length of service in such rank shall be retained the longest and reinstated first. Uniformed members separated from positions pursuant to the provisions of this section shall be reinstated prior to the appointment of any other person under section ten, provided that the right to such reinstatement shall continue for no fewer than two years from the date of such separation and shall be subject to such rules and regulations as prescribed by the colonel.

Section 25. The colonel shall prepare a notice for all promotional examinations, which shall be written examinations, and shall cause notice thereof to be published in the orders of the department no later than thirty days prior to the final date for filing of applications therefor. No such promotional examination shall be held less than thirty days after the final date for filing of applications for such examination.

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The colonel shall make rules and regulations relative to the right of any uniformed member of the state police to appeal (i) a marking of a member's answers to the questions on such promotional examination; (ii) a finding by the colonel that a member does not meet the entrance requirements for such examination; and (iii) the suitability of a question to test the fitness of such member to perform the primary and dominant duties of the rank for which the examination was held. The colonel shall promulgate regulations specifying the time within which any promotional vacancy in the department shall be filled.

Section 26. The colonel may promote uniformed members of the state police who are eligible for promotion to the title of noncommissioned officer, lieutenant, detective lieutenant, captain and detective captain. All promotions shall be based on the following factors which shall be marked on a percentage basis:

(1) a competitive promotional examination open to all members who have completed not less than one year of service in the next lower title or who have completed a total of ten years of service as a uniformed member prior to the final date for filing applications for such examination;

(2) the most recent evaluation of the member's performance in accordance with the provisions of section twenty-two;

(3) longevity, based upon a granting of five percent for each year of service plus one-twelfth of such five percent for each additional full month of service, up to twenty years of service, computed as of the final date for the filing of applications for such promotions;

(4) for promotion to a position of a commissioned officer, an oral interview conducted by uniformed members of the state police, or by officers of the state police department holding a grade higher than that for which the examination is being given.

In ranking members for the purpose of promotion to a title below that of lieutenant, such factors for promotion shall be weighted as follows: written examination, nine; performance evaluation, four; and longevity, seven.

In ranking members for the purposes of promotion to the title of lieutenant, detective lieutenant, captain or detective captain, such factors shall be weighted as follows: written examination, eight; performance evaluation, three; longevity, six; oral interview, three.

No member shall be eligible for promotion unless he has attained a mark of at least seventy percent in the written examination. Any member who is a veteran shall have two points added to his examination score for the purpose of compiling an eligible list for promotion.

Prior to making any promotions in accordance with the provisions of this section, the colonel shall publish and distribute in the orders of the department for each title in the department a list of the members who are eligible for promotion to each such title in the order in which each member shall be considered for such

promotion; provided that such order shall be based upon the final determination by the colonel in accordance with the provisions of clause (2) or (3) of the first paragraph. Each such eligible list for promotion shall be used by the colonel from which to fill vacancies for a period of two years from the initial date of said publication; provided, however, if a new eligible list shall not have been established after such two year period, each such eligible list shall continue to be used by said colonel for promotions until a new eligible list shall have been established. Any promotion to a vacancy occurring in any title for which an examination is conducted in accordance with the provisions of this section shall be made from the first three members on such list who is eligible for such promotion and is willing to accept such promotion.

Section 27. Any vacancy that occurs in the title of lieutenant colonel shall be filled by the colonel from uniformed members who hold the title of major or captain.

Any vacancy that occurs in the title of major shall be filled by the colonel from uniformed members who hold the title of captain.

Section 28. No person shall be eligible for appointment to the following titles until he shall have completed the following period of service as a uniformed member of the state police: sergeant, five years; lieutenant, eight years; captain, twelve years; and major, fourteen years.

Section 28A. Notwithstanding the provisions of sections forty-five and forty-six of chapter thirty, each officer in grade of lieutenant in the department of state police shall receive a base salary of fifteen point five percent greater than the regular salary payable to the next subordinate grade and all other commissioned officers and staff officers shall receive a base salary nine percent greater than the regular salary payable to the next subordinate grade, in accordance with a schedule submitted by the commissioner of administration to the house and senate committees on ways and means. The commissioner of administration in consultation with the colonel of state police shall establish procedures for a review of said salary schedule and shall submit recommendations for adjustments in subsequent years to the house and senate committees on ways and means.

Section 29. The colonel shall enter into an agreement with the Massachusetts Turnpike Authority for police service to be provided by the department to said authority. Said agreement shall fix the legal and fiscal responsibility pertaining to the operation and maintenance of such police service and shall include, but not be limited to, a provision for payments to the commonwealth for the cost of retirement, compensation of injured officers, sick leave, and other employee benefits and for a minimum allowance for departmental supervision. Said agreement shall also require the continuation of all terms and conditions of employment established under the applicable collective bargaining agreement pursuant to the provisions of chapter one hundred and fifty E by the common-

wealth and the exclusive bargaining representative of any member of the state police providing such police service including, without limitation, the payment by the authority of any benefit or contribution therefor. Said agreement shall also include a provision that all expenses incurred by the department in providing such police service shall, upon proper requisition, be paid by the authority as such expenses are incurred.

Said agreement shall also provide for the appointment under section ten and assignment of such members of the state police as deemed necessary to meet the requirements of said authority including, but not limited to, the provisions of section fifteen of chapter three hundred and fifty-four of the acts of nineteen hundred and fifty-two; provided that such appointment and assignment of any such member of the state police by the colonel shall not be considered a violation of any provisions of chapter twenty-nine; and provided, further, that during such assignment and except as the colonel shall determine that an emergency exists or is threatened, such officers, in the performance of their duties, shall be subject to the operational control of the authority, and the chairman of the authority, but shall at all times be under the administrative and disciplinary control of the colonel.

Section 30. The colonel shall enter into an agreement with the Massachusetts Port Authority for police service to be provided by the department at the General Edward Lawrence Logan international airport. Said agreement shall fix the legal and fiscal responsibility pertaining to the operation and maintenance of such police service and shall include, but not be limited to, a provision for payments to the commonwealth for the cost of retirement, compensation of injured officers, sick leave, and other employee benefits and for a minimum allowance for departmental supervision. Said agreement shall also require the continuation of all terms and conditions of employment established under the applicable collective bargaining agreement pursuant to the provisions of chapter one hundred and fifty E by the commonwealth and the exclusive bargaining representative of any member of the state police providing such police service including, without limitation, the payment by the authority of any benefit or contribution therefor. Said agreement shall also include a provision that all expenses incurred by the department in providing such police service shall, upon proper requisition, be paid by the authority as such expenses are incurred.

Said agreement shall also provide for the appointment under section ten and assignment of such members of the state police as deemed necessary to meet the requirements of said authority including, but not limited to the provisions of section twenty-three of chapter four hundred and sixty-five of the acts of nineteen hundred and fifty-six; provided that such appointment and assignment of any such member of the state police by the colonel shall not be considered a violation of any provisions of chapter twenty-nine.

Section 31. The colonel shall enter into an agreement with the Massachusetts



water resources authority for police service to be provided by the department to the authority. Said agreement shall fix the legal and fiscal responsibility pertaining to the operation and maintenance of such police service and shall include, but not be limited to, a provision for payments to the commonwealth for the cost of retirement, compensation of injured officers, sick leave, and other employee benefits and for a minimum allowance for departmental supervision. Said agreement shall also require that all terms and conditions of employment established under the applicable collective bargaining agreement pursuant to the provisions of chapter one hundred and fifty E by the commonwealth and the exclusive bargaining representative of any member of the state police providing such police service including, without limitation, the payment by the authority of any benefit or contribution therefor. Said agreement shall also include a provision that all expenses incurred by the department in providing such police service shall, upon proper requisition, be paid by the authority as such expenses are incurred.

Said agreement shall also provide for the appointment under section ten and assignment of such members of the state police as deemed necessary to meet the requirements of said authority including, but not limited to the provisions of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four; provided that such appointment and assignment of any such member of the state police by the colonel shall not be considered a violation of any provisions of chapter twenty-nine.

Section 32. For the purposes of sections thirty-three to thirty-five, inclusive, the following words shall have the following meanings:-

“Crime reporting unit”, a joint project of the department of state police and the criminal history systems board charged with the responsibility of collecting incident reports submitted by state, local and campus police departments and other law enforcement authorities and disseminating periodic reports analyzing and interpreting crime rates and trends in the commonwealth.

“Hate crime”, any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap or sexual orientation prejudice, or which otherwise deprives another person of his constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person’s exercise of constitutional rights through harassment or intimidation. Hate crime shall also include, but not be limited to, acts that constitute violations of sections thirty-seven and thirty-nine of chapter two hundred and sixty-five, section one hundred and twenty-seven A of chapter two hundred and sixty-six and chapter two hundred and seventy-two.

“Hate crime data”, information, incident reports, records and statistics relating to hate crimes, collected by the crime reporting unit.

“Incident report”, an account of occurrence of a hate crime received or collected

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by the crime reporting unit.

Section 33. The colonel shall promulgate regulations relative to the collection of hate crime data. Said regulations shall include, but not be limited to, the following:

(1) establishment of a central repository for the collection and analysis of hate crime data and, upon the establishment of such repository, the crime reporting unit shall be responsible for collecting, analyzing, classifying and reporting such data, and shall maintain this information in a central repository;

(2) procedures necessary to ensure effective data-gathering and preservation and protection of confidential information, and the disclosure of information in accordance with section thirty-five;

(3) procedures for the solicitation and acceptance of reports regarding hate crimes which are submitted to the crime reporting unit;

(4) procedures for assessing the credibility and accuracy of reports of hate crime data from law enforcement agencies.

Section 34. The crime reporting unit shall summarize and analyze reports of hate crime data which shall be received by said unit. Said unit shall transmit copies of all such reports regarding hate crime data to the governor, the attorney general, the joint committees on public safety, criminal justice and the judiciary, and the senate and house committees on ways and means. Such annual reports shall be a public record.

Section 35. The crime reporting unit shall cause any hate crime data collected to be made available for use by any law enforcement agency and shall also be made available to any unit of local government, to any state agency and to the general public in a manner consistent with the requirements of sections one hundred and sixty-seven and one hundred and sixty-eight of chapter six. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law.

Section 36. The colonel shall provide within the department for receiving, arranging and keeping proper means for the identification of criminals and for the furnishing of means of identification of criminals to police departments of cities and towns, to the department of correction, to any sheriff's department, to the parole board and to prosecuting officers within the commonwealth. He may in his discretion furnish means of identification of criminals to proper officers in other states and in foreign countries. He may secure means of identification including measurements, photographs, fingerprints and other means, so that known criminals may be identified in the commonwealth. The colonel shall, on his own initiative, or upon request of the chief police officer of any city or town, sheriff, commissioner of correction, chairman of the parole board, or of any district attorney within the commonwealth, furnish to such chief police officer, sheriff, commissioner, chairman or district attorney such information as he has in his

possession which may tend to assist in the identification of or apprehension of criminals. Systems operated by the criminal history systems board, pursuant to sections one hundred and sixty-seven to one hundred and seventy-eight, inclusive, of chapter six, may be used for such record keeping purposes provided that such records shall remain subject to the regulations of said board.

Section 37. Not less than seven days before the time set for the release or discharge on parole, or otherwise, of any person confined in a penal or reformatory institution of the commonwealth or of any county under sentence for an assault of an indecent nature under section thirteen A of chapter two hundred and sixty-five, for a violation of any provision of sections thirteen B or twenty-two to twenty-four, inclusive, of said chapter two hundred and sixty-five, of sections sixteen, seventeen, thirty-four or thirty-five of chapter two hundred and seventy-two, and so much of section fifty-three of said chapter two hundred and seventy-two as pertains to lewd, wanton and lascivious persons in speech or behavior or to persons guilty of indecent exposure, or of any person confined in any facility, as defined in section one of chapter one hundred and twenty-three, or in the Bridgewater state hospital, who was removed thereto after conviction of a violation of any such provision or was committed thereto during the pendency of a complaint or indictment for a violation of any such provision, the officer in charge of such institution, department or hospital, as the case may be, shall notify the colonel in writing of such intended release or discharge; provided, that if any person is released or discharged as aforesaid under such circumstances that it is not possible for the officer in charge to comply with the foregoing provision, he shall so notify the colonel as soon as possible that such person will be or has been released or discharged as aforesaid. Upon receipt of any such notice, the colonel shall furnish to the police authorities of each city and town, and to each district attorney within the commonwealth the name of the person referred to in such notice, his known aliases, if any, his last known address, his age, height and weight, his photograph, a description of his fingerprints, a summary of his criminal history and a list of any institutions for the insane and departments for defective delinquents in which he has been known to have been confined, and such other information as the colonel deems necessary.

In all cases covered by this section where a fine is imposed or sentence suspended, the clerk of court shall furnish release data to the colonel of state police on forms furnished by him.

In all cases where a person has been found guilty of any offense of similar nature to those enumerated above in any court of competent jurisdiction outside of the commonwealth and the colonel has knowledge that such person has been released or resides within the commonwealth, the aforesaid descriptive data insofar as available may be furnished to the police authorities of each city and town and to each district attorney, within the commonwealth.

Section 38. The criminal information section of the department shall be charged with the following duties and functions:

(a) Said section shall collect, by investigation of its own and by receipt from other law enforcement agencies, information concerning organized crime, organized illegal gambling, and other illegal activities generally described as rackets, including information as to the identity and doings of persons who engage in, promote, operate or participate in such activities and of persons arrested for the illegal use, sale or possession of harmful drugs or narcotics.

(b) Said section shall maintain files of all such information which it collects and receives, and shall serve as a clearinghouse of intelligence for all law enforcement agencies within the commonwealth concerning such activities and such persons, and may provide to and receive for similar agencies outside the commonwealth any such information. Any police department of the commonwealth, or any of its political subdivisions, may, by request, in the form and manner prescribed by said section, receive such information as is in the files of said section concerning such activities and such persons in which said police department has an official interest. Such clearinghouse functions of said section shall constitute a cooperative relationship between said section and said police departments; and if in the discretion of the head of said section, responding to such request for information might interfere with an investigation being carried on by some other department or by said section, he may, with the approval of the colonel, deny the request. Systems operated by the criminal history systems board, pursuant to sections one hundred and sixty-seven to one hundred and seventy-eight, inclusive, of chapter six, may be used for such record keeping purposes provided that such record shall remain subject to the regulations of said board.

(c) Said section shall from time to time advise the local police departments of new schemes or rackets which may come to its attention, of new devices, techniques, methods of operation, and other matters of interest relating to such activities and such persons, so that the police of the commonwealth and its political subdivision shall be better informed and thus better able to enforce the laws with respect to such activities and such persons.

(d) The clerk of any court in which a person is convicted of a crime involving gaming of any kind, drug and narcotic violations, the sale or possession of pornographic literature or the improper solicitation or use of funds for charitable purposes, shall forthwith report such conviction to said section. The probation officer of said court shall furnish to the clerk a description of any person so convicted, which shall be on a form prescribed by the colonel.

Section 39. A certificate by a chemist of the department of the result of an analysis made by him of a drug furnished him by a member of the state police, signed and sworn to by such chemist, shall be prima facie evidence of the composition, quality and when appropriate, net weight of any mixture containing

such drug.

Section 40. The narcotics unit within the criminal information section shall be charged with the following duties and functions: to investigate all violations of the narcotic and harmful drug laws of the commonwealth; to arrest all violators of such laws; and to cooperate with the department of the attorney general in training personnel assigned to the narcotics unit in practices and procedures relating to the narcotic and harmful drug laws pursuant to section eleven B of chapter twelve.

Section 41. A certificate by a chemist of the department of the result of analysis made by him for the presence of a sperm cell or cells or seminal fluid on or in any material or substance furnished him by a police officer of any department, signed and sworn to by such chemist, shall be prima facie evidence of the presence of a sperm cell or cells or seminal fluid on or in such material or substance.

Section 42. In proceedings under sections twenty-seven A, twenty-eight, twenty-nine, one hundred and eleven A and one hundred and thirty-nine of chapter two hundred and sixty-six, certified copies of any motor vehicle or trailer ownership records, including computer records, in the possession of the registrar of motor vehicles, attested by the registrar or his designee or, if the motor vehicle or trailer is registered or titled in another state, such records similarly certified by the keeper of records of the appropriate motor vehicle department, shall be admissible as proof of ownership of a motor vehicle or trailer and shall be prima facie evidence that the use of the motor vehicle or trailer was unauthorized. If the defendant rebuts such evidence, the commonwealth may be granted a reasonable continuance to enable the owner of the vehicle to be brought into court to testify.

Section 43. Any person affected by an order of the department or of a division or officer thereof, may, within such times as the colonel may fix, which shall not be less than ten days after notice of such order, appeal to the colonel who shall thereupon grant a hearing, and after such hearing the colonel may amend, suspend or revoke such order. Any person aggrieved by an order approved by the colonel may appeal to the superior court; provided, that such appeal is taken within fifteen days from the date when such order is approved or made. The superior court shall have jurisdiction in equity upon such appeal to annul such order if found to exceed the authority of the department or upon petition of the colonel to enforce all valid orders issued by the department. Nothing herein contained shall be construed to deprive any person of the right to pursue any other lawful remedy.

Section 44. The colonel may after two years destroy or otherwise dispose of applications for approval of entertainments on Sunday, inspection reports of theaters and halls under the state building code, and applications for permits for special exhibitions of pictures. Any proceeds received from their disposal shall be paid to the commonwealth.

Section 45. If money, goods or other property which has been stolen, lost, abandoned or taken from a person under arrest comes in the possession of an

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officer or other employee of the department by virtue of his office or employment, he shall deliver the same to the person designated by the colonel to receive the same and shall thereupon be relieved from further responsibility therefor. If no person proves ownership of such money, goods or other property within six months, the colonel may cause the same, except money unclaimed, to be sold at public auction at such place and time and by such person as the colonel may designate. Notice of the time and place of sale, with a description of the property, shall be given by publishing the same once in a newspaper published in the county where the property was found or taken as aforesaid.

Section 46. Such property, if perishable or liable to deteriorate greatly in value by keeping, or the value of which will probably be less than the expense of keeping, may be sold at public auction at such place and at such time within six months and by such person as the colonel may designate, such notice of the time and place of sale as the colonel may deem reasonable and proper first being given.

Section 47. The proceeds of such sales, together with such unclaimed money, after deducting all reasonable charges and expenses incurred on account of such property, shall be accounted for and paid to the commonwealth.

Section 48. If, within two years and six months after such money has come into the possession of an officer or other employee of said department or within two years after any such sale, the owner claims such property and proves ownership to the satisfaction of the colonel, the amount of such unclaimed money or the proceeds of the sale of such property, after deducting reasonable expenses, shall be paid to him by the state treasurer.

Section 49. The form used by an investigating police officer to make a report concerning any incident, offense or alleged offense investigated or any arrest made shall provide a space to indicate whether such incident, offense, alleged offense or arrest involved abuse as defined in section one of chapter two hundred and nine A.

Section 50. Upon requisition of the commanding officer or other person in charge of a reservation of the United States of America, the colonel, or the mayor or the selectmen of any city or town the territory of which adjoins or includes, in whole or in part, such reservations, may provide police officers, who shall perform such police duties within such reservation as such commanding officer or other person may assign to them, and who shall, while on such assignment, have the authority, immunities and privileges that they would have while acting as duly appointed and qualified police officers elsewhere within the commonwealth.

Guards appointed by the trustees of the University of Massachusetts in connection with the operation of any part of said university within the limits of any such reservation may perform police duties under the direction of the commanding officer or the person in charge of such reservation, and while performing such duties within such limits shall have the same authority, immunities and privileges

as duly appointed and qualified police officers acting as such elsewhere within the commonwealth.

Section 51. The colonel, upon the petition of a railroad corporation, or of a railway company, or of The Boston Terminal Corporation, or of Railway Express Agency, Inc., or of a common carrier of passengers by water for hire having a usual place of receiving or discharging passengers within the commonwealth, may from time to time appoint as special state police officers as many of the persons designated in said petition and being citizens of the United States as it may deem proper, for the purposes and with the powers hereinafter set forth. Any person, appointed as a special state police officer upon the petition of a railroad corporation, may act as a police officer upon the premises and vehicles of any corporation transporting passengers or property by motor vehicle under the joint control and management of said corporation and said railroad corporation, which, for the purposes of this and sections fifty-two and fifty-three, shall be considered as being the premises, cars and vehicles of said railroad corporation.

Section 52. A record of all such appointments, made pursuant to section fifty-one, shall be kept by the department, and shall be open to public inspection, and such appointment shall constitute the person or persons named therein railroad, railway, railway express or steamboat police, respectively, in any city or town where the petitioner corporation or company referred to in section fifty-one operates its cars, vehicles, boats or vessels, or the carrier so referred to is accustomed to receive or discharge passengers or freight, or steamboat police upon the premises and at the wharves and landing places and upon the boats and vessels of such carrier by water, while within the boundaries of the commonwealth, and shall be conclusive evidence of the regularity of their appointment.

Section 53. Such special state police officers shall be sworn before a justice of the peace or notary public who shall make a return thereof to the department upon a form provided by said department. Upon receipt of said return, said department shall issue a license to each person so designated in accordance with the provisions of section fifty-one to act as a police officer. Such license shall, in any court of the commonwealth, be competent evidence of the validity of the appointment of such person named therein and of his authority to act as such police officer. Such special state police officers shall hold their offices until their appointment is revoked by the colonel, or until the petitioner corporation or company, upon ceasing to require the service of any such officers, shall file a notice to that effect with the department and thereupon the power of such special state police officer shall cease.

Section 54. Constables, city marshals, chiefs of police and all other police officers shall, within the respective cities and towns, aid the governor in the performance of his duties whenever called upon, and any such officer who refuses so to do when called upon shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months.

Section 56. The colonel may appoint two or more agents of the Massachusetts Society for the Prevention of Cruelty to Children as special state police officers for a term of three years, who shall serve without pay and shall have and exercise throughout the commonwealth the powers of state police officers to serve warrants and other criminal processes, except the authority to arrest without warrant.

Section 57. The colonel may appoint, at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, the Berkshire Animal Protective Society, Inc., the Animal Rescue League of Boston, the Boston Work Horse Relief Association, the Lowell Humane Society, the Worcester Animal Rescue League or the Animal Rescue League of New Bedford, duly accredited agents of said corporations as special state police officers to serve for one year subject to removal by the colonel. Such special state police officers shall report to him relative to their official acts as such police officers at such times and in such manner as the colonel may require. They shall serve without pay, except their regular compensation as agents of said corporation. They shall receive no fees for services or return of any criminal process and shall have throughout the commonwealth the powers of constables and police officers to arrest and detain any person violating any law for the prevention of cruelty to animals.

Section 58. The colonel may, at the request of the Port of Boston Authority, appoint as special state police officers employees of said authority. Such special state police officers shall serve for one year, subject to removal by the colonel, and they shall have the same power to make arrests as the state police for any criminal offense committed in or upon lands, piers or structures within the charge of said authority. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of said authority, and they shall receive no fees for services or return of any criminal process.

Section 59. The colonel may, upon petition of the commissioner of mental health or the commissioner of mental retardation, appoint as special state police officers employees of the department of mental health or the department of mental retardation or employees of various institutions under the respective jurisdictions of said departments, who shall have the same power to make arrests as the state police for any criminal offense committed in or upon lands or structures within the charge of said departments or of the various institutions under the respective jurisdictions of said departments. Such special state police officers shall be sworn before a justice of the peace or notary public who shall make return thereof to the department upon a form provided by said department. Upon receipt of said return the department shall issue a license to each person designated to act as a special state police officer, and such license shall, in any court of the commonwealth, be competent evidence of the validity of the appointment of the person named therein and of his authority to act as such special state police officer. A special state police



officer shall hold his office until his license expires or is revoked by the colonel, or until the petitioner files a notice with the department that the services of such officer are no longer required. The colonel may provide that the license and any renewal thereof shall expire on the anniversary of the birth of the person named therein not less than one nor more than two years following the date of issue. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except for their regular compensation as employees of the department of mental health, the department of mental retardation, or the various institutions under the respective jurisdictions of said departments, and they shall receive no fees for services for return of any criminal process.

Section 60. The colonel may, upon petition of the commissioner of public health, appoint as special state police officers employees of the department of public health or employees of the various institutions under its jurisdiction, who shall have the same power to make arrests as the state police for any criminal offense committed in or upon the lands or structures within the charge of the department of public health or the various institution under its jurisdiction. Such special state police officers shall be sworn before a justice of the peace or notary public who shall make a return thereof to the department upon a form provided by said department. Upon receipt of said return, the department shall issue a license to each person designated to act as a special state police officer, and such license shall, in any court of the commonwealth, be competent evidence of the validity of the appointment of the person named therein and of his authority to act as such special state police officer. Such a special state police officer shall hold his office until his license expires or is revoked by the colonel, or until the petitioner files a notice with the department that the services of such officer are no longer required. The colonel may provide that the license and any renewal thereof shall expire on the anniversary of the birth of the person named therein not less than one nor more than two years following the date of issue. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of the department of public health or the various institutions under its jurisdiction, and they shall receive no fees for services or return of any criminal process.

Section 61. The colonel may, at the request of the Massachusetts Turnpike Authority, appoint as special state police officers employees of said authority. Such special state police officers shall serve for one year, subject to removal by the colonel, and they shall have the same power to make arrests as the state police for any criminal offense committed in or upon lands or structures within the control of said authority. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of the said authority, and they shall

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receive no fees for service or return of any criminal process.

Section 62. The colonel may, upon petition of the board of trustees of the Soldiers' Home in Holyoke, or the Soldiers' Home in Massachusetts located in the city of Chelsea, as the case may be, appoint as special state police officers employees of said institutions, who shall have the same power to make arrests as the state police for any criminal offense committed in or upon land or structures within the charge of said boards of trustees, respectively. Such special state police officers shall be sworn before a justice of the peace or notary public who shall make a return thereof to the department upon a form provided by it. Upon receipt of said return the department shall issue a license to each person designated to act as a special state police officer, and such license shall, in any court of the commonwealth, be competent evidence of the validity of the appointment of the person named therein and of his authority to act as such special state police officer. A special state police officer shall hold his office until the petitioner files a notice with the department that the services of such officer are no longer required. The colonel may provide that the license or renewal thereof shall expire on the anniversary of the date of birth of the person named therein not less than one nor more than two years following the date of issue. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of said institutions, and they shall receive no fees for services or return of any criminal process.

Section 63. The colonel may, upon such reasonable terms and conditions as may be prescribed by him, at the request of an officer of a college, university, other educational institution or hospital licensed pursuant to section fifty-one of chapter one hundred and eleven, appoint employees of such college, university, other educational institution or hospital as special state police officers. Such special state police officers shall serve for three years, subject to removal by the colonel, and they shall have the same power to make arrests as regular police officers for any criminal offense committed in or upon lands or structures owned, used or occupied by such college, university, or other institution or hospital.

Each application for appointment as a special state police officer or a renewal thereof shall be accompanied by a fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

The colonel may promulgate such rules and regulations as may be necessary to ensure proper standards of skill. Said rules and regulations shall conform to the provisions of chapter thirty A.

Section 64. The colonel may, at the request of the director of civil defense, appoint employees of the civil defense agency as special state police officers. Such special state police officers shall serve for one year, subject to removal by the

colonel, shall receive such training as the colonel shall direct and shall have the same power to make arrests as the state police of any criminal offense committed in or upon lands or structures located in the town of Framingham within the charge of said director. Such officers shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without compensation, other than their regular compensation as employees of said agency.

Section 65. The colonel may, upon petition of the board of trustees of the Middlesex County Sanatorium, appoint as special state police officers employees of said institution, who shall have the same power to make arrests as regular police officers for any criminal offense committed in or upon lands, or structures owned, used or occupied by said sanatorium. Such special state police officers shall be sworn before a justice of the peace or notary public who shall make a return thereof to the department upon a form provided by said department. Upon receipt of said return, the department shall issue a license to each person designated to act as a special state police officer, and such license shall, in any court of the commonwealth, be competent evidence of the validity of the appointment of the person named therein and of his authority to act as such special state police officer. A special state police officer shall hold his office until his license expires or is revoked, by the colonel, or until the petitioner files a notice with the department that the services of such officer are no longer required. The colonel may provide that the license and any renewal thereof shall expire on the anniversary of the birth of the person named therein not less than one nor more than two years following the date of issue. Such special state police officer shall report to the colonel as to his official acts at such times and in such manner as the colonel may require. Such special state police officer shall serve without pay, except his regular compensation as an employee of said institution, and shall receive no fees for services or return of any criminal process.

Section 66. The colonel may, at the request of the commissioner of the department of employment and training, appoint as special state police officers employees of said department. Such special state police officers shall serve for one year, subject to removal by the colonel, and they shall have the same power to make arrests as the state police for any violation of section forty-seven of chapter one hundred and fifty-one A and shall have the power to serve warrants and other criminal processes. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of said department, and they shall receive no fees for service or return of any criminal process.

Section 67. The colonel may, at the request of the state lottery commission, appoint as special state police officers employees of said lottery commission holding the title of chief of security, security officer, license agent, field investigator, supervisor of beano, or assistant supervisor of beano.

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Such special state police officers shall serve for one year, subject to removal by the colonel, and they shall have the same power to make arrests as the state police for any criminal offense committed in connection with any activities operated or regulated by the state lottery commission. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of said lottery commission, and they shall receive no fees for service or return of any criminal process.

Section 68. The colonel may, at the request of the director of the bureau of special investigations, with the approval of the fraudulent claims commission, appoint as special state police officers employees of said bureau who have undergone training as required by said colonel. Such special state police officers shall serve for one year, subject to removal by the colonel, and they shall have and exercise throughout the commonwealth the same powers as state police officers to serve warrants and other criminal processes for any criminal offense resulting from either a fraudulent claim for payment or service under any assistance program administered by the department of public welfare or any program administered by the department of social services or a receipt of payment or services by a person to entitled thereto or for any violation of chapter two hundred and seventy-three relative to the support of spouses and children for whom the department of public welfare is entitled to receive payment, or in whose behalf said department is giving aid; except, that said officers shall not have the authority to arrest without a warrant. They shall report to the colonel as to their official acts at such times and in such manner as he may require. They shall serve without pay, except their regular compensation as employees of said bureau, and they shall receive no fees for service or return of any criminal process. This section shall not be construed as authorizing any person appointed as a special state police officer as provided herein to carry a firearm in the performance of his duties.

Section 69. The colonel of state police may promulgate rules and regulations as may be necessary to insure proper standards of skill for special state police officers licensed by said colonel under the provisions of sections fifty-six to sixty-eight, inclusive.

**SECTION 23.** Section 1 of chapter 31 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 133 to 136, inclusive, the words "a position in the detective force of the state department of public safety, in the capitol police force, or in the police force of the metropolitan district commission, and (3)".

**SECTION 24.** Section 7 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 9 to 12, inclusive, the words " , in the capitol police force, in the police force of the metropolitan district commission and in the detective force of the state department of public safety, other than promotions to positions in said

force specified by section nine P of chapter twenty-two.”.

**SECTION 25.** Section 64 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words “metropolitan district police force, the Massachusetts bay transportation authority police force, or the capitol police force” and inserting in place thereof the following words:- Massachusetts bay transportation authority police force.

**SECTION 26.** Said section 64 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words “metropolitan district police force, the Massachusetts bay transportation authority police force or the capitol police force” and inserting in place thereof the following words:- Massachusetts bay transportation authority police force.

**SECTION 27.** Said section 64 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 20 and 21, the words “metropolitan district police force or the Massachusetts bay transportation authority police force, or the capitol police force,” and inserting in place thereof the following words:- Massachusetts bay transportation authority police force.

**SECTION 28.** Said section 64 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 29 and 30, the words “metropolitan district police, the Massachusetts bay transportation authority police force, or the capitol police” and inserting in place thereof the following words:- Massachusetts bay transportation authority police.

**SECTION 29.** Section 65 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “metropolitan district police force and the capitol police” and inserting in place thereof the following words:- Massachusetts bay transportation authority police.

**SECTION 30.** Said section 65 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 33 and 34, the words “metropolitan district police force, the Massachusetts bay transportation authority police force, or the capitol police” and inserting in place thereof the following words:- Massachusetts bay transportation authority police.

**SECTION 31.** Section 3 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 304 and 305, the words “division of state police in the department of public safety” and inserting in place thereof the following words:- department of state police.

**SECTION 32.** Said section 3 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 313 to 318, inclusive, the words “; officials and employees of the registry of motor vehicles appointed by the registrar under section twenty-nine of chapter ninety; capitol police; members of the state police detectives appointed under section six of chapter twenty-two, serving in any division of the department of public safety; members of the police force of the metropolitan district commission”.

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**SECTION 33.** Said chapter 32, as so appearing, is hereby further amended by striking out section 26 and inserting in place thereof the following section:-

Section 26. (1) As used in this section, the following words shall, unless the context otherwise requires, have the following meanings:-

“Officer”, an officer of the department of state police appointed thereto under section ten of chapter twenty-two C.

“Rating board”, a board having the powers and duties provided for in this section, and consisting of the state surgeon, the commissioner of public health, the colonel of state police, or a subordinate designated by any of them from time to time by a writing filed in the office of the state board of retirement.

(2)(a) Any member in service classified in Group 3 who is an officer of the department of state police shall be retired by the state board of retirement in case the rating board, after an examination of such officer by a registered physician appointed by it, shall report in writing to the state board of retirement that such officer is physically or mentally incapacitated for the performance of duty by reason of (i) illness incurred through no fault of his own in the actual performance of duty or (ii) an injury resulting from an accident occurring during the performance and within the scope of his duty and without contributory negligence on his part, and that such incapacity is likely to be permanent.

(b) Upon retirement under the provisions of this subdivision, a member shall receive a retirement allowance to become effective on the date of his retirement. Payments under such allowance shall be made as provided for in sections twelve and thirteen and the normal yearly amount thereof shall be equal to the sum of:

(i) A yearly amount of annuity equal to the yearly amount of the regular life annuity specified in clause (i) of Option (a) of subdivision (2) of section twelve; and (ii) A yearly amount of pension equal to seventy-two percent of the annual rate of his regular compensation on the date such illness or injury was incurred, or equal to seventy-two percent of the average annual rate of his regular compensation on the date such illness or injury was incurred, or equal to seventy-two percent of the average annual rate of his regular compensation for the twelve month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, whichever is greater; provided, however, that for any employee who was not a member in service on or before January first, nineteen hundred and eighty-eight or has not been continuously a member in service since such date, the total yearly amount of the sum of such pension and the annuity as determined in accordance with the provision of subparagraph (i) shall not exceed seventy-five percent of the annual rate of regular compensation as determined in the subparagraph; and provided, further, that no individual who is a member in service on January first, nineteen hundred and eighty-eight whose allowance is limited by the seventy-five percent limitation as established in this subparagraph, shall receive an amount of pension that is less than seventy-two

percent of such individual's regular compensation on said January first, nineteen hundred and eighty-eight; and (iii) A yearly amount of additional pension determined at the rate fixed by the actuary as hereinafter provided, for each surviving unmarried child of such member who is under the age of eighteen or who was over said age and physically or mentally incapacitated from earning on the date of such member's retirement. Such additional pension on account of any child shall be paid only so long as such child survives, remains unmarried and is under the age of eighteen or, if over such age remains physically or mentally incapacitated from earning or, if over said age and under the age of twenty-one, is a full-time student at an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college, or university that is licensed, approved, or accredited, as the case may be, in the state in which it is located. Beginning July first, nineteen hundred and eighty-eight such additional pension shall be fixed at a rate of four hundred and fifty dollars for each eligible child. Beginning July first, nineteen hundred and eighty-nine, such rate shall be increased by an amount equal to the percentage increase in the cost of living determined by the general court for such year pursuant to section one hundred and two.

(a) Any member in service classified in Group 3 shall be retired by the state board of retirement upon his attaining age fifty-five; provided that any such member in Group 3 who has performed service in the department of state police for not less than twenty years and who has not attained the age of fifty-five may elect to retire pursuant to the provisions of this subdivision.

(b) Any member in service classified in Group 3 who has performed service in the department of state police for not less than twenty years and who has not attained age fifty-five shall be retired by the state board of retirement if the rating board, after an examination of such member by a registered physician appointed by it, shall report in writing to the state board of retirement that he is physically or mentally incapacitated for the performance of duty and that such incapacity is likely to be permanent.

(c) Upon retirement under the provisions of this subdivision, a member shall receive a retirement allowance to become effective on the date of his retirement. Payments under such retirement allowance shall be made as provided for in sections twelve and thirteen and the normal yearly amount thereof shall be equal to sixty percent of the average annual rate of his regular compensation during the twelve-month period of his creditable service immediately preceding the date his retirement allowance becomes effective; provided, that the total amount of the allowance shall be increased by one-twelfth of three percent for each full month of service in excess of twenty years of service and prior to the last day of the month in which such member will reach the age of fifty-five; provided, further, that such

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retirement allowance shall in no case exceed seventy-five percent of such regular compensation; and provided, further, that if a member shall reach his fifty-fifth birthday and shall not have completed such twenty years of service, the amount of his retirement allowance shall be calculated by subtracting from such normal yearly amount one-twelfth of three percent for each full month of service that his service is less than twenty years. Any member retired under the provision of this subdivision who is a veteran as defined in section one shall receive an additional yearly retirement allowance of fifteen dollars for each year of creditable service or fraction thereof; provided, that the total amount of said additional retirement allowance shall not exceed three hundred dollars in any case.

(4) Sections five, six, eight and sixteen, subdivisions (1) to (3), inclusive, of section ten, and all other provisions of sections one to twenty-eight, inclusive, which are inconsistent with any provisions of this section, shall not apply to any member so classified in Group 3. Section seven shall not apply to any member so classified to whom the provisions of subdivision (2) of this section are applicable.

**SECTION 34.** Section 28A of said chapter 32, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any provision in sections one to twenty-eight, inclusive, to the contrary, notwithstanding, any officer of the department of state police appointed under section ten of chapter twenty-two C who has performed service in said department for not less than twenty years shall, at his own request, be retired by the state retirement board.

**SECTION 35.** Section twenty-eight B of said chapter thirty-two is hereby repealed.

**SECTION 35A.** Section twenty-eight L of said chapter thirty-two is hereby repealed.

**SECTION 35B.** Sections sixty-eight and sixty-nine of said chapter thirty-two are hereby repealed.

**SECTION 36.** Section 71 of said chapter 32, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 35, the words "and the two preceding sections" and inserting in place thereof the following word:- section.

**SECTION 36A.** Said section 71 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 38, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 36B.** Section 72 of said chapter 32, as so appearing, is hereby amended by striking out, in line 10, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 37.** Section 89 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 95 to 98, inclusive, the words "members of the department of public safety doing police duty, inspectors or examiners of the registry of motor



vehicles in the department of public works" and inserting in place thereof the following words:- uniformed members of the department of state police.

**SECTION 38.** Said section 89 of said chapter 31, as so appearing, is hereby further amended by striking out the sixth paragraph.

**SECTION 39.** Section 89A of said chapter 32, as so appearing, is hereby amended by striking out, in lines 98 to 101, inclusive, the words "members of the department of public safety doing police duty, occurring on or after August twenty-fifth, nineteen hundred and thirty-two in the case of investigators or examiners of the registry of motor vehicles" and inserting in place thereof the following words:- uniformed members of the department of state police.

**SECTION 40.** Said section 89A, as so appearing, is hereby further amended by striking out, in lines 113 to 115, inclusive, the words "members of the department of public safety doing police duty, occurring on or after January first, nineteen hundred and thirty-five in the case of investigators or examiners of the registry of motor vehicles" and inserting in place thereof the following words:- uniformed members of the department of state police.

**SECTION 41.** Section 90A of said chapter 32, as so appearing, is hereby amended by striking out, in lines 18 to 20, inclusive, the words "metropolitan district police officers holding similar positions, at the time of increasing such allowance, in the same grade or classification" and inserting in place thereof the following words:- state police officers holding similar positions, at the time of increasing such allowance, in the comparable grade or classification, as determined by the personnel administrator.

**SECTION 42.** Section 94 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words ", or of the police force of the metropolitan district commission".

**SECTION 43.** Said section 94 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words "in the department of public safety, or of the capitol police".

**SECTION 44.** Said section 94 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 10 to 12, inclusive, the words ", or to any employee of the registry of motor vehicles in the department of public works who entered the service of the registry as an investigator or examiner and performed police duty".

**SECTION 45.** Section 111 of chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 46.** Section 36B of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words ", or the metropolitan district commission police".

**SECTION 47.** Section 36C of said chapter 40, as so appearing, is hereby

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amended by striking out, in lines 1 to 3, the words "of the police force of the metropolitan district commission, and of the uniformed branch of the state police" and inserting in place thereof the following words:- and all uniformed members of the state police.

**SECTION 47C.** Said section 36C of said chapter 40, as so appearing, is hereby further amended by striking out, in lines 20 and 21, the words "metropolitan district commission or the".

**SECTION 48.** Chapter 41 of the General Laws is hereby amended by striking out section 87A, as so appearing, and inserting in place thereof the following section:-

Section 87A. The director of standards, upon the written request of the colonel of state police, shall appoint any of those persons appointed under section ten of chapter twenty-two C as weighers and measurers of motor vehicles and trailers and of the loads of such vehicles and trailers. Before entering upon their duties, such weighers and measurers shall be sworn. Such officers shall serve as long as they have the powers of police officers or until said colonel shall in writing request the director to revoke such appointment.

**SECTION 49.** The first paragraph of section 96B of said chapter 41, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Every person who receives an appointment to a position on a permanent full-time basis in which he will exercise police powers in a municipal police department, the Massachusetts bay transportation authority police, or the division of law enforcement within the department of fisheries, wildlife and environmental law enforcement shall, prior to exercising any police powers, be assigned to and satisfactorily complete a prescribed course of study at a regional or municipal police training school, approved by the Massachusetts criminal justice training council, hereinafter referred to as the council.

**SECTION 50.** The second paragraph of said section 96B of said chapter 41, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Every regular police officer on a permanent full-time basis in any such municipal police department, the Massachusetts bay transportation authority police, or the division of law enforcement within the department of fisheries, wildlife and environmental law enforcement shall be assigned to and shall attend a regional or municipal police training school approved by the council for the purpose of completing an approved course of study of in-service training at such intervals and for such periods of time as the council may determine.

**SECTION 51.** Section 108L of said chapter 41 is hereby amended by striking out the first paragraph, as amended by section 124 of chapter 138 of the acts of 1991, and inserting in place thereof the following paragraph:-

There is hereby established a career incentive pay program offering base salary

increases to regular full-time members of the various city and town police departments, uniformed members of the department of state police appointed under said section ten, state police detectives appointed under section ten of said chapter twenty-two C, as a reward for furthering their education in the field of policework.

**SECTION 52.** The fifth paragraph of said section 108L of said chapter 41, as amended by section 125 of said chapter 138, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The board of higher education shall also certify the amount of the career incentive salary increases to be allocated to the members of the department of state police appointed under section ten of chapter twenty-two C from information filed with said board on or before September first of each year by the colonel of state police.

**SECTION 53.** Section 57G of chapter 48 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 4 to 6, inclusive, the words “, and the superintendent of the metropolitan district commission police, and the chief of the capitol police,”.

**SECTION 53A.** Section 1 of chapter 62E of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words “thirty R of chapter seven” and inserting in place thereof the following words:- fifteen B of chapter twenty-two.

**SECTION 54.** Section 26 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2 and in lines 4 and 5, the words “commissioner of public safety” and inserting in place thereof, in each instance, the following words:- colonel of state police.

**SECTION 55.** Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words “capitol police, the Massachusetts Bay Transportation Authority police, the metropolitan district commission police” and inserting in place thereof the following words:- the Massachusetts bay transportation authority police.

**SECTION 56.** Section 2C of chapter 85 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “the officer in charge of the uniformed branch of the state police, the superintendent of the metropolitan district police,” and inserting in place thereof the following words:- the colonel of state police.

**SECTION 57.** Section 22C of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “or if a captain or lieutenant of the metropolitan district commission police force”.

**SECTION 58.** Said chapter 90 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. The registrar shall appoint, and for cause, remove, a deputy registrar, chief deputy registrar, assistant to the registrar, and hearing officers, and may delegate to such deputy registrar, chief deputy registrar, assistant to the

registrar and hearing officers, the performance of any duty imposed upon the registrar relative to the administration of laws relating to motor vehicles. The registrar may investigate the cause of any accident in which any motor vehicle is involved, and for this purpose may request of the colonel of state police to send his investigators into other states. The police department having jurisdiction over the place or the way where such accident occurred shall notify the registrar forthwith of any fatal accident or accident involving serious injury. The chief officer of the police department of every city and town, the chairman of the board of selectmen of such towns as have no regular police department, or, in the case of toll roads or toll bridges, the chief officer of the police force having jurisdiction to enforce laws relating to motor vehicles thereon, or the chief officer of the police department supervising the accident investigation if two departments have concurrent jurisdiction, shall notify the registrar within fifteen days, upon blanks furnished by him, of the particulars of every accident referred to in section twenty-six which happens within the limits of his city, town, or jurisdiction, or on such toll road or bridge, in which a motor vehicle is involved, together with such further information relative to such accident as the registrar may require, and shall also, if possible ascertain the name of the person operating such vehicle and notify the registrar of the same. Every such officer, upon the request of the registrar, shall demand forthwith the license of any operator and the certificate of registration and may take into his possession the number plates of any motor vehicle situated in a city or town within such officer's jurisdiction when said license or certificate has been suspended or revoked by the registrar and shall forward the said license, certificate and plates to the registrar. Whenever the death of any person results from any such accident, the registrar shall suspend forthwith the license or right to operate of the person operating the motor vehicle in said accident, and shall order the said license to be delivered to him, unless a preliminary investigation indicates that the operator may not have been at fault; and the registrar shall revoke the same unless, upon investigation and after a hearing, he determines that the accident occurred without serious fault upon the part of the operator of such motor vehicle, and shall order the said license to be delivered to him if not already delivered as aforesaid. No operator whose license is revoked or whose right to operate is suspended under this section shall be licensed again nor shall his right to operate be reinstated within six months after the date of the revocation of the license if it was not suspended prior to such revocation, provided, that the foregoing shall not be construed to authorize the exercise of such discretion contrary to any provision of section twenty-four.

**SECTION 59.** Paragraph (2) of section 34 of said chapter 90, as so appearing, is hereby amended by striking out clause (h) and inserting in place thereof the following clause:-

(h) For expenditure, under the direction of the colonel of the state police, for

the maintenance, in part, of the department of state police.

**SECTION 60.** Section 12 of chapter 90B of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “, town and metropolitan district commission” and inserting in place thereof the following words:- and town.

**SECTION 61.** The definition of “Law enforcement officer” in section 20 of said chapter 90B, as so appearing, is hereby amended by striking out, in line 10, the words “, town and metropolitan district commission” and inserting in place thereof the following words:- and town.

**SECTION 62.** Section 32 of said chapter 90B, as so appearing, is hereby amended by striking out, in line 9, the words “, town and metropolitan district commission” and inserting in place thereof the following words:- and town.

**SECTION 63.** The definition of “Police chief” in section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out, in lines 39 and 40, the words “superintendent of the metropolitan district commission police, the registrar of motor vehicles” and inserting in place thereof the following words:- colonel of state police.

**SECTION 63A.** Said section 1 of said chapter 90C, as so appearing, is hereby further amended by striking out, in lines 48 and 49, the words “ten B of chapter one hundred forty-seven” and inserting in place thereof the following words:- fifty-nine of chapter twenty-two C.

**SECTION 64.** Said section 1 of said chapter 90C, as so appearing, is hereby further amended by striking out, in line 67, the words “commissioner of public safety under section ten B of chapter one hundred forty-seven” and inserting in place thereof the following words:- colonel of state police under section fifty-nine of chapter twenty-two C.

**SECTION 65.** Sections sixty B to sixty-three B, inclusive, of said chapter ninety-two are hereby repealed.

**SECTION 66.** Clause (p) of section 5 of chapter 92A of the General Laws, as appearing in section 24 of chapter 6 of the acts of 1991, is hereby amended by striking out, in lines 3 and 5, the word “metropolitan” and inserting in place thereof, in each instance, the following word:- state.

**SECTION 66A.** Section 47 of said chapter 94C, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 126 and 127, the words “, state or metropolitan district” and inserting in place thereof the following words:- or state.

**SECTION 67.** Said section 47 of said chapter 94C, as so appearing, is hereby further amended by striking out, in lines 160 and 161, the words “the commissioner of public safety or the superintendent of the metropolitan district police” and inserting in place thereof the following words:- or the colonel of state police.

**SECTION 68.** Section 201 of chapter 111 of the General Laws, as so appearing,

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is hereby amended by striking out, in lines 2 and 3, the words "the police force of the metropolitan district commission, the capitol police, members of the uniformed branch of".

**SECTION 69.** Section 131A of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "division of state police in the department of public safety" and inserting in place thereof the following words:- department of state police.

**SECTION 70.** Section 8 of chapter 128A of the General Laws, as so appearing, is hereby amended by striking out, in line 21, the words "metropolitan district commission" and inserting in place thereof the following word:- state.

**SECTION 71.** Section 4 of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in lines 131 and 132, the words ", members of the state police and members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state.

**SECTION 72.** Section 59 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words ", members of the state police and members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state.

**SECTION 73.** Section 63 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words ", members of the state or local police and members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state or local.

**SECTION 74.** Section 82 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "and members of the metropolitan district commission police".

**SECTION 75.** Section 87 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words ", members of the state police and members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state.

**SECTION 76.** Section 88 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words ", members of the state police and members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state.

**SECTION 77.** Section 89 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 7 to 9, inclusive, the words ", members of the state police and members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state.

**SECTION 78.** Section 22 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in line 43, the following words "or of the registry of motor vehicles".

**SECTION 79.** Section 66 of chapter 140 of the General Laws, as so appearing,

is hereby amended by striking out, in line 1, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 80.** Said section 66 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words ", or any person having police powers under section twenty-nine of chapter ninety".

**SECTION 81.** Section 131H of said chapter 140, as so appearing, is hereby amended by striking out, in lines 38 and 39, the words ", members of the state police, members of the metropolitan district commission" and inserting in place thereof the following words:- and members of the state.

**SECTION 82.** Section 2C of chapter 143 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the word "capitol" and inserting in place thereof the following word:- state.

**SECTION 82A.** Section one A of chapter one hundred and forty-seven of the General Laws is hereby repealed.

**SECTION 83.** Said chapter 147 is hereby further amended by striking out section 2, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 2. All inspectors of the department shall have and exercise throughout the commonwealth the powers of constables, police officers and watchmen, except as to the service of civil process. The governor may command their services in suppressing riots and in preserving the peace. The commissioner may request the colonel of state police to appoint such inspectors as special state police officers and invest them with such of the powers of the state police officers as said colonel may deem advisable. The commissioner, with the approval of the governor, may authorize the inspectors of the department to carry badges, revolvers, clubs, handcuffs and twisters, or such other articles as may be required in the performance of their duties.

**SECTION 84.** Section 3 of said chapter 147, as so appearing, is hereby amended by striking out, in lines 1 and 5, each time it appears, the words "officer or".

**SECTION 85.** Sections four to seven, inclusive, of said chapter one hundred and forty-seven are hereby repealed.

**SECTION 85A.** Sections nine to ten E, inclusive, of said chapter one hundred and forty-seven are hereby repealed.

**SECTION 85B.** Sections ten G to ten M, inclusive, of said chapter one hundred and forty-seven are hereby repealed.

**SECTION 86.** Section 30A of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 12 and 13, the words ", metropolitan district police, capitol police".

**SECTION 87.** Section 30B of said chapter 149, as so appearing, is hereby amended by striking out, in line 6, the words "metropolitan district police, capitol police,".

**SECTION 88.** Section 30C of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words “uniform branch of the state police, state police detectives, members of the metropolitan district police force, capitol” and inserting in place thereof the following words:- uniformed members of the state.

**SECTION 88A.** Said section 30C of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 7 and 8 and 13 and 14, in each instance, the words “, or the commissioner of administration in the case of the capitol police”.

**SECTION 89.** The third paragraph of section 3 of chapter 150E of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The appropriate bargaining unit in the case of the uniformed members of the state police shall be all such uniformed members in titles below the rank of lieutenant.

**SECTION 90.** Said section 3 of said chapter 150E, as so appearing, is hereby further amended by striking out the fourth paragraph.

**SECTION 90A.** Section 46 of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words “thirty T of chapter seven” and inserting in place thereof the following words:- section fifteen D of chapter twenty-two.

**SECTION 90B.** Section 92 of chapter 159 of the General Laws, as amended by chapter 90 of the acts of 1991, is hereby further amended by striking out, in lines 1 and 2, the words “department of public safety under section nine L of chapter twenty-two” and inserting in place thereof the following words:- colonel of state police under the provisions of section fifty-one of chapter twenty-two C.

**SECTION 91.** Section 14A of chapter 159B of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 to 5, inclusive, the words “or an investigator or examiner of the transportation division, or registry of motor vehicles personnel with police powers,”.

**SECTION 91A.** Said section 14A of said chapter 159B, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words “or investigator or examiner or registry of motor vehicles personnel with police powers,”.

**SECTION 92.** Section 9A of chapter 258 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, 10 to 12, inclusive, and in lines 22 and 23, in each instance, the words “, the metropolitan district police, the capitol police, the registry of motor vehicle police”.

**SECTION 93.** Section 53 of chapter 262 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, 8 and 9, and in lines 15 and 16, in each instance, the words “, or employee of the registry of motor vehicles having police powers,”.

**SECTION 94.** Section 53B of said chapter 262, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words “officer of the division



of state police in the department of public safety, appointed under section six of nine A of chapter twenty-two" and inserting in place thereof the following words:- uniformed member of the department of state police, appointed under section ten of chapter twenty-two C,.

**SECTION 95.** Section 53C of said chapter 262, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "division of state police in the department of public safety appointed under section six or nine A of chapter twenty-two" and inserting in place thereof the following words:- department of state police appointed under section ten of chapter twenty-two C.

**SECTION 96.** Chapter 263 of the General Laws is hereby amended by striking out section 1A, as so appearing, and inserting in place thereof the following section:-

Section 1A. Whoever is arrested by virtue of process, or is taken into custody by an officer, and charged with the commission of a felony shall be fingerprinted, according to the system of the bureau of investigation and intelligence in the department of state police, and may be photographed. Two copies of such fingerprints and photographs shall be forwarded within a reasonable time to the colonel of state police by the person in charge of the police department taking such fingerprints and photographs.

**SECTION 97.** Section 2 of chapter 268B of the General Laws, as so appearing, is hereby amended by striking out, in line 62, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

**SECTION 98.** Section 1 of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "or of the metropolitan district police, or of the capitol police,".

**SECTION 99.** Section 16 of chapter 270 of the General Laws, as so appearing, is hereby amended by striking out, in lines 132 and 133, the words "inspectors of the registry of motor vehicles and by city, town and metropolitan district commission" and inserting in place thereof the following words:- by city and town.

**SECTION 100.** The first paragraph of section 4B of chapter 1078 of the acts of 1973, as appearing in section 1 of chapter 726 of the acts of 1985, is hereby further amended by striking out, in line 2, the word "branch" and inserting in place thereof the following word:- members.

**SECTION 101.** Section four C of said chapter one thousand and seventy-eight is hereby repealed.

**SECTION 102.** Section one hundred and fifty-six of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine is hereby repealed.

**SECTION 103.** Section 157 of chapter 150 of the acts of 1990 is hereby amended by striking out the third paragraph.

**SECTION 104.** The personnel administrator of the commonwealth, in consultation with the secretary of public safety, shall complete a job task analysis, so

called, for each title in the rank structure of the department of state police, as established by the provisions of chapter twenty-two C of the General Laws; provided that each such analysis shall specify and list the tasks that may be required to be performed by any uniformed member of the state police in the performance of the regular duties of each such title in said rank structure. Said personnel administrator shall file each such job task analysis with the joint committee on public safety and the joint committee on public service on or before January fifteenth, nineteen hundred and ninety-two.

**SECTION 105.** The personnel administrator of the commonwealth, in consultation with the secretary of public safety, shall complete job classification specifications for each title in the rank structure of department of the state police; provided that such specifications shall specify and list in the aggregate the duties that are required of each such title in said rank structure. Said personnel administrator shall file such classification specifications with the joint committee on public safety and the joint committee on public service on or before January fifteenth, nineteen hundred and ninety-two.

**SECTION 106.** The personnel administrator of the commonwealth, in consultation with the secretary of public safety, shall complete a study of the titles in the rank structure of the division of capitol police, the uniformed branch of the division of state police, the metropolitan district commission police force, and the law enforcement division of the registry of motor vehicles based on the job task analyses, so called, and the job classification specifications established by the personnel administrator or the commissioner of public safety to determine the comparability of such titles to the rank structure of the department of state police based on the job task analyses, so called, and the job classification specifications established pursuant to sections one hundred and four and one hundred and five of this act; provided, that such comparability study shall determine the rank at which persons who are employed by any of such police forces prior to the consolidation of such forces in accordance with the provisions of this act are to be placed; provided, further, that, any person who so transfers in accordance with the provisions of this act to the department of state police shall be placed at the rank which has been determined by said personnel administrator to the comparable rank for such person in said department; provided however, that in the case of persons who were promoted under the provisions of chapter thirty-one of the General Laws as a temporary employee in any such rank shall be deemed to be serving in such rank for the purposes of such comparability determination and placement. Notwithstanding the provisions of any general or special law or rule to the contrary, and notwithstanding any salary schedule established under the provisions of chapter thirty of the General Laws or pursuant to a collective bargaining agreement under the provisions of chapter one hundred and fifty E of the General Laws, any person transferred to the department of state police pursuant

to the provisions of this act shall be paid at the rate of regular compensation equal to or greater than the rate of regular compensation he was receiving immediately prior to such transfer, regardless of the rank to which such person shall be placed pursuant to the results of such comparability study in accordance with the provisions of this section. Said personnel administrator shall file the results of such comparability study, listing comparable ranks and the justification for such comparability, with the joint committee on public safety and the joint committee on public service on or before February twenty-eight, nineteen hundred and ninety-two.

**SECTION 107.** The secretary of public safety shall, after consultation with the personnel administrator of the commonwealth, in order to further the preservation of the public safety, conduct a study to identify positions within the statewide classification plan, in agencies, departments or bureaus within the executive office of public safety or in any other agencies, departments, bureaus of any executive office of the commonwealth, that are determined to be non-public safety positions for which a mandatory retirement age shall not have been deemed a bona fide occupational qualification; provided, that such study shall list such non-public safety positions for which training and experience in public safety and police duties shall have been deemed appropriate for consideration in appointment; provided, further, that the results of such study shall be kept current and shall be posted in public places by said secretary of public safety. Such study shall also consider the practicality, legality and public policy purposes of providing preference in appointment to such positions that shall have been so identified to public safety officers who shall have been mandatorily retired under the provisions of section twenty-six of chapter thirty-two of the General Laws, as inserted by the provisions of section thirty-three or under section one hundred and twenty-one of this act. Such study and the results thereof shall be filed with the joint committee on public service and the joint committee on public safety on or before March thirty-first, nineteen hundred and ninety-two.

**SECTION 108.** In accordance with the provisions of section ten of chapter twenty-two C of the General Laws, the secretary of public safety, after consultation with the commission against discrimination, shall establish medical and physical fitness standards which are functionally related to the specific job functions necessary to the normal operation of the department of state police; provided however, that the job specifications developed by the personnel administrator shall be deemed to define such specific job functions; and provided, further that such standards shall be weighted based on the age and sex of the member. Said secretary of public safety, on or before May first, nineteen hundred and ninety-two, shall file such medical and physical fitness standards with the joint committee on public service and the joint committee on public safety; provided that if said standards are not disapproved within thirty days after the date such standards were so filed, such

standards shall be deemed to be approved.

**SECTION 109.** The personnel administrator of the commonwealth, after consultation with the secretary of public safety, shall complete, or shall contract with one or more individuals to complete, a study to determine whether a mandatory retirement age of fifty-five is a bona fide occupational qualification necessary to the normal operation of uniformed members of the department of state police, including the employment of any uniformed member serving in any function, title, division, or bureau of said department; provided however, that such study shall include the expert opinions of one or more cardiologists and one or more physiologists; and provided further, however, that no such uniformed member of the department of state police, nor any uniformed member of the capitol police force, the metropolitan district commission police force, or the division of state police, nor any employee exercising police powers in the division of law enforcement in the registry of motor vehicles shall be mandatorily retired in accordance with the provisions of section twenty-six of chapter thirty-two of the General Laws, as amended by section thirty-three of this act, or the provisions of section one hundred and twenty-two of this act until such study shall have been completed and shall have supported said conclusion that age fifty-five is such a bona fide occupational qualification. Such study shall be filed with the joint committee on public safety and the joint committee on public service on or before June thirtieth, nineteen hundred and ninety-two.

**SECTION 110.** The commissioner of public safety shall conduct an examination for appointment to the entry-level position of police officer of the department of state police; provided however, that said colonel shall hereby be authorized and directed to establish a fee of not more than twenty dollars to be collected from each applicant for said examination and shall provide for the waiver of said fee in appropriate circumstances; and provided further, however, that said examination shall be conducted no sooner than March first, nineteen hundred and ninety-two and no later than July first, nineteen hundred and ninety-two.

**SECTION 110A.** The secretary of public safety, in conjunction with the personnel administrator, shall audit the personnel file of each member of the capitol police force, the metropolitan district commission police force, the division of law enforcement of the registry of motor vehicles and the division of state police on the effective date of this act, to ensure that each file shall contain the accurate and appropriate name, birthdate, current mailing address, the length of state service of each such member; provided, however, that upon the request of said secretary, the state treasurer shall be directed to offer any assistance as the commissioner shall deem reasonable to fulfill the requirements of this section; and provided further, that said secretary shall complete such audit on or before January fifteenth, nineteen hundred and ninety-two.

**SECTION 111.** The provisions of the existing collective bargaining agreements

shall remain in effect and shall not impair the authority of the colonel of the department of state police from exercising his managerial rights as they currently exist. The transferring or mandatory retiring of any uniformed members shall not be administered until a collective bargaining agreement shall have been executed in accordance with the provisions of section one hundred and twelve of this act.

**SECTION 111A.** Until June thirtieth, nineteen hundred and ninety-two, the members of the uniformed branch of the division of state police, as constituted prior to the effective date of this act, shall not be removed involuntarily from the field assignments which they hold on the date the effective date of this act, except for just cause.

**SECTION 114.** Not fewer than thirty days nor more than ninety days after the effective date of this act, the labor relations commission shall conduct an election to determine the exclusive bargaining representative for the bargaining unit comprised of the members of those police forces which shall be merged into the uniformed members of the state police; provided that, for the purposes of such election, such bargaining unit shall be deemed to include uniformed members of capitol police force who are members of bargaining Unit 5 and employees of the registry of motor vehicles having police powers who are members of bargaining Unit 5, the members of bargaining Unit 5A and the members of bargaining Unit 5B; provided, however that such unit shall not include any such member who holds the rank of lieutenant or above. For the purposes of such election, the "election eligibility date" shall be deemed to be the tenth business day after the effective date of this act; provided further, that any employee organization which shall choose to appear on the ballot in such election shall submit to said commission a showing of interest of at least ten percent of the total number of such employees comprising such bargaining unit in such form as prescribed by said commission; and provided further, that the provisions of said chapter one hundred and fifty E and the regulations promulgated thereunder shall apply for any other purpose of such election. Prior to such election and in accordance with the provisions of said chapter one hundred and fifty E, if any of said employee organizations shall have received a majority of the votes in such election, said commission shall certify such employee organization as the exclusive bargaining representative of such employees. If no such organization shall receive a majority of the votes in such election, said commission shall proceed with another such election in accordance with the provisions of the rules and regulations promulgated by said commission; provided however, that if the majority of such votes in such election shall have been cast in favor of no representation, said commission shall so certify that such members of such bargaining unit shall have elected to have no such representation for the purposes of chapter one hundred and fifty E.

(i) If said commission shall have certified such an exclusive bargaining representative within twenty days after the date of said election, said representative

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and the commonwealth shall, as soon as practicable, negotiate an agreement in accordance with the provisions of said chapter one hundred and fifty E; provided, however, that such agreement shall be deemed to be an interim agreement between the commonwealth and said representative to resolve any outstanding issues for the consolidation of said police forces pursuant to the provisions of this act; and provided further, that such agreement shall be executed by the commonwealth and said representative within one hundred and twenty days of such certification. If said representative and the commonwealth shall be unable to so execute such an agreement prior to such one hundred and twentieth day, they shall petition the board of conciliation and arbitration for an impasse and proceed through mediation, fact-finding and arbitration in accordance with the provisions of section nine of said chapter one hundred and fifty E and section four B of chapter one thousand and seventy-eight of the acts of nineteen hundred and seventy-three; provided, however, that the commonwealth and the exclusive bargaining representative shall execute such an agreement and shall file a request for appropriation necessary to fund any incremental cost items contained therein with the general court in accordance with the provisions of section seven of said chapter one hundred and fifty E on or before December first, nineteen hundred and ninety-two. The terms and conditions of existing collective bargaining agreements shall remain in full force and effect until an agreement is executed in accordance with the provisions of this paragraph; provided, however, that until such agreement is so executed, said certified exclusive bargaining representative shall administer and enforce each such existing agreement; and, provided further, that such representative shall not be held liable for any act or omission related to any grievance or dispute arising prior to such certification.

(ii) If the commission shall not have certified any conclusive results of such election within twenty days after the date of such election, said commission shall file with the joint committee on public service a statement that no conclusive results have yet been certified. Upon the filing of such statement, the persons who had been certified as the exclusive bargaining representatives for the uniformed members of capitol police force who are members of bargaining Unit 5, employees of the registry of motor vehicles having police powers who are members of bargaining Unit 5, the members of bargaining Unit 5A and the members of bargaining Unit 5B prior to the effective date of this act shall comprise a bargaining representative team, so called, to collectively negotiate an agreement with the commonwealth in accordance with the provisions of chapter one hundred and fifty E; provided, however, that each member of such team shall have an equal vote; provided further, that such agreement shall be deemed to be an interim agreement between the commonwealth and said team to resolve any outstanding issues for the consolidation of said police forces into a department of state police pursuant to the provisions of this act; and, provided further, that such agreement shall be

executed by the commonwealth and said team within one hundred and twenty days. If said team and the commonwealth shall be unable to so execute such an agreement prior to said July first, the parties shall petition the board of conciliation and arbitration for an impasse and proceed through mediation, fact-finding and arbitration in accordance with the provisions of section nine of said chapter one hundred and fifty E and the provisions of section four B of chapter one thousand and seventy-eight of the acts of nineteen hundred and seventy-three; provided, however that such team of exclusive bargaining representatives shall be deemed to be recognized as representing the bargaining unit of the uniformed members of the state police for the purposes of said section four B; and, provided further, that the commonwealth and such team shall execute such an agreement and shall file a request for appropriation necessary to fund any incremental cost items contained therein with the general court in accordance with the provisions of section seven of said chapter one hundred and fifty E on or before December first, nineteen hundred and ninety-two. The terms and conditions of existing collective bargaining agreements shall remain in full force and effect until an agreement is executed in accordance with the provisions of this paragraph; provided, however, that until such agreement is so executed, the persons so certified to represent such members prior to the passage of this act shall continue to so represent each such member in the administration and enforcement of such terms and conditions of each such agreement; provided, however, that until an exclusive bargaining representative is certified in accordance with the provisions of this section, such team of bargaining representatives shall represent the members of bargaining unit of the uniformed members of the state police.

**SECTION 115.** Notwithstanding the provisions of any general or special law or rule to the contrary, the civil service rights and benefits of any person serving in a position or employed as a police officer in the capitol police force, the metropolitan district police force or serving in a position or employed as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles accorded pursuant to the provisions of chapter thirty-one of the General Laws shall hereby be abolished as of June thirtieth, nineteen hundred and ninety-two; provided however, that nothing in this act shall be deemed to prohibit the exclusive bargaining representatives of any of such persons from negotiating with the commonwealth in accordance with the provisions of chapter one hundred and fifty E to minimize the effects of the abolition of such rights and benefits.

**SECTION 116.** Any person employed as a police officer in the capitol police force, the metropolitan district police force, or the division of state police or as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles shall have satisfactorily passed such in-service medical and physical fitness standards as shall have been established by the colonel of state

police in accordance with the provisions of section one hundred and eight of this act prior to the transfer of such person to the department of the state police. If any such officer fails to meet such in-service standards, he shall be eligible to undergo a reexamination within sixty days of the date of the medical or physical fitness examination failed. If he fails the reexamination, he shall be eligible to undergo further reexaminations, each no sooner than thirty days after the most recent such reexamination; provided, however, that any person who shall not have satisfactorily passed such standards prior to June thirtieth, nineteen hundred and ninety-three, shall be prohibited from transferring to said department of state police and shall be deemed to be discharged for cause from his employment; and, provided further, that if the failure to meet such standards is due to a temporary injury, illness or incapacity, such officer shall continue to be employed with duties adapted to such injury, illness or incapacity until such time as such officer shall pass such standards and shall be transferred to said department of state police. An officer whose reenlistment is denied because of his failure to meet such in-service medical or physical fitness standards shall not be presumed by virtue of such denial to be disabled for the purposes of chapter thirty-two of the General Laws.

**SECTION 117.** Prior to June thirtieth, nineteen hundred and ninety-two, the colonel of state police shall establish an orientation in-service training program for all persons who shall have been transferred to the department of state police as a uniformed member of said department; provided, however, that such training program shall include, but not be limited to, education of the mission of the said department of state police, the jurisdictions of each bureau and each division of said department, the rules and regulations of said department, the policies, practices and procedures of said department, the equipment owned and used by said department. Any person employed as a police officer in the capitol police force, the metropolitan district police force, or the uniformed branch of the division of state police or as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles shall have satisfactorily completed such orientation in-service training program prior to his transfer to the department of the state police; provided, however, that any person who shall not have satisfactorily completed such training program prior to June thirtieth, nineteen hundred and ninety-three, shall be prohibited from transferring to said department of state police unless said employee shall have submitted in writing his request for a waiver of such training program and said colonel shall have approved such waiver for said employee.

**SECTION 118.** Any person appointed to and serving in a position in the division of state police in accordance with the provisions of section nine of chapter twenty-two of the General Laws prior to the effective date of this act shall be deemed to be a member of the uniformed branch of said division for the purposes of this act and shall be discharged for cause from his employment unless he shall



have transferred to the department of state police in accordance with the provisions of this act, including, but not limited to, the satisfactory completion of any training required by the provisions of chapter twenty-two C of the General Laws and satisfactory passage of medical and fitness standards as required by the provisions of section one hundred and sixteen of this act.

**SECTION 119.** Notwithstanding the provisions of any general or special law or rule to the contrary, for the purposes of determining the length of service of any uniformed member of the state police who shall have been transferred to the department of state police on or after July first, nineteen hundred and ninety-two but prior to June thirtieth, nineteen hundred and ninety-three, each such member shall be credited with any prior service as a police officer in the capitol police force, the metropolitan district police force, or the uniformed branch of the division of state police or as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles; provided, however, that such length of service shall be deemed to be the definition of length of service of said uniformed members for the purposes of general and special law and rules including, but not limited to, longevity for the purposes of section twenty-six of chapter twenty-two C of the General Laws, as inserted by section twenty of this act, number of years as a uniformed member of the state police for the purposes of section twenty-eight of said chapter twenty-two C, as so inserted; and provided further, that any person who shall have been so transferred shall be deemed to have been appointed to the department of state police as of the date of their appointment to such prior service for the purposes of any general or special law, including, but not limited to the provisions of the second paragraph of section ten of said chapter twenty-two C, as so inserted. Notwithstanding the foregoing, for the purposes of accrual of vacation leave, each such member shall be credited with such service as he had been credited by the commonwealth prior to such transfer to the department of state police.

**SECTION 119A.** Notwithstanding any general or special law to the contrary, personnel in the department of state police shall have time in service calculated from time of original entry into approved training program or date of acceptance into organization, whichever is more senior.

**SECTION 120.** Notwithstanding the provisions of section one hundred and nineteen of this act, for the purposes of determining creditable service under the provisions of chapter thirty-two of the General Laws for any person serving in a position or employed as a police officer in the capitol police force, the metropolitan district police force, or the uniformed branch of the division of state police or serving in a position or employed as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles on the effective date of this act, each such person shall be credited with all membership service, prior service and other service for which credit is allowable to any member under the

provisions of said chapter thirty-two.

**SECTION 121.** Any person serving in a position of or employed as a police officer in the capitol police force, the metropolitan district commission police force or the uniformed branch of the division of state police or serving in a position or employed as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles who has served twenty years of creditable service shall be deemed eligible to retire from such employment in accordance with the provisions of section twenty-six of chapter thirty-two of the General Laws, as amended by the provisions of section thirty-three of this act, rather than transferring to the department of state police in accordance with the provisions of this act; provided, however, that such person shall be deemed eligible to retire in accordance with the provisions of this section only on or after July first, nineteen hundred and ninety-two and prior to October first, nineteen hundred and ninety-two.

**SECTION 122.** In accordance with the provisions of section twenty-six of chapter thirty-two of the General Laws, as amended by the provisions of section thirty-three of this act, any person serving in a position or employed as a police officer in the capitol police force, the metropolitan district police force or the detective force of the division of state police or serving in a position or employed as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles who shall have reached his fifty-fifth birthday on or before December thirty-first, nineteen hundred and ninety-two, shall be precluded from transferring to the department of state police and shall be eligible to retire under the provisions of this paragraph on or after July first, nineteen hundred and ninety-two; provided, however, that such person shall retire under the provisions of this paragraph from his position as such police officer or employee exercising police powers on or before said December thirty-first, nineteen hundred and ninety-two; and, provided further, that notwithstanding so much of the provisions of said section twenty-six that provides a retirement allowance for a uniformed member of the state police, such person shall receive a retirement allowance equal to eighty percent of the average annual rate of the regular compensation received by such person during any period of three consecutive years of creditable service for which such rate of compensation was the highest or of the average annual rate of regular compensation received by such person during the period or periods, whether or not consecutive, constituting his last three years of creditable service preceding retirement, whichever is greater.

**SECTION 123.** In accordance with the provisions of section twenty-six of chapter thirty-two of the General Laws, as amended by the provisions of section thirty-three of this act, any person serving in a position or employed as a police officer in the capitol police force, the metropolitan district police force, or the uniformed branch of the division of state police or serving in a position or

employed as an employee exercising police powers in the division of law enforcement of the registry of motor vehicles who shall have transferred to the department of state police pursuant to the provisions of this act, who shall reach his fifty-fifth birthday on or after December thirty-first, nineteen hundred and ninety-two shall be retired on such fifty-fifth birthday and, notwithstanding so much of the provisions of said section twenty-six that provides for a retirement allowance, shall receive a retirement allowance in an amount equal to seventy-five percent of his regular compensation during the twelve month period immediately preceding such fifty-fifth birthday or in an amount equal to the retirement allowance such person would have been eligible to receive under the provisions of Group 4 of paragraph (g) of subdivision (2) of section three of said chapter thirty-two on such fifty-fifth birthday had such person not transferred to said department of state police, whichever is greater.

**SECTION 124.** The commissioner of public employee retirement administration shall contract with an independent actuary to analyze, study and value the cost of retirement benefit changes made pursuant to the provisions of sections thirty-three, one hundred and twenty-one, one hundred and twenty-two and one hundred and twenty-three of this act; provided, however, that said commissioner shall make available to such actuary any information as such actuary deems necessary to fully analyze such costs; and provided, further that said commissioner shall file the report of such actuary with the joint committee on public service and the house and senate committees on ways and means on or before January first, nineteen hundred and ninety-three.

**SECTION 125.** Notwithstanding so much of the provisions of the third paragraph of subdivision (1) of section twenty-two C of chapter thirty-two of the General Laws as requires the commissioner of administration to prepare and file a funding schedule in accordance with the provisions of said section twenty-two C triennially subsequent to March first, nineteen hundred and eighty-eight, the commissioner of administration shall prepare and file an update of the commonwealth's retirement system funding schedule to reflect the costs and liability incurred pursuant to the provisions of sections thirty-three, one hundred and twenty-one, one hundred and twenty-two and one hundred and twenty-three of this act. Prior to the preparation of such update, said commissioner shall consider the actuary's analysis completed in accordance with the provisions of section one hundred and twenty-four of this act and shall complete and review an actuarial valuation report in accordance with the provisions of section twenty-one of said chapter thirty-two; provided, however, that in accordance with the provisions of said section twenty-two C, the actuarial, economic and demographic assumptions upon which said actuarial valuation report is based, and the manner and methodology used in the development of the actuarial report, shall have been reviewed and approved in advance by the joint committee on public service and

the house and senate committees on ways and means prior to the consideration of such actuarial valuation and such update by the general court. Such update of the funding schedule shall be filed by said commissioner with the joint committee on public service and the committees on ways and means and on or before March first, nineteen hundred and ninety-three; provided, however, that if, within forty-five days of such filing, the joint committee on public service and the house and senate committees on ways and means, respectively, have taken no action to disapprove such update, such update shall be deemed to be approved; provided further, that if such update is not so approved, said commissioner shall review any comments made by such committees and prepare and submit another update in accordance with the provisions of this section; and, provided further, that such other update shall be filed with the joint committee on public service and the house and senate ways and means committees within thirty days of such disapproval.

**SECTION 126.** Notwithstanding the provisions of section three of chapter twenty-two C of the General Laws, nothing in this act shall be deemed to affect the tenure of the person holding the position of colonel of state police on the effective date of this act; provided, however, that such person shall continue in such office until he shall voluntarily resign such office, shall be removed for cause or shall be retired in accordance with the provisions of section twenty-six of chapter thirty-two of the General Laws, as amended by the provisions of section thirty-three of this act.

**SECTION 127.** The colonel of state police is hereby authorized and directed to enter into a memorandum of understanding with the metropolitan district commission to define the terms and conditions for the use by the department of state police of property owned or operated by said commission; provided, however, that no such property shall be transferred under the provisions of the memorandum of understanding defined in this section without legislative approval; provided further, that said commission's communication center shall remain under the operational control of said commission; provided further, that the secretary of public safety shall conduct a study recommending alternative uses for said communication center to the house and senate committees on ways and means and to the joint standing committee on public safety by November fifteenth, nineteen hundred and ninety-two; and, provided further, that said memorandum of understanding shall be executed on or before July first, nineteen hundred and ninety-two.

**SECTION 128.** Nothing in this act shall be deemed to interrupt the rights of reinstatement of any person in accordance with the provisions of section thirty-nine of chapter thirty-one of the General Laws who, prior to June thirtieth, nineteen hundred and ninety-two, shall have been separated from a position with the capitol police force, the metropolitan district commission police force or the division of law enforcement of the registry of motor vehicles due to lack of money.

**SECTION 129.** Notwithstanding the provisions of section thirty-five of this act, and except as expressly provided by a provision of this act, nothing in this act shall be deemed to affect the retirement allowance payable to any person receiving such an allowance on the effective date of this act.

**SECTION 130.** Notwithstanding the provisions of section thirty-one and section thirty-two of this act, the retirement allowance payable to any person who shall have been appointed to and is serving in a position that, upon the date of such appointment, had been classified in retirement Group 4 as defined by the provisions of paragraph (g) of subdivision (2) of section three of chapter thirty-two of the General Laws shall not be deemed to be decreased pursuant to the provisions of sections thirty-two and thirty-three of this act, and, upon retirement from such position, such person shall be eligible to receive a retirement allowance based on such classification in said Group 4.

**SECTION 130A.** Any person who had been employed as a member of the uniformed branch of the division of state police prior to July first, nineteen hundred and ninety-one who shall have reached his fiftieth birthday on or before the effective date of this act shall be deemed to have been allowed to continue such employment and shall be deemed a member of said uniformed branch of the state police for all the purposes of this act.

**SECTION 131.** Nothing in the provisions of sections six or twenty of this act shall be deemed to affect the rights or benefits of any employee of the fraudulent claims commission or the bureau of special investigation, including, but not limited to, the civil service status and collective bargaining rights of any such employee.

Provisional employees of the bureau of special investigations of the executive office of administration and finance who have served in a civil service position as a provisional employee for a period of at least three years, prior to January first, nineteen hundred and ninety-two shall be accorded temporary civil service status in the title in which they have so served until such time as a civil service exam is given. Upon completion of the examination process for any of these positions the personnel administrator shall certify an employee who passes such examination for a civil service appointment to such position. The appointing authority shall appoint from said certification prior to the appointment from any other source. Nothing contained herein shall grant permanent status to any provision employee who has taken an examination conducted in accordance with section sixteen of chapter thirty-one of the General Laws for which an eligible list is presently established.

**SECTION 132.** Any reference in a general or special law, rule, or regulation to the department of public safety as constituted prior to the effective date of this act in which the context of such reference shall refer to the duties, functions or activities of the division of the state police shall be deemed to signify the department of state police as established by the provisions of chapter twenty-two C of the General

Laws; and any reference in general or special law, rule or regulation to the commissioner of public safety as constituted prior to the effective date of this act in which the context of such reference shall refer to the duties, functions or activities of the head of the division of state police shall be deemed to signify the colonel of state police, as defined by the provisions of section one of said chapter twenty-two C.

**SECTION 133.** On the effective date of this act, ownership, possession and control of all equipment, papers, plans, books, records and documents which are in the possession of the division of capitol police, the police force of the metropolitan district police, the division of state police or the division of law enforcement in the registry of motor vehicles or any bureau, unit, officer or employee thereof consolidated in accordance with the provisions of this act shall pass to and be vested in the department of state police without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of the department.

**SECTION 134.** All petitions, hearings, appeals and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by the division of capitol police, the division of metropolitan district commission police, the division of state police or the division of law enforcement in the registry of motor vehicles or any bureau, unit, officer or employee thereof consolidated pursuant to the provisions of this act shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed by such division, bureau, unit, officer or employee.

**SECTION 135.** Any order, rule or regulation duly made, or any license, permit, certificate or approval duly granted, by the commissioner of public safety as the head of the division of state police, by the superintendent of the metropolitan district commission police, by the chief of the capitol police or by the director of law enforcement in the registry of motor vehicles shall continue in full force and effect and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law or by the department of state police.

**SECTION 136.** Any duly existing contract, lease, or obligation of the division of capitol police, the division of metropolitan district commission police, the division of state police or the division of law enforcement in the registry of motor vehicles or any bureau, unit officer or employee thereof which shall be consolidated pursuant to the provisions of this act which are in force immediately prior to the effective date of this act shall be deemed to be the obligation of the department of state police. No existing right or remedy under any such contract, lease or obligation shall be lost, impaired or affected by the provisions of this act.

**SECTION 137.** Wherever the name of the division of capitol police, the division of metropolitan district commission police, the division of state police or the

division of law enforcement in the registry of motor vehicles or any bureau, unit, officer or employee thereof which shall be consolidated pursuant to the provisions of this act appears in any general or special law, rule, or regulation, such name shall be deemed to mean and be construed as referring to the department of state police.

**SECTION 138.** Any function, right, power, duty or other statutory provision which, prior to the effective date of this act, was assigned to, exercised by or performed by the division of capitol police, the division of metropolitan district commission police, the division of state police or the division of law enforcement in the registry of motor vehicles or any bureau, unit, officer or employee thereof which shall be consolidated pursuant to the provisions of this act to the department of state police shall be deemed to be assigned to, exercised by or performed by the said department of state police.

**SECTION 138A.** Notwithstanding the provisions of any general or special law, or rule or regulation to the contrary a police officer of a city or town shall have concurrent powers and duties with police officers of the department of state police on a public way which is located within the geographical boundaries of the city or town by which said police officer is employed where such public way was formerly under the care and control of the metropolitan district commission.

**SECTION 138B.** Chapter six hundred and thirty-one of the acts of nineteen hundred and fifty-eight is hereby repealed.

**SECTION 138C.** Section one hundred and fifty-six of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine as amended by section one hundred and fifty-seven of chapter one hundred and fifty of the acts of nineteen hundred and ninety is hereby repealed.

**SECTION 139.** The provisions of sections 2 to 101, inclusive, shall take effect on July first, nineteen hundred and ninety-two.

Approved December 27, 1991.

**Chapter 413.            AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO  
ENACT A FAIR HOUSING ORDINANCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city council of the city of Cambridge is hereby authorized to enact the following ordinance entitled "Fair Housing":

**FAIR HOUSING**

*Sections*

14.04.010

*Authority*

14.04.020

*Powers and duties of the Cambridge Human Rights Commission*

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14.04.030	<i>Definitions</i>
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This Chapter is enacted pursuant to the power conferred by the Commonwealth on the City Council of the City of Cambridge by Chapter [482] of the Acts of 1991.

14.04.020 *Powers and duties of the Cambridge Human Rights Commission*

This Chapter shall be administered and enforced by the Cambridge Human Rights Commission established by Chapter 2.76 of this Code.

The Commission shall work with the city manager to provide for fair housing practices within the city of Cambridge.

This Ordinance is intended to incorporate the substantive provisions and protections of Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. Sections 3601 et seq., the Fair Housing Act) and chapter 151B of the General Laws, and is to be interpreted in a manner which is not inconsistent therewith.

1. The Commission, to carry out the policies of this Chapter, shall exercise the following powers and duties:

a. receive, process and investigate complaints and initiate its own investigations of violations of this Chapter, in accordance with s. 14.04.050;

b. transmit for filing with other government agencies copies of any complaint filed with the Commission, or of which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies;

c. engage in conciliation to resolve any complaint over which it has jurisdiction, and draft, approve, and monitor any conciliation agreement agreed to by the parties in the dispute;

d. hold hearings; summons witnesses and compel their attendance; administer oaths; take the testimony of any person under oath, and order the production of any relevant evidence, so as to permit reasonable discovery, in the same manner and to the same extent as exercised by the Massachusetts Commission Against Discrimination;

e. seek or apply remedies as enumerated in Section 14.04.060 and urge and use its best efforts to effect compliance with its recommendations and findings;

f. seek or accept grants, gifts, or bequests to help finance its activities.

2. Every power and duty enjoyed by the Commission as enumerated in Chapter 2.76 of this Code for protecting and advancing the human rights of the people of Cambridge shall be retained and exercised to enable the Commission to promul-



gate rules and procedures consistent with this Chapter and the laws of the commonwealth, in order to effectuate the goals, policies and provisions of this Chapter.

3. The provisions of this Chapter shall be liberally construed in order to accomplish the goals of fair housing in Cambridge.

#### **14.04.030 Definitions**

1. The term "accessible" means, with respect to buildings containing covered multifamily dwellings, that the public or common use areas to the building can be approached, entered and used by individuals with physical handicaps. "Accessible route" means a continuous unobstructed path connecting accessible elements and space in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe and usable by people with other disabilities.

2. The term "age" shall mean the actual or perceived chronological age of an individual eighteen years or older.

3. The term "aggrieved person" includes anyone who claims to have been injured or is about to be injured by any unlawful practice listed in Section 14.04.040 of this Ordinance.

4. The term "blockbusting" means any effort, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into a neighborhood of a person or persons of a particular race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

5. The term "covered multifamily dwelling" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units.

6. The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.

7. The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

8. The term "dwelling" as used herein means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereupon of any such building, structure, or portion thereof. A "dwelling unit" is a unit of residence for a family of one or more persons.

9. The term "family" shall include a single individual.

10. The term "family status" shall mean the actual or supposed condition of

having children below the age of eighteen (18) years domiciled with a parent, or another person having legal custody of such child or children, or the designee of such parent or other person having such custody with the written permission of such parent or other person. The protection afforded against discrimination on the basis of family status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. Nothing herein shall limit the applicability of reasonable local, state, or federal restrictions regarding the maximum number of persons permitted to occupy a dwelling.

11. The term "handicap" means a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such impairment, or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This term also does not include an individual solely because that individual is a transvestite.

12. The term "housing set aside for, or limited to, the elderly" shall mean housing

a. provided under any state or federal program specifically designed and operated to assist elderly persons; or

b. intended for, and solely occupied by, persons 62 years of age or older; or

c. intended and operated for occupancy by at least one person fifty-five years of age or older per unit. Housing qualifies as housing for the elderly under this section if and only if

i. it has significant facilities and services designed to meet the physical or social needs of elderly persons, or if provision of such facilities and services is not practicable, or that such housing is necessary to provide important housing opportunities for elderly persons; and

ii. at least eighty percent of the units are occupied by at least one person fifty-five years of age or older; and

iii. there is publication and notice of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

13. The term "marital status" shall mean the actual or supposed state of being or having been single, married, separated, or divorced.

14. The term "military status" shall mean the actual or supposed condition of being, not being, having been or not having been in the service of the military.

15. The term "person" includes one or more individuals, partnerships, associations, corporations, labor organizations, legal representatives, mutual companies, joint-stock companies, unincorporated organizations, fiduciaries, trustees, trustees in bankruptcy, receivers, the City of Cambridge, and all political

subdivisions, boards, and commissions thereof.

16. The term "real estate transaction" shall mean the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling; or secured by residential real estate; or the selling, brokering or appraising of residential real property.

17. The term "reasonable attorney's fees and costs" shall include the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees and costs awarded shall be based upon prevailing market rates for the kind and quality of services furnished.

18. The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.

19. The term "sexual orientation" shall mean the actual or supposed heterosexuality, homosexuality, or bisexuality of an individual.

20. The term "source of income" shall mean public assistance reciprocity. "Source of income" shall not include income derived from criminal activity.

#### **14.04.040 *Unlawful Practices***

A. It shall be an unlawful practice:

1. For any person whose business includes granting mortgage loans or engaging in residential real estate transactions to discriminate against any person in the granting of, refusal to grant, in making available, refusing to make available, or in the terms or conditions of, a loan or transaction because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income. Such transactions shall include, but are not limited to:

a. The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or the making or purchasing of loans or the provision of other financial assistance secured by residential or commercial real estate;

b. Any intercourse that involves the selling, brokering, inspection, repair, design, construction, alteration, leasing, subleasing, subletting, mortgaging, rental, or appraising of a building, structure, dwelling, or portion thereof, or parcel of land, developed, or undeveloped, whether privately or publicly owned. Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property from considering factors other than race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

2. For any person to deny another person access to, or membership or participation in, a multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting

dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

3. For any person to refuse to rent, lease, sell, or negotiate for sale, or otherwise to deny or withhold from any person or persons a dwelling or any services or facilities in connection therewith, or to print, publicize, advertise, make any written or oral statement, or otherwise communicate publicly or privately, in a manner that indicates any preference, limitation, or discrimination because of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

4. For any person to misrepresent that a dwelling is not available for inspection, sale, or rental because of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

5. For any person to engage in blockbusting by making implicit or explicit representations regarding the entry or prospective entry into the neighborhood or representations regarding the effects or consequences of any such entry or prospective entry of a person or persons of a particular race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

6. For any person to make false representations regarding the availability of a suitable dwelling within a particular neighborhood or area; or in not disclosing or offering to show all properties listed or held for sale or rent within a particular neighborhood or area, or within a requested price or rental range; or make false representations regarding the listing, prospective listing, sale, prospective sale, or rental of any dwelling because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

7. For any person to coerce, intimidate, threaten or interfere in any manner with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Ordinance.

8. For any person to restrict or attempt to restrict the housing choices of persons by engaging in any conduct relating to the sale or rental of a dwelling that otherwise makes unavailable or denies dwellings because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

9. For any person to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities

in connection therewith, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

B. For the purposes of this section, discrimination on the basis of disability includes:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full enjoyment of the premises except that, in the case of a rental, that landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling;

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after March thirteenth, nineteen hundred and ninety-one, a failure to design and construct dwellings in such a manner that:

a. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

b. With respect to dwellings with a building entrance on an accessible route:

i. The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;

ii. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

iii. All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing Accessibility and Usability for Physically Handicapped People ("ANSI A117.1") satisfies the requirements of this subsection.

C. The following practices shall not be deemed unlawful:

1. The leasing, rental, or other provision with or without a fee, of a space within a church, temple, synagogue, religious school, or other facility used for other than a commercial purpose, to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;

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2. A private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members;

3. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which are determined by the Commission to be specifically designed to assist elderly persons, the handicapped, or economically disadvantaged individuals, provided that such programs shall not discriminate among elderly persons, the handicapped, or economically disadvantaged on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, military status, or source of income;

4. The establishment of housing set aside for, or limited to, elderly persons or the handicapped, provided that such establishment shall not discriminate among elderly persons or handicapped on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, military status, or source of income;

5. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate among its residents on the basis of race, color, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income;

6. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, and shelters for the homeless.

D. The following practices shall be exempt from the provisions of this ordinance:

1. The leasing or renting of a room or rooms within a dwelling unit which is occupied by the owner as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such owner in order to gain access to the room or rooms thus let or rented;

2. The leasing or renting of a single apartment in a two family dwelling, the other residential unit of which is occupied by the owner as his or her residence.

14.04.050 *Complaint Procedures*

1. Any aggrieved person may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed a violation of this ordinance and the particulars and other information as may be required by the Commission. The Commission may, in like manner, make, sign, and file such a complaint whenever it has reason to

believe that any person has engaged in, or is engaging in an unlawful practice.

2. No complaint shall be considered unless it is filed within 180 days after the occurrence of the alleged unlawful practice, or in the case of continuing unlawful practices, within 180 days after the termination of the unlawful practices. A complaint may be reasonably and fairly amended at any time. A complaint referred to the Commission by the Massachusetts Commission Against Discrimination after having been timely filed there will be considered filed for the purposes of this Ordinance.

3. The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar an aggrieved person from filing a civil action in the Superior Court within two years after the occurrence or termination of an alleged discriminatory practice; provided that, the aggrieved person may not initiate an action with respect to an alleged discriminatory practice that forms the basis of a charge issued by the Commission, if a Commission's hearing has begun with respect to the charge. The court shall be empowered to award the plaintiff actual and punitive damages; grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and allow reasonable attorney's fees and costs. The plaintiff shall be liable for reasonable attorney's fees and costs only to the extent that the plaintiff's participation in the proceeding was frivolous or vexatious or was for the purpose of harassment; to the extent that the plaintiff is the prevailing party, the respondent shall be liable for reasonable attorney's fees and costs, unless special circumstances make recovery of such fees and costs unjust.

4. Upon the filing of the complaint, the Commission shall, by certified mail, return receipt requested, serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forum under the law. At any time after the filing of the complaint, the Commission, by its attorneys, may seek temporary or preliminary injunctive relief in the Superior Court, pending final disposition of the complaint, if the Commission concludes such action is necessary to carry out the purposes of this Ordinance.

5. The Commission shall promptly serve a copy of the complaint and a notice upon the respondent advising him of his procedural rights and obligations under the law, by certified mail, return receipt requested. The respondent may, in response to said notice, file a verified answer with the Commission not later than 10 days after receipt of the notice of the complaint.

6. The chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to make, with the assistance of the staff of the Commission, a prompt investigation of the alleged discriminatory act. The investigation shall be commenced within thirty days after receipt of the complaint.

7. The Commission shall complete its investigation and issue a final investigative report consistent with Section 14.04.059 within one hundred days

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after receipt of the complaint unless impracticable, and if impracticable, shall notify the complainant and the respondent in writing and state the reasons for the delay.

8. Any conciliation agreement arising out of conciliation efforts by the Commission shall be an agreement between the respondent and the complainant and shall be approved by the Commission and shall be made public unless the complainant and the respondent otherwise agree and the Commission determines disclosure is not necessary to further the purposes of this Ordinance.

9. At the close of the investigation, the Commission shall issue a final investigative report. Said report shall conclude whether or not probable cause exists for crediting the allegations of the complaint.

10. If lack of probable cause is found, the Commission shall dismiss the complaint, notify the parties of its finding, and inform the complainant of his right to commence a private civil action in the Superior Court. Said action shall be commenced within ninety days from the date of the dismissal or within two years from the date of the violation alleged, whichever occurs later. The court shall be empowered to award the plaintiff actual and punitive damages; grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and allow reasonable attorney's fees and costs as permitted under 15.24.053.

11. If probable cause is found, both the complainant and the respondent shall be notified in writing. Either party may elect, within twenty days from receipt of the Commission's finding, to file a civil action in the Superior Court.

A. If a timely election is made by either party, the Commission shall immediately notify the office of the Attorney General, who shall file a civil action on behalf of the aggrieved person within thirty days after a timely election is made. Any complainant may intervene as of right in said civil action. The Commission shall administratively close the case, without prejudice.

B. If a timely election is not made, the case shall proceed to a public hearing. No Commissioner participating in the aforementioned hearing shall have been involved in the prior investigation. The Massachusetts law of evidence shall apply at the Commissioner's hearing. At any such hearing before the Commission all parties and witnesses shall have the right to be advised and represented by counsel at their own expense. The Complainant shall be represented by the Executive Director of the Commission as prescribed by the Commission's Rules of Procedure.

C. Hearings shall be conducted in accordance with the Commission's Rules of Procedure which shall ensure that all parties are afforded due process of law.

12. The hearing Commissioners shall issue a report which lists findings of fact and conclusions of law within sixty days after the conclusion of the hearing. If the hearing Commissioners concludes that the charges of discriminatory conduct by the respondent cannot be substantiated, the case shall be dismissed with prejudice.

13. The decision of the hearing Commissioners is subject to review by the entire



Commission. The review must be initiated within thirty days from the date of the decision or said decision becomes the Final Administrative Decision.

14. The Commission shall make a final administrative disposition of the complaint within one year from the date of the receipt of the complaint, unless impracticable. If impracticable, it must notify the complainant and the respondent in writing and list the reasons for not doing so.

**14.04.060 *Remedies-Relief Sought and Granted***

1. After a finding of probable cause is made, the Commission may file a petition in equity in the Superior Court seeking injunctive relief against the respondent. If justice so requires, the court shall be authorized to grant relief including:

A. orders or decrees restraining the respondent from selling, renting, or otherwise making the real estate transaction unavailable to the complainant;

B. any appropriate injunctive relief the court deems necessary to protect the rights of the complainant.

2. If the Commission, in the Final Administrative Report of its Decision, finds that any respondent committed any unlawful practice under this Ordinance, said Commission may:

A. award to the complainant damages to reimburse him for expenses incurred including, but not limited to, moving, storage of furniture and personal effects, and alternative housing or space, because of the respondent's unlawful act. Damages for emotional distress may also be awarded to the complainant;

B. assess to the respondent civil penalties not to exceed ten thousand dollars for the first offense; twenty-five thousand dollars for the second offense within a five year period ending at the time of filing the complaint; fifty thousand dollars for a third or subsequent offense within a seven year period ending at the time of filing the complaint. In a proceeding involving two or more respondents, the hearing Commissioners may assess a civil penalty against each respondent that the hearing Commissioners determines has been engaged or is about to engage in a discriminatory housing practice;

C. seek relief from the Superior Court including any temporary or permanent injunction, temporary restraining order or other order it deems appropriate.

**14.04.070 *Review of Commission's Final Administrative Decision, Enforcement of Order of Commission***

1. Any party aggrieved by the Commission's Final Administrative Decision may seek judicial review within 30 days from the date of service of said decision in the Superior Court pursuant to chapter thirty A of the General Laws.

2. The Commission's Final Administrative Decision may be enforced by the Commission, or any person entitled to relief, by filing a petition in the Superior Court seeking compliance with the Decision. The Commission may obtain a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the decision.

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### **14.04.080 Consistency**

In the event that any provision of this Chapter conflicts with, or is inconsistent with any prior-enacted law, regulation, or ordinance of the City of Cambridge, then this Chapter shall control.

### **14.04.090 Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance shall for any reason, be held invalid, the remainder of this Chapter and the application thereof shall not be affected and shall continue to be in full force and effect.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 27, 1991.

## **Chapter 414. AN ACT RELATIVE TO CONSUMER PRIVACY IN COMMERCIAL TRANSACTIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 93 of the General Laws is hereby amended by adding under the caption "CONSUMER PRIVACY IN COMMERCIAL TRANSACTIONS." the following two sections:-

Section 104. For purposes of this section and section one hundred and five, the following words shall have the following meanings unless the context otherwise requires or specifically prescribes a different meaning:

"Check", an instrument, draft or order issued or made for the payment of money upon any bank or other depository institution.

"Credit Card", any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit. Credit card shall not include a check guarantee card.

Section 105. (a) No person, firm, partnership, corporation or other business entity that accepts a credit card for a business transaction shall write, cause to be written or require that a credit card holder write personal identification information, not required by the credit card issuer, on the credit card transaction form. Personal identification information shall include, but shall not be limited to, a credit card holder's address or telephone number. The provisions of this section shall apply to all credit card transactions; provided, however, that the provisions of this section shall not be construed to prevent a person, firm, partnership, corporation or other business entity from requesting information is necessary for shipping, delivery or installation of purchased merchandise or services or for a warranty when such information is provided voluntarily by a credit card holder.

(b) No person, firm, partnership, corporation or other business entity accepting a check in any business or commercial transaction as payment in full or in part for goods or services shall do any of the following:

(1) Require, as a condition of acceptance of such check, that the person presenting such check provide a credit card number, or any personal identification information other than a name, address, motor vehicle operator license number or state identification card number of such person and telephone number, all of which may be recorded; provided, however, that the person, firm, partnership, corporation or other business entity accepting such check may verify the signature, name, and expiration date on a credit card; provided further, that in complying with a request to provide a telephone number, the person paying with a check may provide either a home telephone number or a telephone number where such person may be called during daytime hours.

(2) Require, as a condition of acceptance a check, or cause a person paying with such check to sign a statement agreeing to allow a credit card to be charged to cover the amount of such check.

(3) Contact a credit card issuer or otherwise access a credit card account balance to determine if the amount of any credit available to the person paying with a check will cover the amount of such check.

(4) Require, as a condition of acceptance of the check, that a person's credit card number be recorded in connection with any part of a transaction.

(5) Record on a check, or require a person paying with a check to record on such check, any information regarding the race of such person.

(c) Subsection (b) shall not prohibit any person from doing any of the following:

(1) requesting, receiving, or recording a credit card number in lieu of requiring a cash deposit to secure payment in event of default, loss, damage or other occurrence; or

(2) recording a credit card number and expiration date as a condition for cashing or accepting a check where such person has agreed with the card issuer to cash or accept checks from the issuer's card holders and where the issuer guarantees such card holder checks cashed or accepted by such person.

(d) Any violation of the provisions of this chapter shall be deemed to be an unfair and deceptive trade practice, as defined in section two of chapter ninety-three A. An individual aggrieved by a violation of the provisions of this section may notify the executive office of consumer affairs or the office of the attorney general. The executive office of consumer affairs is authorized to promulgate rules or regulations necessary to enforce the provisions of this section.

Approved December 27, 1991.

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**Chap. 415****Chapter 415.      AN ACT AUTHORIZING THE TOWN OF MARBLEHEAD  
TO ESTABLISH A DEPARTMENT OF BUILDINGS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established in the town of Marblehead a department of buildings, hereinafter called the department, which shall be under the jurisdiction of the building commissioner of said town.

Said department shall have all of the powers and duties vesting in or exercised by the following departments or offices, which may be renamed divisions and included within the department: building department, including building commissioner; wire inspector; and plumbing inspector. The town may, by by-law, add, abolish, rename or combine divisions, and their functions within the department. No contracts, obligations or liabilities in force on the effective date of this act, or on the date on which a present office or department is included within said department, shall be affected hereby, but said department shall in all respects be the successor of the officers and departments included within said department.

**SECTION 2.** The board of selectmen shall appoint a building commissioner whose qualifications, powers and duties shall be determined by the General Laws and such by-laws of the town as may from time to time be lawful. Said building commissioner shall have full authority over the operations of the department and in the implementation of the policies therein. Said building commissioner may appoint and remove, subject to the approval of the said board and appropriation, such assistants and employees as said commissioner deems necessary. Said officers and employees of said department transferred or employed in said department shall not be subject to the provisions of chapter thirty-one of the General Laws.

All present officers and employees of any of the departments or offices listed in section one shall be transferred to said department, and retain all rights and benefits entitled to as of the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 27, 1991.

**Chapter 416.      AN ACT EXEMPTING THE POSITION OF CHIEF OF PO-  
LICE IN THE CITY OF GARDNER FROM THE PROVISIONS  
OF CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of chief of police in the city of Gardner shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of chief of police in the city of Gardner on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 27, 1991.

**Chapter 417.        AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE OF THE CITY OF EVERETT FROM THE PROVISIONS OF CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of police chief in the city of Everett shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of police chief in the city of Everett on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 27, 1991.

**Chapter 418.        AN ACT ESTABLISHING A SENIORITY SYSTEM IN THE FIRE DEPARTMENT IN THE TOWN OF WEST SPRINGFIELD.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section thirty-nine of chapter thirty-one of the General Laws or any other general or special law or regulation to the contrary, if a permanent employee serving in the position of deputy fire chief in the fire department in the town of West Springfield is to be separated from such position due to a reduction in force, because of lack of work, lack of money, reorganization of the department or the abolition of such position, the length of service of said employee shall be based on said employee's permanent full-time service in said deputy fire chief position in said department; provided, however, that this act shall apply only to reductions in force which result in demotions from said deputy fire chief position in said department and shall not affect any employee in service for any other purpose.

Approved December 27, 1991.

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**Chap. 419****Chapter 419. AN ACT RELATIVE TO THE SOLEMNIZATION OF MARRIAGES.**

*Be it enacted, etc., as follows:*

Section 38 of chapter 207 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "court", in line 9, the words:-  
, or a clerk or assistant clerk of the senate or house of representatives.

Approved December 27, 1991.

**Chapter 420. AN ACT AUTHORIZING THE CITY OF LYNN TO ISSUE CERTAIN ALL ALCOHOLIC BEVERAGE CLUB LICENSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any limitations on the number of licenses to be issued under the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, but subject however, to all other provisions of said chapter one hundred and thirty-eight, the licensing authority of the city of Lynn is hereby authorized to issue to the Cocktail League Associates, the Lynn Italian American Citizens Club and the American Hellenic Educational Progressive Association Aristedes chapter 50, annual seven day all alcoholic beverage club licenses.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 27, 1991.

**Chapter 421. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY THE WILLIAM RUSSELL ALLEN HOUSE IN THE CITY OF PITTSFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of capital planning and operations is hereby authorized, subject to the provisions of section forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed approved as to form by the attorney general, the William Russell Allen House, located at 359 East street in the city of Pittsfield, to an individual or entity, subject to the requirements of sections two, three and four and to such terms and conditions as the commissioner may prescribe.

**SECTION 2.** No deed by or on behalf of the commonwealth conveying the premises described in section one shall be valid unless such deed provides that the property shall be used in full compliance with the rules and regulations of the Massachusetts historical commission and the United States Trust.

**SECTION 3.** The grantee of said deed shall assume the costs of appraisals, surveys and other expenses as deemed necessary by the commissioner for the granting of said conveyance.

**SECTION 4.** In the event the property described in section one is not used in full compliance with the rules and regulations described in section two, said property shall revert to the commonwealth upon terms and conditions as determined by said commissioner.

Approved December 27, 1991.

**Chapter 422.      AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF PLYMOUTH FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of chief of police in the town of Plymouth shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** This act shall be submitted for acceptance to the voters of the town of Plymouth at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used for the election of town officers: "Shall an act passed by the general court in the year nineteen hundred and ninety-one entitled 'An Act exempting the position of chief of police in the town of Plymouth from the provisions of the civil service law', be accepted?" If a majority of the voters vote in the affirmative on this question, this act shall thereupon take full effect, but not otherwise.

Approved December 27, 1991.

**Chapter 423.      AN ACT RELATIVE TO THE ABOLISHMENT OF THE POSITION OF PARK COMMISSIONER IN THE TOWN OF BOURNE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The second paragraph of section 2 of chapter 820 of the acts of 1970 is hereby amended by striking out, in lines 1 to 4, inclusive, the words "the

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chairman of the board of park commissioners of the town of Bourne, ex officio, and four other members one of who shall be appointed by the governor and three members" and inserting in place thereof the words:- five members, one of whom shall be appointed by the governor and four members.

**SECTION 2.** Said section 2 of said chapter 820 is hereby further amended by striking out the third paragraph.

**SECTION 3.** Notwithstanding the provisions of chapter forty-one of the General Laws or any other general or special law to the contrary, in the town of Bourne the powers and duties conferred and imposed upon park commissioners shall be exercised and performed by the superintendent of the department of public works or such other person who is from time to time in charge of the department of public works of said town.

**SECTION 4.** The person serving as chairman of the board of park commissioners on the effective date of this act shall continue to serve as a member of the Authority until the town elections to be held in the year nineteen hundred and ninety-four at which elections a member of said board shall be elected.

**SECTION 5.** This act shall take effect upon its passage.

Approved December 29, 1991.

**Chapter 424.      AN ACT FURTHER REGULATING THE ISSUANCE OF  
DISABLED AMERICAN VETERANS NUMBER PLATES.**

*Be it enacted, etc., as follows:*

Section 2 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "eye", in line 160, the words:- , or any other disability or handicap of such veterans which may be determined by the medical advisory board as established by section eight C.

Approved December 29, 1991.

**Chapter 425.      AN ACT FACILITATING THE FINANCING AND DEVELOP-  
MENT OF A NEW CRIMINAL DETENTION FACILITY IN  
PLYMOUTH COUNTY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** As used in this act, the following words shall have the following meanings:-

"County", Plymouth county, acting through its duly elected commissioners or



other duly authorized representatives, or any governmental unit or body succeeding to the rights, properties, powers, duties and responsibilities of such county.

"Department", the Plymouth county sheriff's department, or any successor to the rights, powers, duties and responsibilities thereof.

"Financing lease", a lease, whether entered into prior to or after the effective date of this act, by the county of the site on which the project is to be located to one or more entities and the simultaneous or subsequent leaseback by the county of the project for a term not to exceed forty years from the date of commencement of said leaseback, subject to the option or options of the county to acquire the project during or upon expiration of the term of the leaseback for an amount or amounts specified in the leaseback.

"Project", the criminal detention facility to be constructed on a site located in the county and such site being more particularly described as a portion of the parcel of land, said portion consisting of approximately thirty-two acres, situated on the southwesterly side of the state highway and the northeasterly side of Long pond road in the town of Plymouth, being shown as a parcel of land containing 64.53 acres on a plan entitled "Plan of Land in Plymouth, Massachusetts", dated June 4, 1980, and recorded in Plan Book 21, page 932 in the Plymouth county registry of deeds, which facility is designed to accommodate up to one thousand one hundred and forty beds available for the detention of prisoners of the United States, the county, the commonwealth and other political subdivisions of the commonwealth.

**SECTION 2.** The design, construction and equipping, construction management, development, financing, leasing and leaseback of the project, or any part of the project, and any contract relating directly or indirectly to said design, construction and equipping, construction management, development, financing, leasing or leaseback, shall be exempt from the provisions of sections thirty-eight A 1/2 to eight O, inclusive, clause (c) of section thirty-nine B, sections forty A to forty C, inclusive, section forty-one B and the second and fourth paragraphs of section forty-two C of chapter seven of the General Laws, section thirty-nine M of chapter thirty of the General Laws, sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws and any other general or special law or regulation providing for the advertising or bidding of contracts relating to improvements to, leasing of, or the acquisition or disposition of interests in, real or personal property.

**SECTION 3.** Notwithstanding the provisions of the first paragraph of section fourteen of chapter thirty-four of the General Laws, Plymouth county shall not be required to offer the real estate for the project for sale or lease to the commonwealth or the town of Plymouth; nor shall said county be required to further comply with the notification, publication, or public hearing requirements of said section fourteen of said chapter thirty-four.

**SECTION 4.** Notwithstanding the provisions of section thirty-four of chapter

thirty-five of the General Laws, the financing lease for the project may be entered into for a period not to exceed forty years.

**SECTION 5.** Notwithstanding the provisions of any general or special law to the contrary, all sales, purchases and lease payments made in connection with the construction, including the acquisition of any related personal property, operation and leasing of the project, or any part of the project, shall be exempt from the provisions of chapter sixty-four H and chapter sixty-four I of the General Laws.

**SECTION 6.** No contracts may be entered into for the design, construction, development, financing, management, operation, leasing or leaseback of the project, or any part of the project, without the approval of the county and the department, in addition to any other approvals required by law. The county and the department shall contract with a qualified individual or firm hereinafter called the technical representative to (1) assist in the negotiation of all contracts for the design, construction and development of the project and (2) perform the functions hereinafter described. Neither the county nor the department shall approve any contracts in excess of one hundred thousand dollars until it receives from the technical representative written findings that (a) the terms of any contracts covered by the foregoing provision are fair and competitive; (b) the contracting parties have the necessary qualifications to perform their contractual obligations in a timely and satisfactory manner; (c) the design of the project would satisfy the criteria established under any agreements then in effect providing for the use of the project as a criminal detention facility by the United States, the county, the commonwealth or any political subdivision thereof; and (d) the materials, if any, to be used in the performance of the contract are appropriate for their intended use.

**SECTION 7.** The county and the department shall jointly prepare and file with the clerk of the house and the clerk of the senate who shall forward the same to the house and senate chairmen of the committees on counties within sixty days after the close of each fiscal year of the county during which the project is being constructed a report of the county's and the department's operations and procedures under the provisions of this act.

**SECTION 8.** Notwithstanding the provisions of any general or special law to the contrary, the number of prisoners of the commonwealth that are accommodated by the criminal detention facility described in section one shall continue to be thirty-three percent of said facility's capacity.

**SECTION 8A.** Notwithstanding the provision of any general or special law to the contrary, within ninety days of the opening of a new Plymouth county jail and house of correction, the existing facility located on Obery street in the town of Plymouth shall be closed and shall not be reopened, in whole or in part, as a jail, correctional institution or facility, house of correction or other facility of a similar nature. The commonwealth shall not by eminent domain, purchase, gift, or otherwise take an ownership interest for the purposes of maintaining any such

correctional facility in any buildings or lands comprising the existing Plymouth county jail and house of correction.

**SECTION 9.** This act shall take effect upon its passage.

Approved December 29, 1991.

**Chapter 426.        AN ACT RELATIVE TO THE FORMER ESSEX COUNTY  
HOUSE OF CORRECTION LOCATED IN THE CITY OF  
LAWRENCE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to assure that the former Essex county house of correction is not reopened as a jail, house of correction or like facility, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the former Essex county house of correction, located in the city of Lawrence, shall not be reopened, in whole or in part, as a jail, house of correction, detention center, or as any other kind of facility with a corrective or detention function for adult or juvenile offenders.

**SECTION 2.** The county commissioner of Essex county shall transfer all rights, title and interest in the land and buildings within which the former Essex county house of correction is located to the city of Lawrence for the sum of one dollar. Said transfer shall take place on or before February first, nineteen hundred and ninety-two.

**SECTION 3.** The provisions of section one shall not be affected by the transfer described in section two.

Approved December 29, 1991.

**Chapter 427.        AN ACT RELATIVE TO THE APPOINTMENT OF DEPART-  
MENT HEADS IN THE TOWN OF BROOKLINE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Clause (b) of section 2 of chapter 270 of the acts of 1985 is hereby amended by inserting after the word "statute", in line 4, the words: -, and in making such recommendations the administrator may in his discretion recommend for

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appointment as department head single candidates whom the board of selectmen shall either appoint or reject until one is appointed.

**SECTION 2.** Said section 2 of said chapter 270 is hereby further amended by striking out clause (*k*) and inserting in place thereof the following two clauses:-

(*k*) submission to the board of selectmen and to town meeting of plans to reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, or to establish new departments, commissions, boards and offices, or both, subject to enactment of home rule legislation if otherwise legally required; and

(*l*) performance of such other duties and responsibilities as are delegated to the administrator by the board of selectmen.

Approved December 29, 1991.

**Chapter 428.****AN ACT AUTHORIZING THE COMMISSIONER OF THE  
DIVISION OF CAPITAL PLANNING AND OPERATIONS TO  
TRANSFER THE CARE, CUSTODY AND CONTROL OF  
CERTAIN PARCELS OF LAND IN THE CITY OF LOWELL  
FROM THE DEPARTMENT OF ENVIRONMENTAL MAN-  
AGEMENT TO THE DEPARTMENT OF PUBLIC WORKS.**

*Be it enacted, etc., as follows:*

The commissioner of the division of capital planning and operations is hereby authorized to transfer the care, custody and control of two parcels of land located in the city of Lowell which are presently used for conservation and recreational purposes, from the department of environmental management to the department of public works for highway purposes.

Said parcels are shown as parcels 16-E-1 and 16-E-2, on a plan entitled, "The Commonwealth of Massachusetts Plan Of Land In The City Of Lowell, Middlesex County, Owned By The Department of Environmental Management And Required For Highway Purposes", said plan being dated January 15, 1991. This plan shall be kept on file with the chief engineer of the department of public works.

Approved December 29, 1991.

**Chapter 429.****AN ACT RELATIVE TO THE GRANTING BY THE DIVISION  
OF CAPITAL PLANNING AND OPERATIONS OF EASE-  
MENTS IN THE TOWN OF FRAMINGHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 763 of the acts of 1987 is hereby amended by striking out, in lines 13 and 14, the words "Scale 40 feet to an inch" and inserting in place thereof the words:- & Ledgemere Land Corp.

**SECTION 2.** Said section 1 of said chapter 763 is hereby further amended by inserting after the figures "1987," in line 14, the words:- Rev. Dec. 2, 1988.

**SECTION 3.** Section 2 of said chapter 763 is hereby amended by striking out, in lines 7 to 21, inclusive, the words "an easement to pass and repass for all uses commonly associated with walkways in the commonwealth for the purpose of providing pedestrian access from the end of DiTullio Drive to land owned by the commonwealth, all as shown on Plan hereinafter described, and to construct and maintain said walkway across those portions of land described as 'Ten foot wide Pedestrian Easement', running along the westerly side of Baiting Brook for a width of TEN (10) feet on Lot 31 and along the real lot line of Lot 30 for a width of TEN (10) feet all as shown on the plan entitled 'Definitive Subdivision Plan of Land of Belport Farms in Framingham, Massachusetts Scale 1" = 40' Dated: February 26, 1985, the Fafard Companies, 290 Eliot Street, Ashland, Massachusetts. Petitioner and Owner Ledgemere Land Corporation, 290 Eliot Street, Ashland, Massachusetts,' and recorded July ninth, nineteen hundred and eighty-six at the Middlesex south registry of deeds as Plan 903 of 1986." and inserting in place thereof the words:- such easement or easements and upon such terms and conditions as the commonwealth through its deputy commissioner of the division of capital planning and operations reasonably may prescribe.

**SECTION 4.** Section 3 of said chapter 763 is hereby amended by inserting after the word "easement", in lines 2 and 3, in each instance, the words:- or easements.

**SECTION 5.** Section 4 of said chapter 763 is hereby amended by inserting after the word "easement", in line 5, the word:- or easements.

Approved December 29, 1991.

**Chapter 430.        AN ACT RELATIVE TO THE EXAMINATION OF AUTO  
                             DAMAGE APPRAISERS.**

*Be it enacted, etc., as follows:*

The sixth paragraph of section 8G of chapter 26 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following sentence:- An applicant failing to pass an examination satisfactory to the board shall be allowed to review his examination.

Approved December 29, 1991.

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**Chap. 431****Chapter 431.      AN ACT PROHIBITING THE DISCLOSURE OF NAMES OF CHILDREN UNDER THE AGE OF EIGHTEEN COLLECTED VIA THE ANNUAL STREET CENSUS.**

*Be it enacted, etc., as follows:*

Section 4 of chapter 51 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Said list shall contain the name, residence and age or date of birth of each such person; provided, however, that the names of persons three to seventeen, inclusive, shall not be disclosed to any person other than their respective school committee or boards of trustees of county agricultural schools.

Approved December 29, 1991.

**Chapter 432.      AN ACT FURTHER EXTENDING THE TIME FOR WHICH CERTAIN LAND IN NORFOLK COUNTY MAY BE USED AS A TEMPORARY MINIMUM SECURITY ALTERNATIVE CORRECTION CENTER.**

*Be it enacted, etc., as follows:*

Section 1 of chapter 109 of the acts of 1987 is hereby amended by striking out the second paragraph, as amended by section 1 of chapter 128 of the acts of 1991, and inserting in place thereof the following paragraph:-

Said center shall remain in operation only until June thirtieth, nineteen hundred and ninety-three or for a period of thirty days after the opening of a jail and house of correction replacing the present correction facility in the town of Dedham, whichever occurs first.

Approved December 29, 1991.

**Chapter 433.      AN ACT AUTHORIZING THE TOWN OF MARBLEHEAD TO ESTABLISH A DIVISION OF FINANCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established in the town of Marblehead a division of finance, hereinafter called the division, which shall be under the jurisdiction of the board of selectmen.

The division shall have all of the powers and duties vesting in or exercised by

the following departments or offices, which shall be renamed subdivisions and included within, the division: town accountant; collector of taxes; and town treasurer. The town may, by by-law, add, abolish, rename or combine subdivisions, and their functions within the division. No contracts, obligations or liabilities in force on the effective date of this act, or on the date on which a present department is included within the division, shall be affected hereby, but the division shall in all respects be the successor of the departments included as subdivisions within said division.

**SECTION 2.** The board of selectmen shall annually appoint a director of finance whose qualifications, powers and duties shall be determined by said board, and who shall be responsible to said board. The director shall have full authority over the operations of the division and in the implementation of the policies established by said board. The director shall appoint and remove such staff assistants and employees as he deems necessary, subject to appropriation and the approval of said board. Such staff may include a supervisor for each subdivision. The director shall supervise all employees of the division as may be determined from time to time by the board. The director shall hold office subject to the will of said board. Said director shall not be subject to the provisions of chapter thirty-one of the General Laws.

All present employees of any of the departments or offices listed in section one shall be transferred to the division, and retain all rights and benefits entitled to as of the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 29, 1991.

**Chapter 434.        AN ACT RELATIVE TO CERTAIN PUBLIC DEED RESTRICTIONS IN AFFORDABLE HOUSING.**

*Be it enacted, etc., as follows:*

Section 5 of chapter 184A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

(d) Any option in gross with respect to an interest in land or minerals, or a preemptive right in the nature of a right of first refusal in gross with respect to an interest in land or minerals, or a lease, or a nonvested easement in gross which option in gross, preemptive right in the nature of a right of first refusal in gross, lease, or nonvested easement in gross held by a government or government agency or subdivision or by a public instrumentality or public authority or by a quasi-public entity, or by an instrumentality created pursuant to chapter forty F becomes invalid if it is not exercised or becomes vested within fifty years after its creation.

Approved December 29, 1991.

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**Chapter 435. AN ACT RELATIVE TO THE GROUP INSURANCE COVERAGE OF THE TOWN OF WEST TISBURY.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of section eight A of chapter thirty-two B of the General Laws, the town of West Tisbury is hereby authorized to refund from the General Fund proportionately to eligible insured members employed by said town between March first, nineteen hundred and eighty-nine and February twenty-eighth, nineteen hundred and ninety in the amount of seventeen thousand five hundred and eleven dollars and twenty-three cents refunds received by said town from Blue Cross/Blue Shield under said town's group insurance policy.

Approved December 29, 1991.

**Chapter 436. AN ACT FURTHER REGULATING THE DISPOSITION OF DOG LICENSE FEES FOR WORCESTER COUNTY.**

*Be it enacted, etc., as follows:*

Section 147 of chapter 140 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The city and town treasurers shall pay into the treasuries of their respective counties, except in Suffolk county, on or before June first and December first of each year, the amounts received by them on account of such licenses and not previously paid over and shall certify under penalties of perjury to the amounts of money thus received and paid over by them; provided, however, that in Worcester county payment into the treasury shall be made on or before the last day of each month.

Approved December 29, 1991.

**Chapter 437. AN ACT RELATIVE TO EMINENT DOMAIN TAKINGS BY CABLE TELEVISION SYSTEM OPERATORS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 19 of chapter 166A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words " , sixteen and twenty-two" and inserting in place thereof the words:- and sixteen.

**SECTION 2.** Said chapter 166A is hereby further amended by striking out



section 22, as so appearing, and inserting in place thereof the following section:-

Section 22. No operator shall enter into any agreement with persons owning, leasing, controlling or managing buildings served by a CATV system, or perform any act, that would directly or indirectly diminish or interfere with existing rights of any tenant or other occupant of such a building to the use of master or individual antenna equipment.

An operator who affixes, or causes to be affixed, CATV system facilities to the dwelling of a tenant shall do so at no cost to the landlord of such dwelling, shall indemnify the landlord of such dwelling for any damage arising out of such actions, and shall not interfere with the safety, functioning, appearance or use of such dwelling.

The consent required by section thirty-five of chapter one hundred and sixty-six shall be deemed to have been granted to an operator upon his delivery to the owner or lawful agent of the owner of property upon which he proposes to affix CATV system facilities of a copy of this section and a signed statement that he agrees to be bound by the terms of this section.

An owner of property, or his lawful agent, may sue in contract to enforce the provisions of an operator's agreement under this section.

No person owning, leasing, controlling or managing a multiple dwelling unit or units served by a CATV system shall discriminate in rental or other charges between tenants who subscribe to such CATV services, and those who do not; provided, however, that the owner of such real estate may require reasonable compensation in exchange for permitting the installation of CATV system equipment within and upon such real estate, to be paid by an operator, and any such taking and compensation shall be determined in accordance with the provisions of chapter seventy-nine.

No person owning, leasing, controlling, or managing a multiple dwelling unit or units shall prohibit or otherwise prevent an operator from entering such buildings for the purpose of constructing, installing or servicing CATV system facilities if one or more tenants or occupants of a multiple dwelling unit or units have requested such CATV services. A cable television operator shall not make an installation in an individual dwelling unit unless permission has been given by the tenant occupying such unit.

An owner whose property is injuriously affected or diminished in value by occupation of the ground or air or otherwise by such construction of CATV system facilities may recover damages therefor from the operator pursuant to chapter seventy-nine. The right of an operator to construct, install or repair CATV system facilities and to maintain CATV services shall not be delayed or impaired by the assertion of a specific claim, or the initiation of legal action to enforce such claim. The superior court shall have exclusive original jurisdiction of all actions seeking injunctive relief to permit the construction, installation or repair of CATV system

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facilities.

A cable television operator shall indemnify the landlord for any damage caused by the installation, operation or removal of cable television facilities. An owner of property may require that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well being of other tenants.

Approved December 29, 1991.

**Chapter 438.        AN ACT RELATIVE TO THE EXTENSION OF THE GLOUCESTER STATE FISH PIER.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 2 of chapter 740 of the acts of 1981 is hereby amended by striking out the definitions of "commissioner", "department", "director" and "division" and inserting in place thereof the following four definitions:-

"Commissioner", the commissioner of the department of environmental protection.

"Department", the department of environmental protection.

"Director", the director of the division of wetlands and waterways.

"Division", the division of wetlands and waterways within the department of environmental protection.

**SECTION 2.** Section 5 of said chapter 740, as appearing in section 3 of chapter 537 of the acts of 1982, is hereby amended by adding the following clause:-

(n) to construct extensions to the pier, which extensions may extend beyond the existing harbor line; provided, however, that licenses to construct such extensions beyond said harbor line shall be approved pursuant to the process set forth in section fourteen of chapter ninety-one of the General Laws.

Approved December 29, 1991.

**Chapter 439.        AN ACT AUTHORIZING THE ESTABLISHMENT OF THE OAK BLUFFS WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The inhabitants of the town of Oak Bluffs registered to vote in said town and residing within the territorial limits of said town shall constitute a water District and are hereby made a body politic and corporate by the name of the Oak Bluffs Water District, hereinafter called the District, for the purpose of supplying

themselves with water for the extinguishment of fires and for domestic and other purposes, with power to lay water mains, to establish wells, fountains and hydrants and to relocate and discontinue the same, to regulate the use of such water and to fix and collect rates to be paid therefor, and for the purposes of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of the District, with all the powers and privileges and subject to the limitations provided for in the General Laws now or hereafter in force relating to such districts, except as otherwise provided herein. The District shall also have for its purpose the construction, operation and financing of such water supply and treatment works and facilities as may be necessary to obtain and deliver pure and healthful drinking water. The District shall have like powers to treat sewage or septage if the District shall elect to also become a sanitary district under the provisions of section two. For either or both of these purposes, the District shall seek, obtain and accept any available capital and operating funds from the commonwealth or the federal government or any authority or entity created by either of said governments. The District shall have power to prosecute and defend all actions relating to its property and affairs and shall be deemed a public employer for purposes of chapter two hundred and fifty-eight of the General Laws.

**SECTION 2.** For the aforesaid purposes the District, acting by and through its board of water commissioners hereinafter provided for may:-

(a) contract with any municipality, acting through its water department, or with any water company, or with any water district for the purchase or sale of whatever water may be required, authority to furnish the same being hereby granted, and may enter into such other contracts as may be necessary to effectuate the purposes of this act;

(b) supply water to persons outside of the town of Oak Bluffs with the permission of any water department or any water district existing in a town outside of the district or in the absence of any such water department or district, with the permission of the board of selectmen of such town; provided, however, that the district meeting must authorize each extension of waterworks outside the district;

(c) take by eminent domain under the provisions of chapter seventy-nine or chapter eighty A of the General Laws, or acquire, by lease, purchase or otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any ground sources of water supply by means of driven, artesian or other wells, within the territorial limits of the town of Oak Bluffs not already appropriated for the purposes of a public water supply by another governmental body, and the water and flowage rights connected with any such water sources; may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of the

District and for carrying out the purposes of the District; provided, however, that no source of water supply or lands necessary for preserving the quality of such water shall be so taken or used without first obtaining the advice and approval of the department of environmental protection, and that the location and arrangement of all dams, reservoirs, springs, wells, pumping, purification and filtration plants and such other waterworks as may be necessary in carrying out the provisions of this act shall be subject to the approval of said department;

(d) construct and maintain on the lands acquired and held under this act proper dams, wells, springs, reservoirs, standpipes, tanks, pumping plants, buildings, fixtures and other structures, including the establishment and maintenance of filter beds and purification works or systems, and may make excavations, procure and operate machinery and provide such other means and appliances, and do such other things as may be necessary for the establishment and maintenance of complete and effective waterworks; and for that purpose may construct pipe lines, wells and reservoirs, and establish pumping works, and may construct, lay, acquire and maintain aqueducts, conduits, pipes and other works and along such ways, in said town, in such manner as not unnecessarily to obstruct the same;

(e) for the purpose of constructing, laying, maintaining, operating and repairing such aqueducts, conduits, pipes and other works, and for all other purposes of this act, dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel on such way; provided, however, that the manner in which all things are done upon any such way shall be subject to the direction of the board of selectmen of the town in which such lands, highways or other ways are located;

(f) enter upon any lands for the purpose of making surveys, test wells or pits and borings, or any of them, and may take by eminent domain or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this act;

(g) from time to time sell such real property of the District as shall, in the opinion of its board of water commissioners hereinafter provided for, be no longer useful in the conduct of the affairs of the District; provided, however, that the district meeting has authorized each such sale;

(h) act as a wastewater treatment and water pollution abatement district, to be known as the Oak Bluffs Sanitary District, for the purpose of receiving, collecting, treating, neutralizing or stabilizing sewage and such industrial and other wastes as are disposed of by means of such facilities, including treatment or disposal plants, necessary common, intercepting, outfall and outlet sewers, and pumping stations integral to such facilities, with sewers, equipment, furnishings and other appurtenances connected therewith; provided, however, that said sanitary District shall only assume the powers and duties given such districts by the General Laws upon a two-thirds vote of the district voters at an annual district meeting or special

meeting called for the purpose of expanding the powers and duties of the District;

(i) employ personnel and may engage architectural, engineering, accounting, management, legal, financial and environmental consulting and other professional services;

(j) bill customers of the District and collect amounts owing under such bills either directly, or through the town of Oak Bluffs, by agreement with the town; and

(k) do all things necessary, convenient or desirable for carrying out the purposes of this act or the powers expressly granted or necessarily implied by this act, including but not limited to enacting regulations reasonably necessary to accomplish the purposes of this act.

**SECTION 3.** Any person sustaining damages in his property by any taking under this act or any other thing done under authority thereof may recover such damages from the District under the provisions of chapter seventy-nine or chapter eighty A of the General Laws; but the right to damages for the nonexclusive taking of any water, water right or water source, or for any injury thereto, shall not vest until water is actually withdrawn or diverted under authority of this act.

**SECTION 4.** The District, for the purposes of paying the expenses and liabilities incurred in connection with this act, including the funding of reserves for debt service or other district expenses and in anticipation of revenue, but excluding operating and maintenance expenses, may, from time to time, borrow such sums, as may be necessary, and may issue bonds or notes therefor. Any bonds or notes issued pursuant to this act shall be in form, detail and at such rate or rates of interest as the board of water commissioners deem proper. Bonds of the District shall be authorized at a district meeting by the affirmative vote of not less than two-thirds of the district voters then present and voting, shall be for a term of twenty years or for such greater term as may be approved by the board of water commissioners. Maturities of bonds or notes issued by the District under this act or under the General Laws, other than temporary loans, may be arranged so that for each issue, the annual combined payments of principal and interest payable in each year shall be as nearly equal as practicable in the opinion of the district treasurer, or be arranged in accordance with a schedule providing for a more rapid amortization of principal; provided, however, that the first annual debt service payment associated with an issue may be deferred to the extent permitted by section nineteen of chapter forty-four of the General Laws. Any net earnings derived from the investment of proceeds of bonds or notes of the District may be expended by the district treasurer to pay interest on bonds or notes of the District or otherwise used for the construction, equipping, operation or maintenance of the water supply system or related facilities. In addition to other security provided herein or otherwise by law, bonds or notes issued by the District may be secured by insurance or by letters or lines of credit or other credit facilities issued to the District under such terms and conditions and under such agreements, not inconsistent with

this act, as the board of water commissioners determine to be in the best interest of the District. Except as otherwise provided in this act, indebtedness incurred by the District shall be subject to the applicable provisions of said chapter forty-four.

**SECTION 5.** The District, upon appropriate authorization by a two-thirds majority vote at a district meeting, may, with the consent of the town of Oak Bluffs acting by and through its board of selectmen, undertake financial arrangements resulting in the assumption of debt service obligations, the issuance of district bonds or other financial accommodations on behalf of said town of Oak Bluffs for all or any portion of the bond indebtedness then outstanding and relating to expenditures incurred by said town in connection with water department improvements.

**SECTION 6.** The District, after a two-thirds majority vote at a district meeting and acting by and through said board of water commissioners, may establish and operate a separate account classified as a Water Supply Materials "Enterprise Fund" for the purchase, storage and sale of water supply pumps, piping, appurtenances and other materials. Such account shall be maintained by the treasurer, and all receipts, revenues and funds from any source derived, from all sales and rental of the water supply materials and equipment shall be deposited in such separate account. The treasurer may invest the funds in such separate account in the manner authorized by sections forty-five and fifty-five A of chapter forty of the General Laws. Any interest earned thereon shall be credited to and become part of such separate account. The books and records for the account shall be maintained in accordance with generally accepted accounting principles and in accordance with the requirements of section thirty-eight of said chapter forty.

**SECTION 7.** The District, acting by and through said board of water commissioners, shall, subject to the applicable provisions of law, fix just and equitable fees, prices and rates for the use of water and the extension or expansion of its waterworks and shall prescribe the time and manner of payment. Notwithstanding the foregoing, such prices and rates shall be fixed and adjusted so as to provide funds at least sufficient in each fiscal year, together with other revenues and funds of the District, if any, available therefor, to pay the full cost of operation of the District for that fiscal year, including all current expenses; all debt service on bonds or notes of the District; all costs of maintenance, repair and replacement, including the establishment of reasonable sinking funds, stabilization funds, replacement reserves and other similar funds in accordance with generally accepted accounting principles, as determined by the board of water commissioners to be necessary or desirable to be funded as current expenses; and all other amounts which the District may be obligated to pay or provide for by law or contract. Such prices and rates shall be reviewed on not less than an annual basis and as necessary shall be revised. After the water system operated by the District shall have been acquired from the town of Oak Bluffs, the District, acting through said board of water commissioners,

shall immediately fix the rates to be paid within the territorial limits of said town of Oak Bluffs and by any customers in other towns. If in any fiscal year a tax has been levied upon the inhabitants of the District under the provision of section eight, the board of water commissioners shall fix such prices and rates for the use of water as to raise within the shortest practicable period as determined by the board of water commissioners the amount of such tax and shall, at the end of each fiscal year thereafter until said town of Oak Bluffs shall have been reimbursed an amount equal to the amount of the taxes so paid to the District by the inhabitants of said town, pay to such town so much, if any, of the revenue of the District as is in excess of the cost of operation. If there should be a net surplus remaining at the end of any fiscal year after the payment of all costs of operation and the aforesaid reimbursements, such net surplus shall be applied to pay costs of operation for the District for the succeeding fiscal year or for capital improvements to the District's facilities or to the reduction of its indebtedness. The fiscal year of the District shall commence on July first and end on June thirtieth, or as otherwise provided in the by-laws of the District.

**SECTION 8.** If for any reason the revenues and available funds of the District, including revenues from prices and rates for the use of water as provided in section seven, shall be determined by the board of water commissioners not to be sufficient to pay the full cost of operation of the District, said board of water commissioners shall levy a tax upon the property of the District, and promptly thereafter the clerk of the District shall apportion the amount of said tax among the property subject to tax under this act in the town of Oak Bluffs in proportion to the assessors' valuation of said property in the town and shall furnish a certified copy of the vote imposing said tax together with said apportionment of the tax, to the assessors of said town, who shall assess said tax on the property within the District in the same manner in all respects in which town taxes are required by law to be assessed.

No estate shall be subject to any tax assessed on account of the system of water supply under this act, if, in the judgment of the board of water commissioners, after a hearing, due notice whereof shall have been given, such estate is so situated that it will receive no aid in the extinguishment of fire from said system of water supply, and if such estate is so situated that the buildings thereon, or the buildings that might be constructed thereon, could not be supplied with water from said systems in any ordinary or reasonable manner; but all other estates in the District shall be deemed to be benefited and shall be subject to such tax. A certified list of the estates exempt from taxation under the provisions of this section shall be sent by said board of water commissioners to said assessors, at the same time at which the clerk shall send a certified copy of the vote as aforesaid.

The assessments shall be committed to the respective town collectors, who shall collect said tax in the manner provided by law for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit

of the District. The District may collect interest on overdue taxes in the manner in which interest is authorized to be collected on town taxes, provided the board of water commissioners at the time of voting to levy the tax shall so determine and shall also fix a time when said tax is due.

**SECTION 9.** The management and control of all property acquired by, and the exercise of all the powers, privileges and duties conferred upon, the District pursuant to any of the provisions of this act shall be vested in and exercised by a board of water commissioners which shall be constituted as provided in section ten except where a power or duty is expressly reserved to the district voters by this act.

**SECTION 10.** The District shall, after the acceptance of this act, elect by ballot, either at the same meeting at which this act shall have been accepted, or thereafter, at an annual district meeting or at a special meeting called for the purpose, three persons, inhabitants of and registered voters in the town of Oak Bluffs, to hold office, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years from the day of the next succeeding annual district meeting to constitute a board of water commissioners; and at every annual district meeting following such next succeeding annual district meeting one such commissioner shall be elected by ballot for the term of three years. The date of the next annual meeting shall be fixed by by-law or by vote of the board of water commissioners, but in no event shall it be later than fifteen months subsequent to the date on which the water commissioners were first elected. The first district meeting shall be called by the board of selectmen of the town of Oak Bluffs within two months after the acceptance hereof by a town meeting of said town of Oak Bluffs. The town clerk shall cause notice of the time and place of the first district meeting to be published in a newspaper of general circulation in said town for two consecutive weeks, the second notice to appear no fewer than seven days before the meeting.

The district meeting shall annually appropriate funds for the District's purposes and may appropriate funds for any of the purposes specified for the District in this act, and for any purpose permitted to water districts by the General Laws. In the event the District assumes the powers of a wastewater treatment and water pollution abatement district, the district meeting may appropriate funds for the purposes of such districts under this act and under the General Laws. All the authority granted to said District by this act, except section four, and not otherwise specifically reserved to the district meeting, shall be vested in said board of water commissioners, who shall be subject, however, to such instructions, rules and regulations as the District may by vote impose.

At the meeting at which said water commissioners are first elected and at each annual district meeting held thereafter, the District shall elect by ballot, each for such term as it may determine, a clerk and a treasurer of the District. The treasurer



shall not be a member of the board of water commissioners and shall give bond to the District in such an amount as may be approved by said board with a surety company authorized to transact business in the commonwealth as surety.

A majority of said board shall constitute a quorum for the transaction of business. Any vacancy occurring in the membership of the board of water commissioners from any cause may be filled for the remainder of the unexpired term by the District at any legal meeting called for the purpose. No money shall be drawn from the treasury of the District on account of its waterworks except upon a written order of said board or a majority of them.

**SECTION 11.** Whoever contaminates, corrupts, pollutes or diverts any source of water used by the District or any water obtained or supplied under this act, or injures any reservoir, well, standpipe, aqueduct, pipe or other property owned or used by the District for any of the purposes of this act, shall be liable for and pay to the District three times the District's cost of assessing, remedying and removing such contamination, corruption, pollution, diversion or injury, and for the District's costs, expenses and attorney's fees to be recovered in an action of tort. Any person convicted of any of the above wilful or wanton acts shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than one year, or both.

**SECTION 12.** The District, upon the acceptance of this act as hereinafter provided by the town of Oak Bluffs, is hereby authorized and empowered to acquire all the rights, franchises, privileges, easements, land, and properties, tangible and intangible, real and personal, now used by or for the benefit of the water department of said town of Oak Bluffs, at a price and upon such terms and conditions as may be agreed upon between the District and said town.

The District shall not acquire the assets of said water department unless such acquisition shall have been approved by a majority vote adopted at a town meeting of the town of Oak Bluffs. The District shall not charge said town any fees for fire hydrants and all property owned by the District shall be exempt from taxation under chapter fifty-nine of the General Laws.

**SECTION 13.** This act shall take effect upon its acceptance by a majority vote of the voters of the District established by section one present and voting thereon at a district meeting called, in accordance with section ten, within four years after its passage.

Approved December 29, 1991.

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**Chapter 440.**

**AN ACT AUTHORIZING THE STATE RETIREMENT BOARD TO GRANT CERTAIN CREDITABLE SERVICE TO DONNA DEVLIN FOR THE PURPOSES OF PROVIDING A RETIREMENT ALLOWANCE TO HER SURVIVORS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** In order to fulfill a moral obligation and notwithstanding the provisions of any general or special law or rule to the contrary, the state retirement board is hereby authorized and directed to credit Donna Devlin, a deceased member of the uniformed branch of the state police, for the period of her maternity leave as creditable service for the purposes of chapter thirty-two of the General Laws; provided however, that the surviving spouse of said Donna Devlin shall pay into the annuity savings fund of the state retirement system an amount equal to the amount that would have been withheld from her regular compensation had she received such regular compensation for the period of such leave; and provided, further, that after such crediting of such creditable service, the state retirement board shall recalculate the allowance payable pursuant to the provisions of option (d) of subdivision (2) of section twelve of said chapter thirty-two of the General Laws to the eligible beneficiary designated by, or, if there is none, the surviving spouse of, said Donna Devlin as of the date of her death.

**SECTION 2.** The provisions of subdivision (3) of section six of chapter thirty-two of the General Laws shall not be applied in the determination of allowances payable under this act.

Approved December 29, 1991.

**Chapter 441.**

**AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TRAFFIC AND PARKING DIRECTOR TO REGULATE CERTAIN PARKING SPACES ON MASSACHUSETTS AVENUE IN SAID CITY.**

*Be it enacted, etc., as follows:*

The first paragraph of clause (a) of section 3 of chapter 455 of the acts of 1961, as most recently amended by chapter 166 of the acts of 1981, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The traffic director may adopt, alter or repeal rules and regulations, not inconsistent with general law as modified by this act, relative to vehicular and pedestrian traffic in the streets of the city and to the movement, stopping, standing, or parking of vehicles on, and their exclusion from, all or any streets, ways, highways, roads and parkways under the control of the city, including

the restricting of parking in the three spaces located in front of 2050 Massachusetts avenue except by visitors to the North Cambridge senior center and including rules and regulations designating any way or part thereof under such control as a thoroughway under and subject to the provisions of section nine of chapter eighty-nine of the General Laws.

Approved December 29, 1991.

**Chapter 442.      AN ACT AUTHORIZING THE TOWN OF LINCOLN TO  
RELEASE A CERTAIN CONSERVATION RESTRICTION-  
TRAIL EASEMENT HELD BY THE TOWN OF LINCOLN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Lincoln, acting by and through its conservation commission, is hereby authorized to release and cancel a certain instrument entitled "Conservation Restriction-Trail Easement", dated June 13, 1991 and recorded in the southern district registry of deeds in Middlesex county, Book 21250, Page 223, previously granted to said town by Gordon D. Winchell, Trustee of Pine Loch Realty Trust, which conservation restriction-trail easement is currently imposed upon certain land shown as "20' Wide Trail Easement" on a plan of land entitled "Cluster Subdivision in Lincoln, Mass.", Owner/Applicant: Pine Loch Realty Trust, Dr. Gordon Winchell, Trustee, Scale: 1" = 100', dated January 23, 1991, last revised May 21, 1991, prepared by Schofield Brothers, Inc., Professional Engineers and Professional Land Surveyors, 1071 Worcester Road, Framingham, Massachusetts 01701, a copy of which plan is recorded in the southern district registry of deeds in Middlesex county in Book 21230, Page 174, in consideration for the granting to the town of a substituted conservation restriction-trail easement which is determined to be acceptable by the conservation commission, all in order to allow the construction, maintenance and use of driveways and utility facilities over, under and across trail easement or restriction areas so as to serve adjacent lots in said cluster subdivision or to otherwise permit the installation of municipal utilities, and to relocate certain portions of the trail system areas previously identified in the original instrument.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 29, 1991.

**Chapter 443.      AN ACT RELATIVE TO THE BARNSTABLE FIRE DISTRICT  
IN THE TOWN OF BARNSTABLE.**

*Be it enacted, etc., as follows:*

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**SECTION 1.** Section 2 of chapter 109 of the acts of 1926, as amended by section 1 of chapter 302 of the acts of 1934, is hereby further amended by adding the following sentence:- Said district may also operate a golf course until such time as the prudential committee determines such operation is no longer feasible or until such time as the board of water commissioners determines that such golf course is needed for water supply or protection purposes.

**SECTION 2.** Section 3 of said chapter 109, as amended by section 2 of said chapter 302, is hereby further amended by adding the following sentence:- No money shall be drawn from the treasury of said district to pay any expense of, or to discharge any liability incurred on account of, its golf course unless and until approved in writing by a majority of the board of golf commissioners hereinafter provided for and authorized by a majority of said prudential committee.

**SECTION 3.** Said chapter 109 is hereby further amended by inserting after section 5H the following two sections:-

*Section 5I.* The prudential committee shall appoint three persons who are residents of the district to constitute a board of golf commissioners. The initial appointments shall be for one, two and three year terms respectively, but the initial appointment shall run until the date of the second annual district meeting following said appointments. At every annual district meeting subsequent to the above described meeting, one such commissioner shall be appointed for a term of three years. If at any time the prudential committee determines that it is no longer feasible to run a golf course or if at any time the board of water commissioners shall require the land for water purposes and shall so notify the prudential committee, the board of golf commissioners shall be dissolved by the prudential committee.

*Section 5J.* The board of golf commissioners shall oversee the operation of the golf course and shall report at least monthly to the prudential committee. They shall fix membership rates and golf course fees, subject to the approval of the prudential committee.

**SECTION 4.** This act shall take effect upon its acceptance by a majority vote of the voters of the Barnstable Fire District present and voting thereon at a district meeting held within.

Approved December 29, 1991.

**Chapter 444.****AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO RELOCATE A PERMANENT EASEMENT IN THE TOWN OF LUDLOW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and

operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws to accept a deed, approved as to form by the attorney general, conveying two permanent right of way easements located in the town of Ludlow subject to such terms and conditions as said commissioner shall prescribe in consultation with the metropolitan district commission and the Massachusetts Water Resources Authority.

Said land is bounded and described as follows:

Parcel "A": Beginning at a point that is located on the southerly property line of parcel #42 as shown on a plan entitled "Commonwealth of Massachusetts, Metr. Distr. Comm. Constr. Division, Chicopee Valley Aqueduct, Plan No. CV-38 of land taking under Chapter 575, Acts of 1947; dated: March 1, 1950, Scale: As shown, Section 2; and by a plan entitled "Commonwealth of Massachusetts, Metr. Distr. Commission - Construction Division, Chicopee Valley Aqueduct - Section 2, Plan No. CV-7 of land takings under Chapter 575, Acts of 1947, Scale: as shown; said point being 390+ feet distant from and at a bearing of N45° 30'E from a stone bound that is located at the intersection of said southerly property line of Parcel #42 and the northerly side line of Bondsville Road as shown on the aforementioned plans; thence running along said southerly property line of parcel #42 at a bearing of S45° 30'W a distance of 16.055 feet to a point; thence turning and running at a bearing of N5° 38'W a distance of 64.22 feet to a point that lies on the northerly property line of parcel #42; thence turning and running along said northerly property line of parcel #42 at a bearing of N45°-30'E a distance of 32.11 feet to a point; thence turning and running at a bearing of S5°-38'E a distance of 64.22 feet to a point that lies on the southerly property line of parcel #42; thence turning and running at a bearing of S45° 30'W a distance of 16.055 feet to the point of beginning. Described parcel contains approximately 1,605.5 square feet.

Parcel "B": Beginning at a point that is located on the southerly property line of parcel #42 as shown on a plan entitled "Commonwealth of Massachusetts, Metr. Distr. Comm. Constr. Division, Chicopee Valley Aqueduct, Plan No. CV-38 of land taking under Chapter 575, Acts of 1947; dated: March 1, 1950, Scale: As shown, Section 2; and by a plan entitled "Commonwealth of Massachusetts, Metr. Distr. Commission - Construction Division, Chicopee Valley Aqueduct - Section 2, Plan No. CV-7 of land takings under Chapter 575, Acts of 1947, Scale: as shown; said point being 249.81 feet distant from and at a bearing of S41°-41'W from a stone bound that is located at the intersection of said southerly property line of parcel #42 and the Hampden County/Hampshire County - County line, said line also being the Ludlow/Belchertown Town line, as shown on the aforementioned plans; thence running along said southerly property line of Parcel #42 at a bearing of S41°-41'W a distance of 16.32 feet to a point; thence turning and running at a bearing of N8°-19'W a distance of 65.27 feet to point that lies on the northerly property line of Parcel #42; thence turning and running along said northerly

property line of parcel #42 at a bearing of N41°-41'E a distance of 32.64 feet to a point; thence turning and running at a bearing of S8°-19'E a distance of 65.27 feet to a point that lies on the southerly property line of parcel #42; thence turning and running at a bearing of S41°-41'W a distance of 16.32 feet to the point of beginning. Described parcel contains approximately 1,631.75 square feet.

**SECTION 2.** In consideration of the conveyance in section one, the commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws to convey by deed, approved as to form by the attorney general, a permanent access and utility easement over a certain parcel of land in the town of Ludlow to an individual or entity subject to the requirements of sections three and four and such additional terms and conditions as said commissioner shall prescribe in consultation with the metropolitan district commission and the Massachusetts Water Resources Authority. Said land is bounded and described as follows; Beginning at a point that is located on the southerly property line of parcel #42 as shown on a plan entitled "Commonwealth of Massachusetts, Metr. Distr. Comm. Constr. Division, Chicopee Valley Aqueduct, Plan No. CV-38 of land taking under Chapter 575, Acts of 1947; dated: March 1, 1950, Scale: As shown, Section 2; and by a plan entitled "Commonwealth of Massachusetts Metr. Distr. Commission - Construction Division, Chicopee Valley Aqueduct - Section 2, Plan No. CV-7 of land takings under Chapter 575, Acts of 1947, Scale: as shown; said point being 492.93 feet distant from and at a bearing of N45°-30"E from a stone bound that is located at the intersection of said southerly property line of parcel #42 and the northerly side line of Bondsville Road as shown on the aforementioned plans; thence running along said southerly property line of parcel #42 at a bearing of S45°-30'E a distance of 26.40 feet to a point; thence turning and running at a bearing of N25°45'43"W a distance of 52.80 feet to a point that lies on the northerly property line of parcel #42; thence turning and running along said northerly property line of parcel #42 at a bearing of N45°-30'E a distance of 52.80 feet to a point; thence turning and running at a bearing of S25°45'43"E a distance of 52.80 feet to a point that lies on the southerly property line of parcel #42; thence turning and running at a bearing of S45°-30'E a distance of 26.40 feet to the point of beginning. Described parcel contains approximately 2,640 square feet. Said parcel, as described, is shown on a plan entitled "Plan of land in Ludlow, MA. Right- of- way easement" "Commonwealth of Massachusetts Metr. Distr. Commission Construction division, Chicopee Valley Aqueduct, right of way easement conveyed to Gaston R. Desrochers and Carmen C. Desrochers, dated January 4, 1991, Scale: as shown.

**SECTION 3.** The recipient of the easement as described in section two shall assume the costs of appraisals, surveys and other expenses as deemed necessary by the commissioner of capital planning and operations for the conveyance of this

property.

**SECTION 4.** If the aforementioned purpose as described in section two ceases at any time, said easement shall revert to the commonwealth under such terms as the commissioner of capital planning and operations may prescribe.

Approved December 29, 1991.

**Chapter 445. AN ACT RELATIVE TO PHYSICIAN ASSISTANTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 7 of chapter 94C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out paragraph (g) and inserting in place thereof the following paragraph:-

(g) The commissioner may by regulation authorize the registration for a specific activity or activities requiring registration under this section of such persons as he determines to be qualified for such registration.

The commissioner shall promulgate regulations which provide for the registration of nurse practitioners to issue written prescriptions for patients in long term care facilities or for chronic patients in home care settings where the individual would otherwise require institutionalization. Prior to promulgating such regulations, the commissioner shall consult with the board of registration in medicine, the board of registration in nursing and the board of registration in pharmacy with regard to those schedules of controlled substances for which nurse practitioners may be registered.

The commissioner shall promulgate regulations which provide for the registration of certified nurse-midwives, as provided in section eighty C of chapter one hundred and twelve, to issue written prescriptions for patients pursuant to guidelines mutually developed and agreed upon by the certified nurse-midwife and the supervising physician in accordance with regulations approved by the board of registration in medicine and the board of registration in nursing. Prior to promulgating such regulations, the commissioner shall consult with the board of registration in nursing, the board of registration in medicine and the board of registration in pharmacy with regard to those schedules of controlled substances for which certified nurse-midwives may be registered.

The commissioner shall promulgate regulations which provide for the registration of physicians assistants to issue written prescriptions for patients pursuant to guidelines mutually developed and agreed upon by the supervising physician and the physician assistant. Prior to promulgating such regulations, the commissioner shall consult with the board of registration of physician assistants, the board of registration in medicine and the board of registration in pharmacy with regard to

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those schedules of controlled substances for which physician assistants may be registered to issue written prescriptions therefor; provided, however, that a physician assistant who has not successfully passed the national certification examination for physician assistants or who does not meet all of the current requirements for obtaining an initial physician assistant's registration as listed in section ninety I of chapter one hundred and twelve may not be authorized to write prescriptions under any circumstances.

**SECTION 2.** Said chapter 94C is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. (a) A physician, dentist, podiatrist, nurse practitioner as limited by paragraph (g) of section seven and section eighty E of chapter one hundred and twelve and physician assistant as limited by said paragraph (g) of said section seven and section nine E of said chapter one hundred and twelve and a certified nurse-midwife as provided in section eighty C of said chapter one hundred and twelve, or a veterinarian when registered pursuant to the provisions of said section seven and when acting conformably with the provisions of applicable federal law and any provisions of this chapter which is consistent with federal law, in good faith and in the course of a professional practice for the alleviation of pain and suffering or for the treatment or alleviation of disease, may possess such controlled substances as may reasonably be required for the purpose of patient treatment and may administer controlled substances or may cause the same to be administered under his direction by a nurse.

(b) Notwithstanding the provisions of section seventeen, a physician, physician assistant, dentist, podiatrist, certified nurse-midwife or veterinarian who is registered pursuant to the provisions of section seven, when acting in good faith and in the practice of medicine, dentistry, podiatry, nurse-midwifery, veterinary medicine or a nurse, when authorized by a physician, dentist, podiatrist, nurse practitioner, physician assistant, certified nurse-midwife or veterinarian in the course of said nurse's professional practice, may dispense by delivering to an ultimate user a controlled substance in a single dose or in such quantity as is, in the opinion of the physician, dentist, podiatrist, nurse practitioner, physician assistant, certified nurse-midwife, or veterinarian, essential for the treatment of the patient; provided, however, that such amount or quantity of such controlled substance shall not exceed the amount needed for the immediate treatment of the patient and that all such controlled substances required by such patient as part of such treatment shall be dispensed by prescription to such ultimate user in accordance with the provisions of this chapter.

For the purposes of this section the words "immediate treatment" shall mean the quantity of a controlled substance which is necessary for the proper treatment of the patient until it is possible for him to have a prescription filled by a pharmacy.

(c) A nurse who has obtained from a physician, dentist, physician assistant,



podiatrist, certified nurse-midwife or veterinarian, a controlled substance for dispensing to an ultimate user, pursuant to the provisions of subsection (b) or for administration to a patient pursuant to the provisions of subsection (a), during the absence of such physician, physician assistant, dentist, podiatrist, certified nurse-midwife or veterinarian shall return to such physician, physician assistant, dentist, podiatrist, certified nurse-midwife or veterinarian any unused portion of such substance which is no longer required by the patient.

(d) Every physician, physician assistant, dentist, podiatrist, certified nurse-midwife or veterinarian shall, in the course of a professional practice, keep and maintain records open to inspection by the commissioner during reasonable business hours, which shall contain the names and quantities of any controlled substances in Schedule I, II or III received by such practitioner; the name and address of the patient to whom such controlled substance is administered or dispensed; the name, dosage and strength per dosage unit of such controlled substance and the date of such administration or dispensing.

(e) Notwithstanding the provisions of subsection (b), a physician, or certified nurse-midwife, when acting in good faith and providing care under a program funded in whole or in part by 42 USC 300, or in a clinic licensed by the department to provide comparable medical services or a registered nurse, registered pursuant to the provisions of section seventy-four of chapter one hundred and twelve and authorized by such physician, or certified nurse-midwife, may lawfully dispense controlled substances pursuant to Schedule VI to recipients of these services in such quantity as needed for treatment, and shall be exempt from the requirement that such dispensing be in a single dosage or as necessary for immediate treatment; provided, however, that such registered nurse shall not so dispense except as provided in section seventeen. The department may establish rules and regulations controlling the dispensing of said medications including, but not limited to, the types and amounts of medications dispensed and appropriate safeguards for dispensing.

**SECTION 3.** Section 9E of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

A physician assistant may order therapeutics and tests and issue written prescriptions for patients subject to the provisions of paragraph (g) of section seven of chapter ninety-four C. Any prescription of medication made by a physician assistant must include the name of the supervising physician.

Approved December 29, 1991.

**Chapter 446.        AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC  
WORKS IN THE TOWN OF SOUTHWICK.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established in the town of Southwick a department of public works, hereinafter called the department, which shall be under the jurisdiction of the board of selectmen. The department shall have all the powers and duties now vested in or exercised by any of the following departments, which are hereby renamed divisions and included within the department of public works: highway, sewer, solid waste, engineering and water. No contracts, obligations or liabilities in force on the effective date of this act shall be affected hereby, but the department shall in all respects be the successor of the departments now included as divisions in the department of public works. The tenure of the existing superintendent of streets in that office shall not be affected by this act but this position shall be under the jurisdiction of the director of public works.

**SECTION 2.** The board of selectmen shall appoint a director of public works, whose qualifications, powers and duties shall be determined and prescribed by said board, and who shall be responsible to said board. The director shall have authority for carrying out the policies of said board and over the operations of the department. The director shall appoint and remove such staff assistants and employees as he deems necessary, subject to available appropriations and with the approval of said board. Such staff may include a supervisor for each division. The director shall hold office subject to the will of said board. Said director shall not be subject to the provisions of section nine A of chapter thirty or chapter thirty-one of the General Laws.

**SECTION 3.** The board of selectmen shall be responsible for providing job descriptions and for the hiring and firing of all employees of the department of public works.

**SECTION 4.** There shall be no change in the status of the members of the board of water commissioners who shall continue to be elected.

**SECTION 5.** The board of water commissioners shall retain all of the powers and duties set forth in chapter two hundred and ninety-five of the acts of nineteen hundred and twenty-six, except as modified by the provisions of this act. The scheduling of work and the use of equipment and the day to day control of the activities of the water department shall be vested in the director of public works. The board of water commissioners shall expressly retain the power to set water rates, appropriate and vote the budget, execute contracts, determine issues relating to the extension or curtailment of water services, water quality, long-term water supply and planning and long-term maintenance of the water system. The preparation of the budget for the water department and the review of the same by

the finance committee shall be vested in the director of public works, working in conjunction with the board of water commissioners. The revenues of the water and sewer departments shall be utilized only for the water and sewer departments and eminent domain taking shall be made by and in the name of the board of water commissioners.

**SECTION 6.** This act shall be submitted to the voters of the town of Southwick at any special or annual town meeting in the form of the following question which shall be placed on the official ballot:- "Shall an act passed by the General Court in the year nineteen hundred and ninety-one, entitled 'An Act establishing a department of public works in the town of Southwick', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved December 29, 1991.

**Chapter 447.      AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC  
WORKS IN THE TOWN OF SOUTHBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established in the town of Southborough a department of public works, hereinafter called the department, which shall be under the jurisdiction of the board of selectmen. The department shall have all the powers and duties now vested by the General Law and town by-law in the highway department, cemetery department, water department and the office of tree warden. Said departments and office are hereby abolished and their powers and duties shall be transferred to and shall be under the direction of the department. No contracts, obligations or liabilities in force on the effective date of this act shall be affected hereby, but the department shall in all respects be the lawful successor of said departments and office now included in the department.

**SECTION 2.** The board of selectmen shall appoint a superintendent of public works, whose qualifications, powers and duties shall be determined and prescribed by said board, and who shall be responsible to said board. The superintendent shall have authority for carrying out the policies of said board and over the operations of the department. The superintendent shall appoint and remove such employees as he deems necessary, subject to appropriation and the approval of said board. Said superintendent shall be appointed for a term of three years commencing on July first and expiring on June thirtieth at the conclusion of the statutory period.

**SECTION 3.** All powers and duties now vested by the General Law and town by-law in the boards of water commissioners, board of cemetery commissioners

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and tree warden shall be assumed by the board of selectmen and said boards of water commissioners, board of cemetery commissioners and tree warden are hereby abolished.

**SECTION 4.** All equipment owned by the town of Southborough and under the control of the highway, cemetery and water departments and office of tree warden shall, upon the effective date of this act, be under the control and direction of the department of public works.

**SECTION 5.** There is hereby established in the town of Southborough a public works planning board to advise the board of selectmen in matters of planning, managing and financing of said town. Said board shall consist of five members, three of whom shall be appointed by the moderator of said town and two of whom shall be appointed by the planning board of said town. Said members shall serve for a term of three years; provided, however, that of the initial appointments made by the moderator, one member shall be for a term of one year, one member shall be for a term of two years and one member shall be for a term of three years and of the initial appointments made by the planning board, one member shall be for a term of two years and one member shall be for a term of three years.

**SECTION 6.** This act shall take effect upon its passage.

Approved December 29, 1991.

**Chapter 448.            AN ACT TO ESTABLISH A FUNDING SCHEDULE FOR THE  
TOWN OF NEEDHAM RETIREMENT SYSTEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the acceptance of the provisions of section 22D of chapter 32 of the general laws by the town of Needham retirement system, said Needham retirement system may adopt a funding schedule established under subdivision (1) of said section 22D of said chapter 32 which, notwithstanding the provisions of the first sentence of said subdivision (1) of said section 22D, would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; provided further however, that notwithstanding such acceptance of said section 22D, said Needham retirement system shall not be subject to the provisions of paragraph (e) of subdivision (4) of said section 22D.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of said section 22 of chapter 32 of the General Laws or of any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth,

nineteen hundred and ninety as the required payments into the pension fund of the Needham Retirement System for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one of this act and has been approved by said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided, however, that any such schedule shall be submitted to said actuary on or before January fifteenth, nineteen hundred and ninety-two and the resulting revised appropriation shall be issued by said actuary no later than January thirty-first, nineteen hundred and ninety-two.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 449                    AN ACT RELATIVE TO THE RETIREMENT SYSTEM OF  
THE CITY OF WATERTOWN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the funding schedule developed under the provisions of subdivision (6A) of section twenty-two of chapter thirty-two of the General Laws by the retirement system of the city of Watertown, said retirement system may adopt a funding schedule established under paragraph (b) of said subdivision (6A) of said section twenty-two of said chapter thirty-two which, notwithstanding the provisions of the second sentence of said paragraph (b) of said subdivision (6A) of said section twenty-two of said chapter thirty-two, would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; provided, further, that in each fiscal year the city of Watertown shall appropriate to the pension fund and pension reserve fund of said retirement system the amount necessary to fully fund the system pursuant to said schedule.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of section 22 of chapter 32 of the General Laws or any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety as the required payments into the pension fund of the retirement system of the city of Watertown for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one of this act and has been approved by

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said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided, however, that any such schedule shall be submitted to said actuary on or before January fifteenth, nineteen hundred and ninety-two and the resulting revised appropriation shall be issued by said actuary no later than January thirty-first, nineteen hundred and ninety-two.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 450.        AN ACT AFFECTING PENSION FUNDING FOR THE CITY  
                         OF BOSTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the acceptance of the provisions of section twenty-two D of chapter thirty-two of the General Laws by the City of Boston and the State-Boston retirement system, said State-Boston retirement system may adopt a funding schedule established under subdivision (1) of said section twenty-two D of said chapter thirty-two which, notwithstanding the provisions of the first sentence of said subdivision (1) of said section twenty-two D, would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities.

**SECTION 2.** In order to revise the total annual payments to the State-Boston retirement system for the fiscal year commencing July first, nineteen hundred and ninety-one, the actuary of the public employee retirement administration shall use the most recent actuarial funding schedule available from said system; provided, however, that an updated schedule may be submitted to the actuary by November first, nineteen hundred and ninety-one, or within ten days after the passage of this act, whichever is later.

**SECTION 3.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of section twenty-two of said chapter thirty-two or any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety, as the required payments into the pension fund and pension reserve fund of the State-Boston retirement system for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirements of sections one and two of this act and has been approved by said actuary. The approved funding amount shall be issued by said actuary no later than December fifteenth, nineteen hundred and ninety-one, or

within thirty days after the passage of this act, whichever is later.

**SECTION 4.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 451.        AN ACT RELATIVE TO THE TREE WARDEN IN THE TOWN  
                         OF BOURNE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter forty-one of the General Laws or any other general or special law to the contrary, in the town of Bourne the powers and duties conferred and imposed upon tree wardens shall be exercised and performed by a person appointed by and under the supervision of the superintendent of the department of public works or such other person who is from time to time in charge of the department of public works of said town.

**SECTION 2.** The position of tree warden shall be a permanent classified position under the salary administration plan by-law of said town. The tree warden shall be a person especially suited by education, training or previous experience to perform the duties of the office.

**SECTION 3.** The provisions of sections one and two shall not impair the status of the present incumbent elected tree warden. The position of tree warden shall remain an elected position until the nineteen hundred and ninety-four town election, or upon an earlier vacancy in said office, whichever shall first occur, at which time the powers and duties thereof shall be exercised and performed as provided herein.

**SECTION 4.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 452.        AN ACT ESTABLISHING UNIFORM EDUCATIONAL GUIDE-  
                         LINES FOR CORRECTIONAL FACILITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There shall be developed and implemented a functional literacy program for individuals incarcerated in the jails and houses of correction of the commonwealth. There shall be a committee consisting of seven members to be appointed by the governor, four of whom shall be representatives of the Massachusetts Sheriffs' Association, one of whom shall be appointed as chairman, one of whom shall be a representative of the department of youth services, one

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of whom shall be a representative of the department of education, and one of whom shall be a member of the parole board. Said committee shall convene to create a uniform educational curriculum for the jails and houses of correction in the commonwealth. All members of said committee shall serve without compensation and shall be appointed within thirty days of the effective date of this act.

**SECTION 2.** Said committee, established in section one, shall develop a functional literacy program for individuals testing below a selected grade level, which shall at least be an eighth grade reading level. The program shall include guidelines for implementation and test administration, participation requirements, and criteria for satisfactory completion.

For the purposes of this section, the term "functional literacy" shall mean those educational skills necessary to function independently in society, including, but not limited to, reading, writing, comprehension and arithmetic computation.

**SECTION 3.** Every person sentenced to a house of correction shall be administered a standardized test of adult basic education or other standardized tests approved by the department of education to assess the reading equivalency level of the individual. Individuals testing below a selected grade level shall be required to participate in the functional literacy program for a minimum period of ninety days or until such time as the committee deems sufficient for satisfactory completion. The results of such test shall be included in the individual's educational record. Said educational record shall be kept at the correctional facility housing the individual and shall contain a record of participation or refusal to participate in all programs under the provisions of this act at any facility.

**SECTION 4.** Any individual who has been incarcerated in a jail for at least thirty days shall be offered the opportunity to take the test and participate in the functional literacy program. The results of the individual's participation shall be included in his educational record and applied toward completion of the program as provided for in section three.

**SECTION 5.** The sheriff or superintendent in charge of the correctional facility or other place of confinement shall submit the individual's educational record to the parole board pursuant to section one hundred and thirty-five of chapter one hundred and twenty-seven of the General Laws for use in considering the individual's eligibility for parole.

**SECTION 6.** All costs incurred in each jail or house of correction as a result of any of the provisions of this act shall be paid from the general fund of such facility which is expended for the general welfare of all the inmates, at the discretion of the superintendent of such facility.

Approved December 30, 1991.



**Chapter 453. AN ACT REGULATING HOME IMPROVEMENT CONTRACTORS.**

*Be it enacted, etc., as follows:*

The General Laws are hereby amended by inserting after chapter 142 the following chapter:-

**CHAPTER 142A.**

**REGULATION OF HOME IMPROVEMENT CONTRACTORS.**

Section 1. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:-

"Actual loss", amounts payable for the cost of repair, replacement, completion or performance under the terms of a residential contracting agreement with respect to which a claim is made.

"Claimant", an owner and resident of a residential building, containing at least one but not more than four dwelling units, who has entered into a construction contract with a contractor to carry out construction work on said building, and who is making a claim against said contractor for failure of performance under said contract.

"Contract", a written agreement contained in one or more documents for the performance of certain residential contracting work, including all labor, goods and services set forth under said agreement.

"Contractor", any person who owns or operates a contracting business who, through himself or others, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid for, residential contracting work.

"Employee", any person employed by and under the direction and control of a contractor or subcontractor and who performs services for wages or salary.

"Director", the chief administrator of the board of building regulations and standards, an agency within the executive office of public safety, established by section nineteen of chapter six A.

"Fund administrator", the administrator of the Residential Contractor's Guaranty Fund, appointed by the secretary of the executive office of consumer affairs.

"Fund", the Residential Contractor's Guaranty Fund.

"Mortgage broker", any person who, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly negotiates, places, assists in placement, finds or offers to negotiate, place, assist in placement of mortgage loans on residential property for others, or as otherwise defined in chapter two hundred and fifty-five E.

"Mortgage lender", any person engaged in the business of making mortgage loans, or issuing commitments to fund mortgage loans, or accepting applications or fees associated with the making of mortgage loans which are secured by a

mortgage on residential property or, as otherwise defined by said chapter two hundred and fifty-five E.

"Mortgage loan", a loan to any person made primarily for personal, family, or household purposes, secured wholly or partially by a mortgage on a residential property or, as otherwise defined by said chapter two hundred and fifty-five E.

"Owner", any homeowner of a pre-existing owner-occupied building containing at least one but not more than four dwelling units, or tenant thereof, who orders, contracts for, or purchases the services of a contractor or subcontractor.

"Person", any individual, partnership, corporation, society, trust, association, or any other legal entity.

"Registrant", any contractor or subcontractor duly registered under the provisions of this chapter.

"Residential contracting", the reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, or demolition, or the construction of an addition to any pre-existing owner occupied building containing at least one but not more than four dwelling units, which building or portion thereof is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent to such residence or building.

"Salesperson", any person, other than a supplier of material or a laborer, who solicits, offers, negotiates, executes, or otherwise endeavors, to procure by any means whatsoever, directly or indirectly, a contract for residential contracting services from an owner on behalf of a contractor or subcontractor.

"Subcontractor", any person other than a supplier of material or labor, who enters into a contract, written or verbal, with a contractor for the performance of any part of the contractor's contract, or who enters into a contract with any other subcontractor for the performance of any part of the subcontractor's contract, and who does not perform work other than a subcontractor.

"Secretary", the secretary of the executive office of consumer affairs and business regulation.

Section 2. (a) Every agreement to perform residential contracting services in an amount in excess of one thousand dollars shall be in writing and shall include the following documents and information:

(1) the complete agreement between the owner and the contractor and a clear description of any other documents which are or shall be incorporated into said agreement;

(2) the full names, social security numbers, addresses, exclusive of post office box addresses, registration number of the contractor, the names of the salesperson, if any, who solicited or negotiated the contract and the date when said contract was executed by the parties;

(3) the date on which the work under the contract is scheduled to begin and the date on which said work is scheduled to be substantially completed;

(4) a detailed description of the work to be done and the materials to be used in the performance of said contract;

(5) the total amount agreed to be paid for the work to be performed under said contract;

(6) a time schedule of payments to be made under said contract and the amount of each payment stated in dollars, including all finance charges. Any deposit required under the contract to be paid in advance of the commencement of work under said contract shall not exceed the greater of one-third of the total contract price or the actual cost of any materials or equipment of a special order or custom made nature, which must be ordered in advance of the commencement of work, in order to assure that the project will proceed on schedule. No final payment shall be demanded until the contract is completed to the satisfaction of the parties thereto;

(7) the signatures of all parties shall be affixed to the contract;

(8) there shall be a clear and conspicuous notice appearing in the contract: that all contractors and subcontractors must be registered by the director and that any inquiries about a contractor or subcontractor relating to a registration should be directed to the director;

of the registration number of the contractor or subcontractor;

of an owner's three-day cancellation rights under section forty-eight of chapter ninety-three, section fourteen of chapter two hundred and fifty-five D, or section ten of chapter one hundred and forty D as may be applicable;

of all warranties and the owner's rights under the provisions of this act;

in ten point bold type or larger, directly above the space provided for the signature, "Do not sign this contract if there are any blank spaces";

of any lien on or security interest on the residence as a consequence of the contract.

(9) an enumeration of such other matters upon which the owner and the contractor may lawfully agree; provided, however, that no such agreement may waive any rights conveyed to the owner under the provisions of this chapter; and

(10) any other provision otherwise required by the applicable laws of the commonwealth.

No contract shall contain an acceleration clause under which any part or all of the balance not yet due may be declared due and payable because the holder deems himself to be insecure. However, where the contractor deems himself to be insecure he may require as a prerequisite to continuing said work that the balance of funds due under the contract, which are in the possession of the owner, shall be placed in a joint escrow account requiring the signature of the contractor and owner for withdrawal.

At the time of signing, the owner shall be furnished with a copy of the contract signed by both the contractor and the owner. No work shall begin prior to the

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signing of the contract and transmittal to the owner of a copy of such contract.

Any contract entered into between a contractor and homeowner shall require the contractor to inform the homeowner of the following: (i) any and all necessary permits, (ii) that it shall be the obligation of the contractor to obtain said permits, and (iii) that homeowners who secure their own permits will be excluded from the guaranty fund provisions of this chapter.

Any contract entered into between a contractor and homeowner may provide that the contractor may initiate alternative dispute resolution through any private arbitration services approved by the secretary, under paragraphs (a) to (e), inclusive, of section four; provided, that said alternative dispute resolution provision is clearly and conspicuously disclosed in the contract, in language designated by the secretary, and that each party separately signs and dates the provision, thereby assenting to the procedure.

Contracts which fail to comply with the requirements of this section shall not be invalid solely because of noncompliance.

Section 3. (a) Any party may bring an action to enforce any provision of this chapter, or to seek damages subject to the provisions of this chapter, in the superior court, the district court, or the small claims division of the district court.

(b) In the alternative, an owner may request that a dispute resulting from and relating to residential contracting be decided under the terms of a private arbitration program approved by the secretary.

Section 4. (a) There shall be a private arbitration services program approved by the secretary, to consider disputes between owners and registered contractors and subcontractors, concerning or arising from contracts for residential contracting services. No claim may be filed for arbitration after two years from the date of the contract. Such arbitration shall be performed by private arbitration services approved by said secretary, and shall operate in accordance with the regulations promulgated by the secretary. Either party may elect to pursue an action in small claims court if the amount of the dispute is within small claims jurisdiction.

(b) All registered contractors and subcontractors who enter into contracts for residential contracting impliedly consent to the provisions contained in this section.

(c) A contractor or subcontractor who is required to submit to arbitration as a result of an owner's application for arbitration may file a counterclaim, based on or arising from the same contract, in that arbitration.

(d) All findings of fact issuing from arbitration shall be taken as prima facie evidence in any subsequent appeal brought by either party ensuing from the matter considered in said arbitration.

(e) A contractor, subcontractor or homeowner may also appeal the decision of an arbitrator for a trial de novo in superior court or district court. Such appeal must be filed within twenty-one days from the issuance of such findings and shall stay any work or payment to the owner, contractor or subcontractor.

Section 5. There shall be established a Residential Contractor's Guaranty Fund within the executive office of consumer affairs and business regulation, to compensate owners for actual losses incurred by them as a result of registered contractor or subcontractor conduct which has been found by a court of competent jurisdiction to be work performed in a poor or unworkmanlike manner or which is a common law violation or a violation of any statute or regulation designed for the protection of consumers, including but not limited to, prohibited acts listed in section seventeen; provided, however, that the owner has exhausted all customary and reasonable efforts to collect the judgment but the contractor has filed for bankruptcy, fled the jurisdiction or the owner is otherwise unable to collect such judgment after execution. The secretary shall promulgate such regulations as he may deem necessary to implement the fund under this chapter. Prior to the adoption, amendment or repeal of any regulation, the secretary shall give notice and hold a public hearing in accordance with the requirements of chapter thirty A. The fund administrator shall be responsible for implementing the provisions of this chapter and such regulations as the secretary may promulgate as they relate to the fund.

For purposes of recovery against the fund, the conduct of a registered contractor or subcontractor shall be deemed to include the conduct of his employees, salespersons and subcontractors, whether or not an express relationship exists, provided the work or activities of such individuals is within the scope of the contract and not for additional work beyond the contract which such individuals undertake by separate agreement with the owner.

Section 6. The fund administrator shall operate the fund in accordance with this chapter and maintain the fund at a level which is commensurate with claims anticipated to be made against it. All monies collected shall be deposited to the credit of the fund into a special interest bearing account to be administered by the fund administrator who shall invest or reinvest the money of the fund. No portion of monies in said account shall be used for the administration of the fund, except as required by this paragraph. Interest accruing from investment of money in the fund shall be credited to the fund, with a portion of the interest, the amount of which shall be determined by the fund administrator, to be applied to educating consumers, contractors and others as to the requirements of this chapter.

Section 7. An owner may make a claim to the fund only if he has complied with the provisions of section three of this chapter, and has filed his claim with the fund within six months after the owner has obtained a judgment or arbitration award, and has exhausted all such customary and reasonable efforts to collect the judgment or award.

A claim under this section shall not be construed to limit the availability of other legal or equitable remedies unless the claim made is for the full amount of the value of the work claimed as damages, in which case the contractor or subcontractor,

upon repayment to the fund, may use repayment as a defense via settlement.

The fund administrator may not award: (1) more than ten thousand dollars or any amount necessary to compensate the owner for his actual loss, whichever is less to any one claimant or; (2) more than seventy-five thousand dollars to claimants on account of the conduct of any one registered contractor or subcontractor within a twelve month period, unless after the fund administrator has paid out said seventy-five thousand dollars the registrant has repaid the fund the full amount; provided, however, that it is within the discretion of the fund administrator to waive the limit with cause; or (3) any amount for consequential damages, except as may be allowed under section four, or for personal injury, punitive damages, attorney's fees, court costs or interest.

If at any time the money deposited in the fund is insufficient to satisfy any approved claim or portion thereof, the fund administrator, when sufficient money has been deposited in the fund, shall satisfy the unpaid claims or portions thereof in the order that the claims were originally filed with the fund administrator.

The pendency of a claim against the fund shall not limit the director from taking disciplinary action against any registered contractor or subcontractor pursuant to this chapter.

Section 8. When the fund administrator has paid from the fund any sum to a claimant, the fund administrator shall be subrogated to all the rights of the claimant up to the amount paid, and the claimant shall assign all the claimant's right, title, and interest in the claim up to the amount paid to the claimant by the fund administrator.

Payment from the fund of any sum to a claimant under this section shall vest in the fund administrator a right to reimbursement to the fund, with interest, any money paid on account of the registered contractor or subcontractor found by the fund administrator to be responsible for the claim.

If the amount paid from the fund, plus interest at a rate set by the fund administrator, is not repaid by the registered contractor or subcontractor on whose account a claim was paid in full, within thirty days after notice, the attorney general may seek legal proceedings to recover against the registered contractor or subcontractor the amount unpaid. The fund administrator shall be entitled to a judgment for such amount upon a showing that: (1) the registrant was afforded notice and an opportunity to be heard in legal actions which resulted in the judgment against the registrant, or in an arbitration proceeding pursuant to section four, and (2) no appeal is pending, and (3) the fund administrator has directed payment from the fund based on the final judgment of a court of competent jurisdiction, or an award of an arbitrator pursuant to section four.

The fund shall be deemed a creditor with respect to any amount paid from the fund for the purpose of excepting to any discharge of the registered contractor or subcontractor under federal bankruptcy law.

Section 9. (a) No contractor or subcontractor shall undertake, offer to undertake, or agree to perform residential contracting services unless registered therefor with the approval of the bureau of building regulations and standards.

(b) It shall be the duty of the director to issue and deliver a certificate of registration to all applicants who have been approved for registration.

(c) In the case of registration by a corporation or partnership, an individual shall be designated to be responsible for the corporation's or partnership's work. The corporation or partnership and its designee shall be jointly and severally liable for: the payment of the registration fee, the payment to the fund, as required herein, and for violations of any provisions of this chapter, including actions by the registrant's employees, subcontractors or salespersons.

Section 10. In order to be registered as a contractor or subcontractor, an applicant shall make a written application under oath to the director on a form provided by him. Said application shall set forth information that includes, but shall not be limited to:-

(a) applicant's name, home address, business address exclusive of post office box addresses, and social security number;

(b) the names and addresses of any and all owners, partners or trustees of an applicant including, in case of corporate entities, the names and addresses of any and all officers, directors and principal shareholders, and copy of a business certificate if a registrant is not incorporated. If such corporate information is accurately reflected in the articles of organization or amendments thereto, or a current annual report of condition or other documents on file with the secretary of state or the Securities and Exchange Commission, a copy of the relevant sections of such filing shall satisfy the application requirements specified herein. If a person is conducting business in the commonwealth under any title other than his real name, individually or as a partnership, a copy of the certificate filed with the clerk of the city or town where an office of such person or partnership may be situated pursuant to section five of chapter one hundred and ten shall satisfy the application requirements specified herein.

(c) whether the applicant has ever been previously registered in the commonwealth as a contractor or subcontractor pursuant to this chapter, under what other names he was previously registered, whether there have been previous judgments or arbitration awards against him, whether there is money owing to the fund on account of such judgments or awards against him, and whether his registration has ever been suspended or revoked.

Section 11. (a) Every contractor or subcontractor as defined in this chapter shall pay a registration fee in an amount equal to the fee paid by construction supervisors pursuant to section ninety-four of chapter one hundred and forty-three. Every individual construction supervisor licensed in accordance with said section ninety-four of chapter one hundred and forty-three and every individual motor

vehicle repair shop registered in accordance with section two of chapter one hundred A who is also acting as a contractor as defined in this chapter, shall register pursuant to sections nine and ten, but shall be exempt from said registration fee, upon presentation to the director of documentation that the license or registration fee has been paid and that the license or registration is current. Such licensee or registrant shall be required to submit to the director such information as the director may require under sections nine and ten, and shall be issued a certificate of registration under paragraph (b) of section nine. The registration fee required under this paragraph shall be payable upon application for registration and renewal.

In addition, every contractor and subcontractor as defined in this chapter, shall pay a fee to the fund with his application for registration. The amount of such fee shall be based upon the number of persons in his employ at the time of application. A contractor or subcontractor with fewer than four employees shall pay a fee of one hundred dollars; with four to ten employees, the fee shall be two hundred dollars; with eleven to thirty employees the fee shall be three hundred dollars; with more than thirty employees the fee shall be five hundred dollars. Such payment shall be refunded if the application is denied by the director. No contractor or subcontractor shall be required to pay this fee more than once unless the fund administrator determines that the amount of the fund is insufficient to maintain it at a level commensurate with claims made against said fund. If such a determination is so made, after conducting a public hearing, the director, in consultation with the fund administrator, may assess each home improvement contractor or subcontractor an appropriate fee, the amount to be determined by the commissioner of administration and finance which shall not exceed the amount of the original assessment; provided, however, that the director shall not assess any registrant more than once in any twelve month period.

Each certificate of registration issued by the director shall bear a number which shall be valid for two years from the date of its issuance and may be renewed upon approval by the director of an application to be provided by him. Said certificate shall not be transferable.

Section 12. No application for registration or renewal conforming to the requirements of this chapter may be denied except for a finding by the director that the applicant has done one or more of the following acts which are grounds for denial:

- (1) made material omissions or misrepresentations of fact on application for registration or renewal under this chapter or on an application for licensure or renewal under section ninety-four I of chapter one hundred and forty-three; or
- (2) failed to pay either the registration fee or the payment to the fund required by this chapter; or
- (3) failed consistently to perform contracts or has performed said contracts in



an unworkmanlike manner or has failed to complete said contracts with no good cause or has engaged in fraud or bad faith with respect to said contracts; or

(4) failed to meet or has violated any of the requirements for registered contractors or subcontractors set forth in this chapter or has performed or is attempting to perform any act prohibited by this chapter.

If a registration is refused, the applicant may, within ten days from the date notice of refusal is mailed, make a request for reconsideration. The director must render his decision within a reasonable period of time, but not more than sixty days following the request.

Section 13. (a) The director shall keep on file, in convenient form and open to public inspection, all applications for registration and copies of registrations issued and the names of all contractors or subcontractors whose registration has been revoked, suspended or surrendered.

(b) All building permits shall clearly state that persons contracting with unregistered contractors do not have access to the guaranty fund under this chapter.

(c) Every contract, building permit and advertisement shall display the contractor's or subcontractor's certificate of registration number.

(d) Every registered contractor or subcontractor shall notify the director within thirty days of any change of trade name or address.

(e) Upon the expiration, termination or voluntary surrender of a registration, the registrant shall deliver the registration to the director who shall cancel the registration and endorse the date of expiration, termination or surrender.

(f) If a certificate of registration is lost, misplaced or destroyed, the registrant shall file an affidavit to that effect and the director for a nominal fee, shall issue a replacement registration, clearly identified as such, both on the certificate of registration and in the records of the director.

Section 14. The following persons are not required to be registered under this chapter: the commonwealth or any of its political subdivisions; any school, public or private, offering as part of a vocational education program courses and training in any aspects of home construction or home improvements; electricians, plumbers, architects or any other persons who are required by law to attain standards of competency or experience as a prerequisite to licensure for and engaging in such profession and who are acting exclusively within the scope of the profession for which they are currently licensed pursuant to such other law, construction supervisors excepted; persons dealing in the sale of goods or materials who neither arrange to perform nor perform directly or indirectly any work or labor in connection with the installation of or application of the goods or materials; persons building their own home or personally doing the renovations; any individual who performs labor or services for a contractor or subcontractor, for wages or salary and who does not act in the capacity of a contractor; any contractor

or subcontractor who works on one undertaking or project by one or more contracts where the aggregate contract price is less than five hundred dollars; provided, however, that the contract is not in an amount of less than five hundred dollars for the purpose of evading this chapter; any person who engages in the business of a contractor or subcontractor on other than a full-time basis, and who has earned in gross revenues, as a contractor or subcontractor, less than five thousand dollars in the previous twelve-month period; any person acting as a contractor or subcontractor who was enrolled as a full-time student in a secondary school or college with degree granting authority from the government of the state in which the school is located, for the immediately preceding academic semester and is also enrolled as a full-time student for the next academic semester, in the same or a similar degree granting secondary school or college provided that at least two-thirds of the number of the employees of the contractor or subcontractor are similarly enrolled in secondary schools or colleges and that the contractor or subcontractor does not reasonably expect to earn or does not in fact earn, in gross revenues, more than five thousand dollars; persons who install central heating, air-conditioning systems, energy-conservation devices, or provide conservation services conducted by or on behalf of a public utility under a program approved by the department of public utilities; any contractor or subcontractor who works exclusively in any of the following home improvement areas: landscaping; interior painting or wall covering; or finished floor covering, including but not limited to carpeting, vinyl floor covering, tile; or fencing or freestanding masonry walls; or above-ground swimming pools; or shutter or awning installation; or ground level patios; or asphalt and driveway installation and maintenance.

Section 15. Prior to its expiration date, a certificate of registration may be suspended or revoked by the director, upon recommendation by the advisory board and in accordance with the procedures and on the grounds set forth in section eleven, or may be terminated by voluntary surrender by the registrant. Further grounds for suspension or revocation are: (a) a violation by a registrant or any agent or employee of the registrant of any of the provisions of this chapter and (b) the payment of any amount from the fund because of the conduct of a registered contractor or subcontractor where said contractor or subcontractor has not repaid the fund in full, including the appropriate amount of annual interest.

Section 16. The director shall be responsible for the implementation of the provisions of this chapter and the promulgation of such rules and regulations as he shall deem necessary to implement the provisions of this chapter. Prior to the adoption, amendment or repeal of any regulation, the director shall give notice and hold a public hearing in accordance with the requirements of chapter thirty A.

Section 17. The following acts are prohibited by contractors or subcontractors:

- (1) operating without a certificate of registration issued by the director;
- (2) abandoning or failing to perform, without justification, any contract or

project engaged in or undertaken by a registered contractor or subcontractor, or deviating from or disregarding plans or specifications in any material respect without the consent of the owner;

(3) failing to credit to the owner any payment they have made to the contractor or his salesperson in connection with a residential contracting transaction;

(4) making any material misrepresentation in the procurement of a contract or making any false promise of a character likely to influence, persuade or induce the procurement of a contract;

(5) knowingly contracting beyond the scope of the registration as a contractor or subcontractor;

(6) acting directly, regardless of the receipt or the expectation of receipt of compensation or gain from the mortgage lender, in connection with a residential contracting transaction by preparing, offering or negotiating or attempting to or agreeing to prepare, arrange, offer or negotiate a mortgage loan on behalf of a mortgage lender;

(7) acting as a mortgage broker or agent for any mortgage lender;

(8) publishing, directly or indirectly, any advertisement relating to home construction or home improvements which does not contain the contractor's or subcontractor's certificate of registration number or which does contain an assertion, representation or statement of fact which is false, deceptive, or misleading;

(9) advertising in any manner that a registrant is registered under this chapter unless the advertisement includes an accurate reference to the contractor's or subcontractor's certificate of registration;

(10) violation of the building laws of the commonwealth or of any political subdivision thereof;

(11) misrepresenting a material fact by an applicant in obtaining a certificate of registration;

(12) failing to notify the director of any change of trade name or address as required by section thirteen;

(13) conducting a residential contracting business in any name other than the one in which the contractor or subcontractor is registered;

(14) failing to pay for materials or services rendered in connection with his operating as a contractor or subcontractor where he has received sufficient funds as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased;

(15) failing to comply with any order, demand or requirement lawfully made by the director or fund administrator under and within the authority of this chapter;

(16) demanding or receiving payment in violation of clause (6) of paragraph (a) of section two;

(17) violating any other provision of this chapter.

Violations of this section shall subject the violator to the administrative sanctions of section eighteen and to criminal prosecution as prescribed in section nineteen.

Violations of any of the provisions of this chapter shall constitute an unfair or deceptive act under the provisions of chapter ninety-three A.

Section 18. (a) If the director determines that any registrant is liable for a violation of any of the provisions of this chapter, the director may suspend the registrant's certificate of registration for such period of time as shall be determined by the director, revoke the registrant's certificate of registration, or reprimand the registrant.

The director may assess an administrative penalty not to exceed two thousand dollars, payable within thirty days of his order, for each violation of any provision of this chapter committed by contractors or subcontractors who are registered or who are required to be registered under this chapter. This penalty shall be deposited in the fund.

In determining whether to impose an administrative penalty, the director shall consider the seriousness of the violation, the deleterious effect of the violation on the complainant, any good faith on the part of the contractor or subcontractor, and the contractor's or subcontractor's history of previous violations.

Section 19. Any contractor or subcontractor who shall knowingly, willfully, or negligently operate without obtaining a certificate of registration as required by this chapter and who is not otherwise exempt from the registration requirement or any contractor or subcontractor who continues to operate after revocation of or during suspension of, or who fails to renew his certificate of registration, shall be punished by a fine not exceeding five thousand dollars or imprisonment not exceeding two years, or both.

Any person who knowingly and willfully violates any of the provisions of this chapter, with respect to which a greater penalty is not otherwise provided by the provisions of this chapter or by any other law may be punished by a fine of not more than two thousand dollars or by imprisonment for not more than one year or both.

Such fines and imprisonment shall be in addition to any administrative penalty otherwise applicable thereto and may be sought in an action brought by the attorney general or the district attorney.

Section 20. If the director concludes that the continuing conduct of any person alleged to be in violation of this chapter may result in substantial or irreparable harm to any citizen of the commonwealth, he may seek:

(a) A permanent or temporary injunction with respect to the conduct from the superior court of any county in which the alleged violation is occurring, or in which the violator has its principal place of business; or

(b) Restitution or an order requiring satisfactory completion of the contractor's

contract.

(c) The director shall not be required to file a bond or to show a lack of an adequate remedy at law when seeking an injunction under this section against any person, association, partnership, or corporation not registered under this chapter.

Section 21. This chapter shall not be construed to relieve or lessen the responsibility of any person registered under this chapter or licensed under section ninety-four I of chapter one hundred and forty-three, nor shall the commonwealth be deemed to have assumed any such liability by reason of the issuance of registration or licensure.

Approved December 30, 1991.

**Chapter 454.        AN ACT PROVIDING FOR THE TRANSFER OF SEXUALLY  
DANGEROUS PERSONS TO CORRECTIONAL FACILITIES.**

*Be it enacted, etc., as follows:*

Chapter 123A of the General Laws is hereby amended by inserting after section 9 the following two sections:-

Section 9A. The commissioners of the departments of correction and mental health may jointly petition the superior court in whose jurisdiction the center is located to transfer to the custody of the commissioner of correction for the purposes of incarceration in a correctional facility any person committed to the center pursuant to this chapter if the commissioners determine that said person poses a substantial threat of physical harm to staff or other patients or a substantial risk of escape; provided, however, that such person has also been sentenced for a criminal offense and said sentence has not expired.

Upon the motion of the person concerning whom the transfer hearing is to be held or upon its own motion, the court may appoint counsel for said person if it finds him to be indigent and where necessary to protect his rights.

A full hearing on the petition to transfer shall be commenced within thirty days, unless a continuance is requested by the person who is the subject of the hearing or his counsel.

If the court finds by a preponderance of the evidence upon a full hearing that the person has posed a substantial threat of physical harm to staff or other patients or a substantial risk of escape and said person has a criminal sentence that has not expired, the court shall order said person remanded to the custody of the commissioner of correction subject to the terms of his criminal sentences. Upon completion of said person's criminal sentence a hearing shall be held pursuant to section nine. If the transferred person is found to be sexually dangerous he shall be conveyed to the center pursuant to the provisions of his commitment. If said

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person is not found to be sexually dangerous he shall be relieved of his commitment.

The parole board shall develop special standards to govern parole determinations for repeat sex offenders which shall give due consideration to the person's history of repetitive sexual violence.

If the court does not find, after a full hearing on the petition to transfer, that the person has posed a substantial threat of physical harm to staff or other patients or a substantial risk of escape, it shall dismiss the petition and order such person conveyed to the center subject to the terms of his commitment thereto.

Nothing in this chapter shall preclude the commissioner of correction from exercising his authority pursuant to section fifty-two A of chapter two hundred and seventy-six.

Section 9B. Upon the motion of the departments of correction and mental health, the court may issue a temporary restraining order authorizing that any patient be temporarily transferred to the custody of the commissioner of correction to be held at a secure correctional facility; provided, however, that said person is determined by the court to pose an immediate and imminent threat to others at the center or an immediate threat to the security of the facility; provided, further, that such person has also been sentenced for a criminal offense and said sentence has not expired. Pending a full hearing on a petition to transfer said person pursuant to section nine A, a temporary restraining order authorizing temporary transfer issued pursuant to this section may be extended until said hearing has been concluded pursuant to the motions of the departments of correction and mental health.

*Emergency Letter: December 30, 1991 @ 1:18P.M. Approved December 30, 1991.*

## **Chapter 455. AN ACT RELATIVE TO THE REPORTING OF FUEL INVENTORY, SALES, DELIVERY, AND PRICE INFORMATION.**

*Be it enacted, etc., as follows:*

Section 7 of chapter 25A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The division of energy resources shall have the authority to collect price, inventory and product delivery data, including amounts and types of product sold, and other information which is specifically necessary and material regarding petroleum products and other fuels available for supply within the commonwealth from wholesalers and resellers of petroleum products, and suppliers of other fuels, doing business in the commonwealth. Except as herein provided, all energy

information collected by the division under this section shall be maintained for the sole and confidential use of the commonwealth, its agencies and offices. Such information shall not be deemed to be a public record as defined in clause Twenty-sixth of section seven of chapter four and shall not be subject to demand for production under section ten of chapter sixty-six; provided, however, that aggregates of such energy information may be prepared and such aggregates shall be public records; provided, further, that all energy information collected under this section may be shared with the energy offices of other states which afford such information similar protection from public disclosure.

Approved December 30, 1991.

**Chapter 456.      AN ACT RELATIVE TO THE USE OF A CERTAIN PARCEL  
OF LAND IN THE TOWN OF SHERBORN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of chapter four hundred and twenty-four of the acts of nineteen hundred and seventy-nine and chapter three hundred and thirty-two of the acts of nineteen hundred and eighty-one, the town of Sherborn, acting by and through its board of selectmen, is hereby authorized to use the parcel of land described in section one of said chapter four hundred and twenty-four for the following purposes:-

(a) housing for elderly persons of the commonwealth who are of low and moderate income or who are handicapped;

(b) the construction and maintenance of affordable housing for persons of the commonwealth of low or moderate income, including:

(i) low or moderate income housing units as defined in section twenty of chapter forty B of the General Laws;

(ii) local initiative units as defined in 760 Code of Massachusetts Regulations section 45.03;

(iii) municipally owned and operated affordable housing, operated by the town of Sherborn on the basis of substantial similarity with the goals and policies of local initiative programs as defined in 760 Code of Massachusetts Regulations section 45.02; and

(c) leaching or septic facilities for municipally owned buildings located off-site beyond the boundaries of said site.

**SECTION 2.** The town of Sherborn, acting by its board of selectmen, is hereby authorized to enter into such contracts and agreements as are necessary and desirable to accomplish the purpose of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 457.        AN ACT FURTHER REGULATING THE NORTHERN BERKSHIRE SOLID WASTE DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 135 of the acts of 1988 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

*Section 1.* There is hereby established the Northern Berkshire Solid Waste Management District, a public body politic and corporate, hereinafter referred to as the district. Said district shall function as a regional solid waste management district and shall be subject to section forty-four I of chapter forty of the General Laws.

The district is created and shall exist for the purpose of providing solid waste management services for its member municipalities and the residents thereof through the district's removal, transportation, disposal, recovery, or any combination thereof, of solid wastes generated within the district. The district shall have the ability to regulate said removal, transportation, disposal, recovery, recycling, or any combination thereof, of solid wastes generated within the district and under the control of the member municipalities. The district may enact and enforce any and all necessary or desirable regulations for conducting and carrying out the purposes of the district. The district may also contract with other municipalities outside of said district for removal, transportation, disposal, recovery, recycling, or any combination thereof, of solid wastes generated within such municipalities.

The district is composed of and includes all of the lands and residents within the towns of Adams, Cheshire, Clarksburg, Florida, Hancock, Lanesborough, New Ashford, Savoy, Windsor, Williamstown and the city of North Adams which, by vote at an annual or special town meeting, or by vote of the city council in the case of North Adams, accept this act and hereby agree to participate in its creation and such other municipalities as are subsequently admitted to the district pursuant to the provisions of this act. The municipalities composing the district shall constitute its membership and are herein designated as member municipalities. Acceptance of the provisions of this act shall be in accordance with the terms of the agreement reached among the individual municipalities at the time of formation of the district. This provision of this act must be accepted within ninety days of its adoption. Municipalities which do not accept this act within the initial ninety day period must apply for membership as provided in section five.

Except as otherwise provided or limited herein, the district shall have the following powers:

(a) to operate, cause to be operated, or contract for the operation of any and all facilities for the transportation, resource recovery, recycling and disposal of solid wastes and to determine and make proper charges for such services;



(b) to purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with the purposes of the district;

(c) to hire and fix the compensation of employees;

(d) to acquire, construct, reconstruct, remodel, equip, rehabilitate or make extraordinary repairs or additions to any and all facilities and equipment for the transportation, resource recovery, recycling and disposal of solid wastes including but not limited to one or more "refuse disposal facilities" as defined in section forty-four B of chapter forty of the General Laws;

(e) to adopt and alter a corporate seal;

(f) to sue and be sued, but only to the same extent and upon the same conditions that a city or town may be sued;

(g) to make contracts of any term or duration for any district purpose, including but not limited to contracts with architects, engineers, financial and legal consultants and other experts for services to the district and contracts with individuals, corporations, associations, authorities, agencies and member and non-member municipalities for services to or by the district;

(h) to contract to pay for refuse disposal facilities and solid waste disposal services on the basis of guaranteed amounts of solid waste with payments based on such guaranteed amounts, whether actually disposed of or not, which payments may be variable and may be determined by formulas expressed in such contracts; provided, however, that said contracts shall be authorized by two-thirds vote of the board of commissioners and two-thirds vote of the member municipalities, each vote as defined in section two; and provided, further, that if written notice of any such contract containing a statement of the estimated payments required thereby and stating the district's desire to exempt such payments from the limits imposed by sections twenty A, twenty B and twenty-one C of chapter fifty-nine of the General Laws is at any time given to the city council or board of selectmen of each member municipality and disapproval of such exemption is not expressed within thirty days after delivery of such notice by at least one-third of the member municipalities, acting in each case by a majority vote as defined in section one of chapter forty-four of the General Laws, said payments may be assessed to and paid by member municipalities without regard to the limits imposed by said sections twenty A, twenty B and twenty-one C;

(i) to contract with the commonwealth or the United States, or any agency, department or subdivision thereof for services;

(j) to contract with any member municipality for the services of any property, officers or employees of that municipality useful to it;

(k) to promote cooperative arrangements and coordinated action among its member municipalities;

(l) to make recommendations for review and action to its member municipalities;

(*m*) to exercise any other powers which are exercised or are capable of exercise by any of its member municipalities and which are necessary or desirable for dealing with solid waste problems of mutual concern;

(*n*) to exercise the power of eminent domain pursuant to chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any land, property, rights-of-way or easements, public or private in said district, necessary for accomplishing any of the purposes of this act.

(*o*) to incur debt and issue bonds and notes as provided in subparagraphs (*a*) and (*b*) of the eleventh paragraph of section three; provided, however, as to any such debt incurred under said subparagraph (*b*), that it shall be authorized by two-thirds vote of the board of commissioners and two-thirds vote of the member municipalities, each vote as defined in section two, that written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the city council or board of selectmen of each member municipality not later than seven days after the date on which said debt was authorized by the board of commissioners, that no debt may be incurred until the expiration of thirty days from the date said debt was authorized by the board of commissioners, that if, prior to the expiration of said period, one-third of the member municipalities, acting in each case by a majority vote as defined in section one of chapter forty-four of the General Laws, shall express disapproval of the amount authorized by the board of commissioners, said debt shall not be incurred and the board of commissioners shall prepare another proposal and authorization of debt therefor which may be the same as any prior proposal and authorization, and that, if one-third of the member municipalities shall not express disapproval as aforesaid, the debt so authorized and all assessments upon and payments by member municipalities with respect thereto shall be exempt from the limits imposed by sections twenty A, twenty B and twenty-one C of chapter fifty-nine of the General Laws;

(*p*) to establish a budget and assess municipalities for the expense of the district subject to provisions of section twenty B of chapter fifty-nine of the General Laws except as otherwise provided in clauses (*b*) and (*o*) and except that the reference to the preceding fiscal year, in clause (1) of the first paragraph of said section twenty B, shall be to the highest preceding fiscal year;

(*q*) to appropriate and expend monies and receive and disburse funds for any district purpose;

(*r*) to establish capital reserve funds for public improvements in furtherance of its purpose;

(*s*) to prevent the discharge into the disposal facilities of substances which may damage or interfere with its maintenance or operation. The district shall, for the proper and reasonable operations of its works, make regulations as to the quantity and character of any refuse or other solid wastes discharged into any disposal

facility under its control. The district may prohibit discharge into any disposal facility under its control of certain unique industrial refuse and solid wastes if the board determines such refuse and wastes may interfere or damage the disposal facility or interfere with its maintenance or operation or not be in compliance with the environmental protection agency or the department of environmental protection. The responsibility for disposal of such unique waste or for their modification to allow disposal in district facilities shall rest with the producers thereof.

(*t*) to sell by negotiation to the participating members of the district any property, including land, acquired by it hereunder which in its opinion is no longer needed in the performance of the powers and duties conferred and imposed on it by this act; provided, however, that any land is first made available to the town in which it is located, and in the case of machinery, member municipalities shall have a priority of bid purchase at a reasonable price.

(*u*) to enter upon lands for the purpose of making surveys, borings, and may take by eminent domain under said chapter seventy-nine, or acquire by purchase or otherwise, the right to occupy any land in said district necessary for the carrying out of the said purposes.

(*v*) to enact and enforce any and all necessary or desirable regulations for the orderly conduct of the government and for carrying out purposes of the district;

(*w*) to accept and administer gifts, grants, and bequests in trust or otherwise for the purpose of the district;

(*x*) to exercise all powers incident to a public corporation.

**SECTION 2.** Section 2 of said chapter 135 is hereby amended by striking out the fourth and fifth paragraphs and inserting in place thereof the following two paragraphs:-

Each member of the board shall be entitled to cast weighted votes equal to one vote for every one hundred residents as of the latest official federal census, rounded to the nearest one hundred, in the municipality represented by that member, and shall also be entitled to cast one member vote for that municipality.

For the purposes of transacting business, the presence of members whose weighted votes represent a majority of the total weighted votes and whose member votes represent a majority of the member municipalities shall constitute a quorum; provided, however, that a smaller number may adjourn to another date. Any action adopted by a majority of the weighted votes cast at a meeting of the board at which a quorum is present shall be the action of the board, except as otherwise required by this act. As used in this act, a two-thirds vote of the board means the vote of board members whose weighted votes represent at least two-thirds of the total weighted votes and a two-thirds vote of the member municipalities means the vote of board members whose member votes represent at least two-thirds of the member municipalities.

**SECTION 3.** The ninth paragraph of section 3 of said chapter 135 is hereby

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amended by striking out subparagraphs (b) and (c) and inserting in place thereof the following two subparagraphs:-

(b) Annually prior to March thirty-first, the board of commissioners shall, by two-thirds vote of the board and two-thirds vote of the member municipalities as defined above, adopt a budget to appropriate the sums which it deems necessary to operate the district and carry out its functions for the ensuing fiscal year, assess each member municipality for its proportionate share of the sum appropriated and adopt a schedule designating when such assessments are due and payable by the member municipalities; provided, however, that in case of any failure of the board to take timely action under this sentence, amounts necessary to provide for costs of debt service or of payments exempted from sections twenty A, twenty B and twenty-one C of chapter fifty-nine of the General Laws pursuant to clause (b) or clause (o) of the fourth paragraph of section one shall be deemed to have been assessed and apportioned and be payable in the manner most recently voted under this sentence or, absent a prior vote, to have been assessed upon and apportioned among member municipalities on the basis of their relative populations as of the last official federal census and to be payable quarterly on the first days of September, December, March and June. The total amounts so apportioned for each member municipality shall, prior to March thirty-first in each year, be certified by the district treasurer to the treasurers of the member municipalities. The obligation of each member municipality to pay apportionments pursuant to this act and the district by-laws shall be included in the amounts to be assessed annually in such member municipality under section twenty-three of said chapter fifty-nine without appropriation and the treasurer of each member municipality shall pay to the district the amounts so apportioned at the times specified in the district by-laws. The amounts apportioned or to be apportioned pursuant to this act shall not be included in the statutory limit of indebtedness of any member municipality. A member municipality may raise all or a portion of the amounts apportioned or to be apportioned pursuant to this act through equitable and proportional charges against the inhabitants and other users of the services provided by the district in such member municipality.

(c) Assessments shall be apportioned according to the by-laws adopted by the board of commissioners.

**SECTION 4.** Said section 3 of said chapter 135 is hereby further amended by striking out the tenth and eleventh paragraphs and inserting in place thereof the following two paragraphs:-

Annually on or before the first day of August, the treasurer of the district shall issue and present a warrant to each member municipality requiring that the amount of such assessment be paid to him in accordance with the schedule for payments adopted by the board. If any member municipality shall fail to pay when due any assessment assessed against it by the district, it shall incur a penalty of interest for

late payment at one point five percent per month. Such penalty and interest, together with the amount due, court costs, and reasonable attorney fees of the district, may be recovered by the district in a civil action under this section.

Action or resolution of the board for the annual appropriations in any year shall not cease to be operative at the end of the fiscal year for which they were adopted except as otherwise provided by the district by-laws. Appropriations made by the board shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates, except as otherwise limited herein. Any balance left or unexpended in any such estimate shall be returned at the end of the fiscal year to the general fund of the district. The amount of any deficit at the end of the fiscal year shall be included in and paid out of the operating budget and appropriations in the next fiscal year.

(a) The board may borrow money for the purpose of paying current expenses of the district through the issuance and refunding of notes of the district in anticipation of assessments made upon member municipalities, or in anticipation of such assessments to be made, to an amount not exceeding the amount of such assessments made in the preceding fiscal year, or in anticipation of any revenues of the district other than such assessments, to an amount not exceeding the greater of revenues contracted for and revenues of the preceding fiscal year. Any such notes shall be issued subject to the applicable provisions of sections sixteen to twenty-eight, inclusive, of chapter forty-four of the General Laws, except that said notes shall be countersigned by the chairman of the district instead of by a majority of the commissioners, and the period from the date of issue of the original loan to the date of maturity of the original or any refunding loan shall not exceed one year.

(b) The district may incur debt for the purposes of clauses (d) and (n) of the fourth paragraph of section one and any purposes incidental thereto for a term not exceeding twenty years, and may issue bonds and notes therefor in the name and upon the full faith and credit of said district subject to the applicable provisions of sections sixteen to twenty-eight, inclusive, of chapter forty-four of the General Laws, except that said bonds and notes shall be countersigned by the chairman of the district instead of by a majority of the commissioners, and except that the maturities of bonds or notes issued by said district either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year shall be as nearly equal as practicable in the opinion of the board of commissioners, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal; provided, however, that such annual payments need not commence earlier than one year after the date of commencing regular use of the facilities, as projected or determined by the board of commissioners.

**SECTION 5.** Section 4 of said chapter 135 is hereby amended by striking out

section 4 and inserting in place thereof the following section:-

**Section 4.** A member municipality may by vote of its legislative body withdraw from the district if five years have passed since it became a body politic and corporate, and if the district has not voted to bond for construction and improvements or to authorize a long-term contract pursuant to this agreement. If a majority of the voters of a member municipality's legislative body present and voting at a meeting of such municipality duly warned, or of the city council, for such purpose shall vote to withdraw from the district, the vote shall be certified to the district by the city or town clerk. Thereafter, the board shall give notice to the remaining member municipalities of the vote to withdraw and shall hold a meeting to discuss the withdrawal and to determine if it is in the best interests of the district to continue to exist. Representatives of the member municipalities shall be given an opportunity to be heard at such meeting together with any other interested persons. The membership of the withdrawing municipality shall terminate as of one year following the vote to withdraw or as soon after such one year period as the financial obligations of said withdrawing municipality have been paid to the district. A vote of withdrawal taken after the district has voted to bond itself for construction and improvements or to authorize a long-term contract shall be null and void.

The board may authorize the inclusion of additional member municipalities in the district upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable, and in the best interests of the district. The legislative body of any nonmember municipality which desires to be admitted to the district shall make application for admission to the board of the district. The board shall determine the effects and impacts which are likely to occur if such municipality is admitted and shall thereafter either grant or deny authority for admission of the petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including but not limited to financial obligations upon which such admission is predicated. If a majority of the voters of the petitioning municipality present and voting at a meeting of such municipality duly warned for such purpose shall vote to approve the agreement and the terms and conditions for admission, the vote shall be certified by the clerk of that municipality to the board. Thereafter upon satisfactory performance of the terms and conditions for admission, said municipality shall by resolution of the board become and thereafter be a member municipality of the district.

(A) If the board by resolution approved by two-thirds vote of the board and two-thirds vote of the member municipalities as defined above determines that it is in the best interests of the public, the member municipalities and the district, that the district be dissolved, and if the district then has no outstanding debt or obligations under long-term contracts, or will have no such debt or obligations upon completion of the plan of dissolution, it shall prepare a plan of dissolution

and thereafter adopt a resolution direction that the question of such dissolution and the plan of dissolution be submitted to the voters of the member municipalities. If the member municipalities representing two-thirds of the votes of the district vote to approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(B) The plan of dissolution shall:

(1) identify and value all unencumbered assets of the district;

(2) identify and value all encumbered assets of the district;

(3) identify all creditors of the district and the nature or amount of all liabilities and obligations of the district;

(4) identify all obligations under long-term contracts;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations of the district shall be paid and discharged, or adequate provision shall be made for the satisfaction thereof;

(6) specify the amount of monies due from each member municipality, if necessary, to extinguish the liabilities of the district;

(7) specify the nature and amount of any liabilities or obligations to be assumed and paid by the member municipalities;

(8) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary;

(9) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the member municipalities according to the same basic formula used in apportioning the annual assessments of the district.

(C) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the member municipalities whereupon this agreement and the district created hereby shall be terminated.

**SECTION 6.** This act shall take effect upon its passage.

Approved December 30, 1991.

## **Chapter 458.**

## **AN ACT INCREASING THE MEMBERSHIP OF THE NAN-TUCKET PLANNING AND ECONOMIC DEVELOPMENT COMMISSION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 561 of the acts of 1973 is hereby amended by striking out the second sentence, as amended by section 1 of chapter 98 of the acts

of 1981, and inserting in place thereof the following sentence:- The commission shall consist of the members of the planning board of the town of Nantucket; one representative of the Nantucket Housing Authority to be appointed annually by said Authority; the superintendent of the department of public works of said town or his designee who shall be designated by the board of selectmen of said town; one representative of the county commissioners of Nantucket county to be appointed annually by said county commissioners; one representative of the conservation commission to be appointed annually by said conservation commission; and three persons from said town appointed at large by the commission; one for a term of one year, and one for a term of two years and one for a term of three years.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 459.****AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF MARLBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey by deed, approved as to form by the attorney general, a certain parcel of land located in the city of Marlborough, to an individual or entity, subject to the requirements of section two, and to such additional terms and conditions as the commissioner may prescribe, in consultation with the metropolitan district commission. Said parcel is bounded and described as follows: beginning at the southeast corner of the premises at land of Dennis P. and Carolyn M. Kennedy and land now or formerly of the M.D.C., said point being 74.29' westerly from the westerly side of Maple Street, thence by land of said M.D.C. and land of said Kennedy S86°40'20"W 43.00' to a corner at land of Systems N.E. American Cable, thence by land of said Systems N.E. American Cable N06°56'26"W 94.00' to an angle, thence still by land of Systems N.E. American Cable N22°36'54"W 57.415' to a corner, thence still by land of said Systems N.E. American Cable and land of J.A.C.S., Inc. in a general easterly direction by a curve to the right with a radius of 435.00', 46.88' to a corner at land of Louis Monti, thence by land of said Monti S16°50'29"E 107.64' to an angle at land of said Kennedy. Thence by land of said Kennedy S06°56'26"E 70.00' to the point of beginning. Said described lot contains 6,868 square feet and is shown on plan entitled, "Sketch of Land in Marlboro, Massachusetts. Scale 1" = 40'."



**SECTION 2.** The recipient of said conveyance shall assume all costs for appraisals, surveys, and other expenses as deemed necessary by the commissioner for the disposition of said land.

Approved December 30, 1991.

**Chapter 460.      AN ACT ESTABLISHING MANDATORY PENALTIES FOR  
MOTOR VEHICLE OPERATORS LEAVING THE SCENE OF  
AN ACCIDENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 24 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 446 to 453, inclusive, the words “; and whoever operates a motor vehicle upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, and, without stopping and making known his name, residence and the register number of his motor vehicle, goes away after knowingly colliding with or otherwise causing injury to any person shall be punished by imprisonment for not less than two months nor more than two years”.

**SECTION 2.** Subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby further amended by inserting after paragraph (a) (2) the following paragraph:-

(a 1/2)(1) Whoever operates a motor vehicle upon any way or in any place to which the public has right of access, or upon any way or in any place to which members of the public shall have access as invitees or licensees, and without stopping and making known his name, residence and the registration number of his motor vehicle, goes away after knowingly colliding with or otherwise causing injury to any person not resulting in the death of any person, shall be punished by imprisonment for not less than six months nor more than two years and by a fine of not less than five hundred dollars nor more than one thousand dollars.

(2) Whoever operates a motor vehicle upon any way or in any place to which the public has right of access or upon any way or in any place to which members of the public shall have access as invitees or licensees and without stopping and making known his name, residence and the registration number of his motor vehicle, goes away to avoid prosecution or evade apprehension after knowingly colliding with or otherwise causing injury to any person shall, if the injuries result in the death of a person, be punished by imprisonment in the state prison for not less than two and one-half years nor more than ten years and by a fine of not less than one thousand dollars nor more than five thousand dollars or by imprisonment

in a jail or house of correction for not less than one year nor more than two and one-half years and by a fine of not less than one thousand dollars nor more than five thousand dollars. The sentence imposed upon such person shall not be reduced to less than one year, nor suspended, nor shall any person convicted under this paragraph be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least one year of such sentence; provided, however, that the commissioner of correction may on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this paragraph, a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution or to engage in employment pursuant to a work release program.

(3) Prosecutions commenced under subparagraph (1) or (2) shall not be continued without a finding nor placed on file.

**SECTION 3.** Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 458, the words "the preceding paragraph" and inserting in place thereof the following words:- subparagraphs (a) or (a 1/2) of subdivision (2).

**SECTION 4.** Subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) The registrar, after having revoked the license or right to operate of any person under paragraph (b), in his discretion may issue a new license or reinstate the right to operate to him, if the prosecution in superior court has terminated in favor of the defendant. In addition, the registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to operate to a person convicted in any court for a violation of any provision of paragraph (a) or (a 1/2) of subdivision (2); provided, however, that no new license or right to operate shall be issued by the registrar to: (1) any person convicted of a violation of subparagraph (1) of paragraph (a 1/2) until one year after the date of revocation following his conviction if for a first offense, or until two years after the date of revocation following any subsequent conviction; (ii) any person convicted of a violation of subparagraph (2) of paragraph (a 1/2) until three years after the date of revocation following his conviction if for a first offense or until ten years after the date of revocation following any subsequent conviction; (iii) any person convicted, under paragraph (a) of using a motor vehicle knowing that such use is unauthorized, until one year after the date of revocation following his conviction if for a first offense or until three years after the date of revocation following any subsequent conviction; and (iv) any person convicted of any other provision of

paragraph (a) until sixty days after the date of his original conviction if for a first offense or one year after the date of revocation following any subsequent conviction within a period of three years. The registrar, after investigation, may at any time rescind the revocation of a license or right to operate revoked because of a conviction of operating a motor vehicle upon any way or in any place to which the public has a right of access or any place to which members of the public have access as invitees or licensees negligently so that the lives or safety of the public might be endangered. The provisions of this paragraph shall apply in the same manner to juveniles adjudicated under the provisions of section fifty-eight B of chapter one hundred and nineteen.

**SECTION 5.** This act shall take effect upon its passage.

*Emergency Letter: January 30, 1992 @ 3:22P.M. Approved December 30, 1991.*

**Chapter 461.            AN ACT AUTHORIZING THE DEDICATION OF REVENUE  
STREAMS TO THE CHILDREN'S TRUST FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 24 of chapter 10 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last paragraph.

**SECTION 2.** Section 25 of said chapter 10, as so appearing, is hereby amended by adding the following paragraph:-

Revenue from the lotteries for the arts shall be distributed in accordance with the provisions of section fifty-seven, except that the comptroller shall calculate the daily average of lotteries for the arts net receipts for the month of April each year and transfer an amount equal to one day of said average to the Children's Trust Fund established in section fifty; provided, however, that in no case shall the amount transferred to said trust fund exceed one million dollars in any fiscal year. The commission shall report by June thirtieth of each fiscal year to the governor, the attorney general, the child abuse prevention board established in section two hundred and two of chapter six, and the house and senate committees on ways and means the total revenues from the lotteries for the arts which have been transferred to said trust fund. Revenues transferred to said trust fund under the provisions of this section are to be administered in accordance with the provisions of section fifty. The state auditor shall notify the house and senate committees on ways and means yearly of the amount of revenue transferred to said trust fund; provided, however, that said auditor shall give a yearly accounting to the house and senate committees on ways and means of the source and amount of all state appropriations to the childrens trust fund pursuant to section fifty.

**SECTION 3.** Said section 25 of said chapter 10 is hereby further amended by

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striking out the last paragraph, added by section 2 of this act, and inserting in place thereof the following paragraph:-

Revenues from the lotteries for the arts shall be distributed in accordance with the provisions of section fifty-seven.

**SECTION 4.** Sections one and two of this act shall take effect on January first, nineteen hundred and ninety-three. Section three shall take effect on January first, nineteen hundred and ninety-six.

Approved December 30, 1991.

**Chapter 462.           AN ACT PROVIDING FOR CERTAIN OPTIONAL STUDENT FEES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection (a) of section 29 of chapter 15A of the General Laws, as appearing in section 7 of chapter 142 of the acts of 1991, is hereby amended by adding the following definitions paragraph:-

“Optional fee”, any amount payable on a student tuition bill, but not a mandatory charge or waivable fee, appearing as a separately assessed item, accompanied by a statement as to the nature of said item and that said item is not a charge required to be paid by the student but rather the student may add said charge to the total amount due, and that said item appears on the bill at the request of the student body and does not necessarily reflect the endorsement of the board of trustees.

**SECTION 2.** Section 1F of chapter 73 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The board of trustees shall not allow any funds for legislative agents as defined in section thirty-nine of chapter three or organizations attempting to influence legislation as defined in section forty-four of said chapter three to be assessed on student tuition bills; provided, however that optional fees for nonpartisan organizations which employ said legislative agents or attempt to influence legislation shall be collected by the board of trustees whenever students have authorized an optional fee by a majority vote of those students voting in an official student referendum. Said optional fee shall be collected as provided in paragraph (b) of section eighteen or chapter fifteen A.

**SECTION 2A.** Section 11A of chapter 75, as appearing in the 1990 official edition, is hereby amended in lines 5, 8 and 9 by striking out the word “waivable” and inserting therein the following word:- optional.

**SECTION 2B.** Section 29 of chapter 15A, as appearing in chapter one hundred

forty-two of the acts of 1991, is hereby amended by inserting after the words "seventy-three," the word:- seventy-five.

**SECTION 3.** This act shall take effect on July first, nineteen hundred and ninety-two.

Approved December 30, 1991.

**Chapter 463.        AN ACT DECREASING THE NUMBER OF LICENSES FOR  
THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK  
ON PREMISES IN THE CITY OF SOMERVILLE.**

*Be it enacted, etc., as follows:*

The first paragraph of chapter 258 of the acts of 1980 is hereby amended by striking out, in lines 4, 9 and 12, the word "seventy-five" and inserting in place thereof, in each instance, the word:- sixty-four.

Approved December 30, 1991.

**Chapter 464.        AN ACT AUTHORIZING THE TOWN OF FRANKLIN TO  
EXCHANGE CERTAIN LAND IN SAID TOWN.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of chapter thirty B of the General Laws, the town of Franklin is hereby authorized to exchange land owned by said town for land owned by Joseph L. Vendetti, Sr. for Vendetti Motors Inc., Joseph L. Vendetti, Jr. and Nancy A. Moulson, as shown on a plan of land entitled "Plan of Land in Franklin Mass.", prepared by Alvah L. Downs, Norfolk County Engineer, dated November 20, 1991, which is on file with the town clerk of said town of Franklin.

Approved December 30, 1991.

**Chapter 465.        AN ACT RELATIVE TO THE POSITION OF DOG OFFICER  
IN THE CITY OF LYNN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of sections one hundred and fifty-one and one hundred and fifty-one A of chapter one hundred and forty of the General Laws or any other general or special law to the contrary, the city of Lynn

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may appoint its dog officer for an initial term of three years and upon reappointment for an unlimited term but he may be removed in accordance with the provisions of the charter of said city of Lynn.

**SECTION 2.** Notwithstanding the provisions of section one, or any other general or special law to the contrary, the city of Lynn is hereby authorized to immediately grant an unlimited term to the present incumbent of the position of dog officer but he may be removed in accordance with the provisions of the charter of said city of Lynn.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 30, 1991.

**Chapter 466.      AN ACT RELATIVE TO OFFICERS OF THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE CORPORATION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish the procedure for the election of directors of the Massachusetts Credit Union Share Insurance Corporation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

The first paragraph of section 4 of chapter 294 of the acts of 1961 is hereby amended by striking out subparagraph (b), as appearing in chapter 401 of the acts of 1986, and inserting in place thereof the following subparagraph:-

(b) On and after the annual meeting of the corporation to be held in the year nineteen hundred and eighty-six, directors may also be elected from excess member credit unions so long as the combined number of regular member and excess member directors, subject to the exception contained in subparagraph (a), does not exceed eleven. Of the total number of such directors elected, not more than one-third at any one time shall represent credit unions in any one county of the commonwealth.

Approved December 30, 1991.

**Chapter 467.        AN ACT AUTHORIZING THE DEPARTMENT OF VETERANS' SERVICES TO PAY A CERTAIN SUM OF MONEY TO THE TOWN OF WEST SPRINGFIELD FOR CERTAIN VETERANS' BENEFITS PAID BY SAID TOWN.**

*Be it enacted, etc., as follows:*

There shall be allowed and paid out of the state treasury to the town of West Springfield, subject to appropriation and subject to the approval of the commissioner of veterans' services a sum, not exceeding ninety thousand four hundred thirty dollars and eighty-one cents, as reimbursement, under the provisions of section six of chapter one hundred and fifteen of the General Laws for veterans' benefits paid by said town from June, nineteen hundred and eighty-six through September, nineteen hundred and eighty-nine. Said reimbursement not being made because of a failure of said town to make a proper and seasonable report thereof to said commissioner. As a condition of payment said commissioner shall require the town of West Springfield to present evidence that the said sum was paid in compliance with the provisions of section five of chapter one hundred and fifteen of the General Laws.

Approved December 30, 1991.

**Chapter 468.        AN ACT RELATIVE TO THE VIOLATION OF HANDICAP PARKING RESTRICTIONS.**

*Be it enacted, etc., as follows:*

Section 21 of chapter 40 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The penalty for violation of any ordinance or by-law made hereunder shall be not less than twenty-five dollars for the first offense, and not less than fifty dollars for the second and any subsequent offense; provided, however, that nothing herein shall be construed as prohibiting any such ordinance or by-law from providing for the removal, in accordance with the provisions of section one hundred and twenty D of chapter two hundred and sixty-six, of any vehicle which is in violation of such ordinance or by-law.

Approved December 30, 1991.

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**Chap. 469****Chapter 469. AN ACT RELATIVE TO MORTGAGES AND LOANS BY BANKS.**

*Be it enacted, etc., as follows:*

Subsection C of section 14 of chapter 167E of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following two paragraphs:-

8. Obligations for funds advanced to facilitate prompt clearance or settlement arising from the purchase or sale of readily-marketable securities, which obligations, are secured by readily-marketable securities having a market value at the time the advance is made of not less than the principal amount of said advance, shall be required to be repaid upon settlement of such purchase or sale.

9. Obligations which are secured by a deposit account in the lending bank which is not subject to withdrawal.

Approved December 30, 1991.

**Chapter 470. AN ACT RELATIVE TO THE SETTLEMENT OF CLAIMS OF MINORS AND INCOMPETENT PERSONS.**

*Be it enacted, etc., as follows:*

Chapter 231 of the General Laws is hereby amended by inserting after section 140C the following section:-

Section 140C 1/2. The trial court may review and approve a settlement for damages because of personal injury to a minor or incompetent person in any case before the court where any party has filed a petition for settlement approval signed by all parties. The trial court may make such orders and take such action as it deems necessary to effectuate the disposition of a settlement approval including but not limited to the appointment of a guardian, the appointment of a guardian ad litem, or the holding of an evidentiary hearing.

Any party to a settlement of a claim of a minor or incompetent person, when such claim is not in suit, may initiate an action by filing a complaint and petition for settlement approval for the purpose of seeking the court's approval of the settlement under this section.

Approved December 30, 1991.



**Chapter 471. AN ACT RELATIVE TO ELECTRONIC BRANCHES AND ELECTRONIC FUND TRANSFERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 167B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the definition of "Financial institution" the following definition:-

"Merchant", any person, corporation, association, partnership or other entity which provides a location for a point-of-sale terminal and contracts with a financial institution or an approved organization for electronic fund transfer services.

**SECTION 2.** Said section 1 of said chapter 167B, as so appearing, is hereby further amended by striking out the definitions of "Organization" and "Point-of-sale terminal" and inserting in place thereof the following two definitions:-

"Organization", any person, corporation, association or partnership which assists or provides services to a financial institution or merchant in order to make available electronic fund transfers. A financial institution or merchant shall not be considered an organization.

"Point-of-sale terminal", an electronic terminal located on the premises of a merchant when such terminal is used with the assistance of an employee of a merchant for a customer's purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or the receipt of cash by the customer which is ancillary to the customer's purchase or lease of goods or services from such merchant; provided, however, that such terminal shall be deemed an electronic branch for the purposes of this chapter whenever it is used for any other electronic fund transfer, or for an electronic fund transfer involving a customer's account held by an organization, or for an electronic fund transfer solely for customers of a single financial institution or bank holding company subject to the provisions of chapter one hundred and sixty-seven A or the Bank Holding Company Act of 1956, 12 USC 1841 et seq.

**SECTION 3.** Section 8 of said chapter 167B, as so appearing, is hereby amended by striking out clause (13).

**SECTION 4.** Section twelve of said chapter one hundred and sixty-seven B is hereby repealed.

Approved December 30, 1991.

**Chapter 472. AN ACT RELATIVE TO THE IMPLEMENTATION OF ECONOMIC DEVELOPMENT PLANS IN CERTAIN CITIES AND TOWNS.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose,

which is to implement economic development plans in certain cities and towns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The government land bank established by chapter two hundred and twelve of the acts of nineteen hundred and seventy-five is hereby authorized to acquire blighted lands located in the town of Lee and in any city or town for which a receivership has been established by the exercise of the power of eminent domain in accordance with the provisions of chapter seventy-nine or eighty A of the General Laws or any alternative method now or hereafter provided by law, insofar as such provisions may be applicable, provided however, that the power of eminent domain shall only be exercised by said bank with regard to such lands that may be considered "blighted open areas," as defined in section one of chapter one hundred and twenty-one B of the General Laws, and, in any case, said power shall not be exercised by said bank hereunder in the town of Lee without the prior approval, by majority vote, of the selectmen in the town of Lee and in any city or town for which a receivership has been established without prior approval of the receiver.

Furthermore, whenever said bank deems it necessary or convenient for the purposes of this act, following a vote of the board of directors of the bank declaring such necessity and expressing interest in undertaking or financing a project on such lands, and prior to the exercise of the power of eminent domain and the taking of lands by eminent domain hereunder, to make surveys, soundings, drillings, borings or examinations to obtain information concerning the cost or feasibility of developing, redeveloping, acquiring, maintaining, managing or using such lands, which information may include, but shall not be limited to, information regarding the existence of hazardous materials or oil on such lands, said bank and its authorized agents and employees, after thirty days notice by certified mail, may enter on to such lands for the purpose of making such surveys, soundings, drillings, borings or examinations, and such entry shall not be deemed a trespass, a taking by eminent domain or an entry under any eminent domain or condemnation proceedings that may be under consideration or pending. Said bank shall make reimbursement for any injury or actual damage resulting to such lands caused by any act of its employees or authorized agents related to such entry, and shall as far as possible restore such lands to the same condition as prior to the making of such surveys, soundings, drillings, borings or examinations, provided, that the entrance on to such lands prior to an actual taking thereof by eminent domain by the bank hereunder shall not obligate said bank in any way to proceed with a taking by eminent domain.

**SECTION 2.** The commissioner of the division of capital planning and operations, or any department, commission, board, bureau, agency, authority or instrumentality of the commonwealth is authorized and directed to negotiate and enter into one or more leases for a term or terms not to exceed thirty years and upon such other terms and conditions as he or it shall deem appropriate, for the leasing of real property and its associated appurtenances and improvements in the city of Chelsea for occupancy or use by any such department, commission, board, bureau, agency, authority or instrumentality, provided that any such lease or leases for real property shall be entered into only after a review by the deputy commissioner of the division of capital planning and operations of current and foreseeable space needs for such department, commission, board, bureau, agency, authority or instrumentality in the Greater Boston area.

**SECTION 3.** The acquisition, construction, development, improvement, financing, management or leasing of all or a portion of any such real property and its associated appurtenances and improvements in the city of Chelsea for occupancy or use by any such department, commission, board, bureau, agency, authority or instrumentality of the commonwealth, whether public or private, and any contract for construction or design services for or relating to the acquisition, construction, development or leasing of all or a portion of any such real property and its associated appurtenances and improvements and the sale, lease or transfer by the receiver created by Chapter two hundred of the Acts of 1991 of such real property and its associated appurtenances and improvements for the purpose of such acquisition, construction, development, improvement, financing, management or leasing of all or a portion of such real property or any building or associated improvements or appurtenances constructed thereon for the use or occupancy by any department, commission, board, bureau, agency, authority or instrumentality of the Commonwealth shall be exempt from the following laws and regulations promulgated pursuant thereto, to the extent applicable: provisions of section thirty-eight A and one-half through thirty-eight O, inclusive, of Chapter seven of the General Laws, sections forty-four A through forty-four J, inclusive of Chapter one hundred forty-nine of the General Laws, section thirty-nine M of Chapter thirty of the General Laws, or any other special or general law or regulation providing for the advertising or bidding of construction, development, financing, management or leasing of, or improvements to, or the acquisition or disposition of an interest in, real property. Additionally, if such real property and its associated appurtenances and improvements consist of Parcels R-1 and R-1A in the Murray Industrial Park Urban Renewal Area, the second proviso set forth in the first sentence of section nine (3) of Chapter two hundred of the Acts of 1991 shall not apply to such acquisition, construction, development, improvement, financing, management or leasing thereof by any such department, commission, board, bureau, agency, authority or instrumentality as aforesaid, or to any public streets

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on which such Parcels have frontage.

**SECTION 4.** The real property and its associated improvements and appurtenances within the city of Chelsea to be occupied or used by such public body, public official or lessee, or any such department, commission, board, agency, authority or instrumentality of the Commonwealth, or any successor or grantee thereof shall not be deemed to be a "priority disposal site" as defined pursuant to section two of Chapter twenty-one E of the General Laws (or similar provisions of Chapter twenty-one E of the General Laws, if and to the extent said Chapter may be amended).

**SECTION 5.** Paragraph (f) of section 32 of Chapter 23A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by striking out the words "to acquire personal property, or any interest therein, on either a temporary or long term basis in the name of the agency and to acquire real property on a temporary basis," and inserting in place thereof the following: "to acquire real and personal property, or any interest in real or personal property,".

Approved December 30, 1991.

**Chapter 473.           AN ACT AUTHORIZING THE TEACHERS' RETIREMENT BOARD TO GRANT CERTAIN RETIREMENT BENEFITS TO THE SURVIVING SPOUSE OF ROBERT E. KELLEY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the teachers' retirement board is hereby authorized and directed to pay Maryjane Kelley, the surviving spouse of Robert E. Kelley, a former teacher of the William Dean Technical high school, an allowance equal to the allowance she would have received under *Option (c)* of subdivision (2) of section twelve of chapter thirty-two of the General Laws had said Robert E. Kelley been retired for ordinary disability under section six of said chapter thirty-two and had he received an allowance in accordance with the provisions of clause (b) of subdivision (2) of said section six of said chapter thirty-two.

**SECTION 2.** Such allowance shall be paid to said Maryjane Kelley as of January nineteenth, nineteen hundred and ninety-one; provided, however, that said allowance shall be in the alternative to and exclusive of, any other allowance, benefit, or other payment to said Maryjane Kelley from said teachers' retirement board account of said Robert E. Kelley.

Approved December 30, 1991.

**Chapter 474.      AN ACT PROVIDING FOR RECALL ELECTIONS IN THE  
TOWN OF BREWSTER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any holder of an elected office in the town of Brewster may be recalled therefrom by the registered voters of the town as hereinafter provided, for reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance or violation of oath.

**SECTION 2.** Any twenty-five registered voters of the town of Brewster may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to said voters making such affidavit copies of petition blanks demanding such recall, printed copies of which he shall keep available. Such blanks shall be issued by the town clerk, with his signature and official seal attached thereto. They shall be dated, shall be addressed to the board of selectmen and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within twenty days after notification by the town clerk to the moving party that the affidavit has been certified by the registrars of the voters, and shall have been signed by at least twelve percent of the registered voters of the town, who shall add to their signatures the street and number, if any, of their residences.

The town clerk shall within one working day of receipt submit the petition to the registrars of voters in the town, and the registrars shall within five working days certify thereon the number of signatures which are names of registered voters of the town.

**SECTION 3.** If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the board of selectmen within seven working days, and the board of selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than sixty-five and not more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed; provided however, that if any other town election is to occur within one hundred days after the date of certification the board of selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the certification. If a vacancy occurs in said office after a recall election has been ordered, the

election shall nevertheless proceed as provided in this section.

**SECTION 4.** An officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this act. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of the said propositions. Under the propositions shall appear the word "Candidates", the directions to the voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this the names of candidates nominated in accordance with the provisions of law relating to election. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question are in the negative, the ballots for candidates need not be counted.

**SECTION 7.** No recall petition shall be filed against an officer within ninety days after he takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters of the town.

**SECTION 8.** No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within two years after such recall or such resignation.

Approved December 30, 1991.

**Chapter 475.      AN ACT RELATIVE TO ENTERTAINMENT CONTRACTS  
FOR CHILDREN.**

*Be it enacted, etc., as follows:*

Chapter 231 of the General Laws is hereby amended by inserting after section 85P, as appearing in the 1990 Official Edition, the following section:-

Section 85P 1/2. (a) No person shall employ, or exhibit or cause to be exhibited, or to use, or have custody of for the purpose of exhibition, use or employment, a child under the age of eighteen years, nor shall a person who is responsible for the care, custody or control of such child as a parent, relative, guardian, employer or otherwise, exhibit, use, or procure or consent to the use or exhibition of such child, or neglect or refuse to restrain such child from engaging or acting in a public or private place, except as hereinafter provided, whether or not an admission fee is charged and whether or not such child or any other person is to be compensated for the use of such child therein, in the following activities: singing, dancing, playing upon a musical instrument, songwriting, rehearsing, producing or recording a phonograph record of any derivation thereof, modeling, acting in or rehearsing for or performing in a theatrical or musical performance, or appearing in a pageant, as a subject for use, in or for, or in connection with the making of a motion picture film, or in rehearsing for or performing in a radio or television broadcast or program nor shall a person contract with such child as such child's agent in connection with any of the foregoing activities. For the purposes of this subsection, "agent" means person entrusted by another whose business it is to acquire employment or engagements, act on behalf of, and represent such child in such foregoing activities.

(b) The provisions of subsection (a) shall not apply to the participation or employment, use or exhibition of a child in a church academy or school, including a dancing or dramatic school, as part of the regular services or activities thereof respectively; or in the annual graduation exercises of any such academy or school; or in a private home; or in any place where such performance is under the direction, control or supervision of a school department; or for recitals given in connection with private instruction associated with a continuing education course of study; or in the performance of radio or television programs in cases where the child or children broadcasting do so from a school, church, academy, museum, library or other religious, civic or educational institution, or for not more than two hours a week from the studios of a regularly licensed broadcasting company, or where the child participates or is employed, used, or exhibited in any motion picture, film, theatrical presentation or radio or television broadcast or program where the child is exclusively used for the temporary purpose of an extra player, where the child is part of a group or background scene, where the child performs as a day player, three day player, stunt day player, or on-camera narrator or spokesperson on videotape, audiotape or motion picture film wherein said temporary use accumulates to no more than four months of collective employment and occurs during hours when attendance for instruction is not required in accordance with law, or where the performance of a child is of a nonprofessional character and occurs

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during hours when attendance for instruction is not required in accordance with law.

For the purposes of this subsection, an "extra player" means a performer who is used for the temporary purposes of an "extra" or "audience" or "atmosphere" where the child is part of a group or background scene; a "day player" means a performer who is seen and who may speak a line or lines of dialogue and who is compensated in one day increments; a "three day player" means a performer who is seen and who may speak a line or lines of dialogue and who is compensated in three day increments; a "stunt day player" means a performer who performs identifiable stunts which illustrates or reacts to on or off-camera narration or messages and who is compensated by the day, an "on-camera narrator or spokesperson" means a performer who explains, or demonstrates, substantially in monologue.

(c) Notwithstanding the provisions of subsection (a), a child may be employed, used or exhibited in any of the exhibitions, rehearsals or performances set forth in said subsection (a); provided, however, that such employment, use or exhibition takes place pursuant to the provisions of a written contract which has been approved by the probate and family court for the county in which the child resides, where the child is employed or where the child performs or renders his services, or if the child is not a resident of the commonwealth in at least one county where a performance is to take place, or if the child is not a resident of the commonwealth and the employment or performance takes place outside the commonwealth, in the county within the commonwealth where the employer has his principal place of business.

(d) The probate and family court shall have jurisdiction over the following proceeding for contract approval by and between a child entertainer and a contracting entity.

(1) Said proceeding shall be commenced by verified petition by the child's parent or legal guardian that (i) renders consent that all or a portion of the child's earnings be set aside and (ii) said petitioner is qualified to be appointed limited guardian to oversee the child's funds.

Said petition shall set forth the full name, residence and date of birth of the child with certified copy of birth certificate affixed, the full name and residence of the petitioner, the full name and business address of the contracting entity, a brief statement as to the child's employment and compensation under the contract, including where services of the child are to be performed, and a statement that the term of the contract during which the child is to perform or render services shall in no event extend for more than three years from the date of approval of the contract.

(2) The court shall ensure that the contract shall contain all the requirements for the rendering of services of the child including protection of earnings



thereunder.

The court may consider the following when determining the protection of earnings:

(i) the interest of the petitioner in the contract or proposed contract or in the child's performance under said contract;

(ii) the parties who are entitled to the child's earnings, and, if the child is not so entitled, facts regarding the property and financial circumstances of the parent or parents or legal guardian or other third party;

(iii) a bank or trust account used expressly for the deposit of fees generated under the contract and the relationship of any proposed trustee of the child's funds;

(iv) the percentage of fees generated which are intended for deposit; and

(v) the child's financial advisor or other third party who shall render investment advice and administer the bank or trust account.

(3) The court shall ensure that the contract shall be limited to a term of three years, inclusive of any extensions by options or otherwise, except for television broadcast or program contracts which shall be limited to a term of five years.

(4) The court in its discretion may appoint a guardian ad litem to represent the interests of the child. The guardian ad litem fee shall be paid by the party contracting with the child. The court shall further ensure that the contract shall provide for the continuing education of the child by way of tutoring services in the event that said child performs or renders his services outside of the commonwealth for a period of time pursuant to secti

on one of chapter seventy-six. Costs for said education shall be provided by the party contracting with the child.

(5) The court shall not approve of any contract executed by the child unless the parent, parents or guardian of the child have assented to such contract, in writing, or the court shall find that the child is emancipated.

(6) Prior to determining whether to approve the contract, the child shall appear personally before the court so that the court may make inquiry of the wishes of the child.

(7) The court shall not approve of any contract unless the criteria expressed in paragraphs (2) to (6), inclusive, of subsection (d) have been complied with.

(e) The approval of a contract by the court shall not exempt the child or any person employing such child from other provisions of law regarding employment of minors.

(f) Court approval of a valid contract shall serve to bind the child as if such child executed the contract personally as an adult; and the child shall be bound to all provisions including the permanent sale of intellectual property rights; provided, however, that such revocation of approval of the contract by the court shall not include the transfer back to the child of intellectual property rights unless there has been a showing of fraud or misrepresentation by the employer; and, provided

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further, that the probate and family court approving such contract shall retain the authority to revoke approval of the contract, or modify its terms if assented to by both parties, if the court finds that the well being of the child requires such disapproval.

Approved December 30, 1991.

**Chapter 476.        AN ACT PROVIDING FEDERAL RESPONDER IMMUNITY  
FOR MARINE OIL RELEASES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 2 of chapter 21E of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the word "section" and inserting in place thereof the word:- chapter.

**SECTION 2.** Said section 2 of said chapter 21E, as so appearing, is hereby amended by inserting after the definition of "Imminent hazard" the following definition:-

"Offshore oil facility", any oil facility of any kind located in, on, or under any submerged land within the jurisdiction of the commonwealth including, without limitation, the territorial sea; provided, however, that it shall not include a vessel.

**SECTION 3.** Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Oil" the following three definitions:-

"Oil facility", any structure, group of structures, equipment, or device, including a public vessel but not including any other type of vessel, that is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This definition shall include, without limitation, any motor vehicle, rolling stock, or pipeline used for one or more of the purposes set forth in the preceding sentence.

"Oil Pollution Act", the Oil Pollution Act of 1990, P.L. 101-380.

"Onshore oil facility", any oil facility of any kind located in, on, or under any land within the jurisdiction of the commonwealth other than submerged land. This definition shall include, without limitation, motor vehicles and rolling stock.

**SECTION 4.** The definition of "Owner" or "Operator" in said section 2 of said chapter 21E, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- "Owner" or "Operator", (1) in the case of a vessel, any person owning, operating or chartering by demise such vessel, (2) in the case of a site, any person owning or operating such site, (3) in the case of an abandoned site, any person who owned, operated, or otherwise controlled activities at such site, vessel, onshore oil facility, offshore oil facility, deepwater port, or pipeline, any person who owned, operated, or otherwise

controlled activities at such site immediately prior to such abandonment, except that, in the case of an onshore oil facility or offshore oil facility, this definition shall not include an agency or political subdivision of the federal government or the commonwealth, or any state or public corporation or authority, or any interstate body, that owned an onshore oil facility or offshore oil facility and that, as the owner, transferred possession and right to operate the onshore oil facility or offshore oil facility to another person by lease, assignment, or permit, immediately prior to such abandonment, (4) in the case of an onshore oil facility, other than a pipeline, any person owning or operating the onshore oil facility, except that this definition shall not include an agency or political subdivision of the federal government or the commonwealth, or any state or body, that owns an onshore oil facility and that, as the owner, transfers possession and right to operate the onshore oil facility to another person by lease, assignment, or permit, (5) in the case of an offshore oil facility, other than a pipeline or a deepwater port licensed under the U.S. Deepwater Port Act of 1974, the lessee or permittee of the area in which the offshore oil facility is located or the holder of a right of use and easement granted under an applicable law of the commonwealth or the U.S. Outer Continental Shelf Lands Act, for the area in which the offshore oil facility is located if such holder is a different person from the lessee or permittee; provided, however, that this definition shall not include an agency or political subdivision of the federal government or the commonwealth, or any state or public corporation or authority, or any interstate body, that owns an offshore oil facility and that, as the owner, transfers possession and right to operate the offshore oil facility to another person by lease, assignment, or permit, (6) in the case of a deepwater port licensed under the U.S. Deepwater Port Act of 1974, the licensee, and (7) in the case of a pipeline, any person owning or operating the pipeline.

**SECTION 5.** The definition of "Person" in said section 2 of said chapter 21E, as so appearing, is hereby amended by inserting after the word "authority", in line 89, the words:- any interstate body, foreign nation,.

**SECTION 5A.** Said section 2 of said chapter 21E, as so appearing, is hereby further amended by striking out the definition of "Priority disposal site" and inserting in place thereof the following definition:-

"Priority disposal site", a disposal site which constitutes a substantial hazard to public health, safety, welfare, or the environment, including but not limited to a disposal site which is located within five hundred feet of a building being used as a school and which causes an increased risk of exposure to children from contamination in air, soil or water.

**SECTION 6.** Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the definition of "Priority disposal site" the following definition:-

"Public vessel", a vessel of any kind that is owned, or a bareboat that is chartered

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and operated, by the United States, or by a state or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

**SECTION 7.** Section 3 of said chapter 21E, as so appearing, is hereby amended by inserting after the word "laws", in line 3, the words:- including the Oil Pollution Act.

**SECTION 8.** Section 4 of said chapter 21E, as so appearing, is hereby amended by adding the following paragraph:-

Any person, except a person who is liable pursuant to clause (1) of paragraph (a) of section five, who provides care, assistance or advice in response to a release or threat of release of oil into or on to the tidal waters of the United States including without limitation the territorial sea, or to any tidal shorelines adjoining any waters of the United States, or to the zone established by Presidential Proclamation numbered 5030 dated March tenth, nineteen hundred and eighty-three, including without limitation, the ocean waters of the areas referred to as "eastern special areas" in Article 3 (1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June first, nineteen hundred and ninety, and said care, assistance or advice is consistent with applicable state law, or the National Contingency Plan or as otherwise directed by the federal on-scene coordinator predesignated by the United States Environmental Protection Agency or the United States Coast Guard to coordinate and direct a federal response for oil removal under subpart D of the National Contingency Plan, or by the state official with responsibility for oil spill response shall not be liable, notwithstanding any other provision of law, including section five, for removal costs or damages which result from actions taken or omitted to be taken in the course of providing such care, assistance, or advice, except with respect to personal injury or wrongful death, or if such person is grossly negligent or engages in willful misconduct. For the purposes of this paragraph, the term damages shall mean any damages, costs, expenses or economic loss of any kind for which liability may exist under the laws of this state resulting from, arising out of or related to the discharge or threatened discharge of oil. As used in the preceding sentence, the term discharge shall mean any emission, other than natural seepage, intentional or unintentional, and including but not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil, oil refuse, oil mixed with wastes, other than dredge spoil, or petroleum, but not including hazardous substances which are specifically listed under 42 USC 9601 (14) (A) through (F) and which are subject to the provisions of that Act. Nothing in this section shall affect the liability of a person as described in clause (1) of paragraph (a) of section five, for oil spill response under any other provision of the General Laws.

**SECTION 9.** Paragraph (a) of section 5 of said chapter 21E, as so appearing, is hereby amended by striking out, in line 24, the word "and", - and by inserting after the word "release", in line 26, the words:- , and (iv) to any person for any liability

that another person is relieved of pursuant to the fourth paragraph of section four.

**SECTION 10.** Paragraph (b) of said section 5 of said chapter 21E, as so appearing, is hereby amended by striking out, in line 29, the word "and (iii)" and inserting in place thereof the words:- , (iii) and (iv).

*Emergency Letter: January 6, 1992 @ 4:49 P.M.* Approved December 30, 1991.

**Chapter 477.           AN ACT INCREASING THE THRESHOLD REQUIRING  
BIDS FOR CERTAIN PUBLIC CONTRACTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 22 of chapter 7 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 22, the words "five hundred" and inserting in place thereof the following words:- one thousand.

**SECTION 2.** Section 36A of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the word "five" and inserting in place thereof the following word:- fifteen.

**SECTION 3.** Said section 36A of said chapter 30, as so appearing, is hereby further amended by striking out, in line 12, the words "nine hundred and fifty" and inserting in place thereof the following words:- three thousand.

**SECTION 4.** Said section 36A of said chapter 30, as so appearing, is hereby further amended by striking out, in lines 11 and 14, the word "six" and inserting in place thereof, in each instance, the following word:- fifteen.

**SECTION 5.** Section 39M of said chapter 30, as so appearing, is hereby amended by striking out, in lines 6 and 10, the word "five" and inserting in place thereof, in each instance, the following word:- ten.

Approved December 30, 1991.

**Chapter 478.           AN ACT FURTHER REGULATING HEALTH INSURANCE  
FOR SENIOR CITIZENS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after section 108E the following section:-

Section 108F. Any requested premium increase in excess of fifteen percent for a policy of medicare supplemental insurance shall be communicated to subscribers at least ninety days prior to the effective date of such increase.

**SECTION 2.** Section 6 of chapter 176A of the General Laws, as appearing in the

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1990 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:-

Any requested premium increase in excess of twenty percent filed with the division of insurance for a medicare supplemental insurance product billed directly to the subscriber, shall be communicated to subscribers during their next scheduled billing cycle, consistent with regulations promulgated by the commissioner of insurance.

**SECTION 3.** Chapter 176G of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 18. Any requested premium increase in excess of fifteen percent for a policy of medicare supplemental insurance shall be communicated to subscribers at least ninety days prior to the effective date of such increase.

Approved December 30, 1991.

## **Chapter 479.        AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE CERTAIN LAND IN THE CITY OF QUINCY TO NEPONSET LANDING TRUST FOR PARKING PURPOSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations in consultation with the metropolitan district commission, is hereby authorized, subject to the provisions of sections forty-F 1/2 and forty-H of chapter seven of the General Laws, to execute and deliver in the name and on behalf of the commonwealth, subject to the terms and conditions as determined by said commissioner of said division in consultation with said commission, one or more instruments approved as to form by the attorney general to lease a certain parcel of state-owned land, located in the city of Quincy to Neponset Landing Trust for parking purposes.

Said original lease or leases shall be for a period of five years. Said original lease or leases may be extended, at the option of the lessee, for twelve additional terms of five years each, provided that such extensions shall be subject to such additional terms and conditions as the commissioner in consultation with said commission may deem necessary and prescribe. Any additional extensions of said lease or leases for any further terms of years shall require the approval of the general court.

Said land is shown on a plan on file with said commission, containing 76,404 square feet, more or less, and described as follows:-

Beginning at a point on the southerly side of the subject premises S 57° 03' 12" E, 127.67 feet distant from a stone bound, thence running along a curve to the right

having a radius of 65.50 feet and a length of 205.77 feet; thence running S 46° 30' 00" E, for a distance of 213.00 feet to a point; thence turning and running S 43° 30' 00" W, for a distance of 31.65 feet to a point; thence turning and running S 46° 29' 00" E, for a distance of 173.00 feet to a point; thence running along a curve to the left having a radius of 398.63 feet and a length of arc of 25.00 feet to a point; thence turning and running N 39° 55' 22" E, for a distance of 2.41 feet to a point; thence turning and running along a curve to the left having a radius of 545.00 feet and a length of arc of 44.51 feet; thence running S 53° 07' 40" E, for a distance of 117.35 feet to a point; thence running along a curve to the right having a radius of 295.00 feet and a length of arc of 98.68 feet; thence running S 30° 22' 15" E, for a distance of 46.00 feet to a point; thence running along a curve to the right having a radius of 39.46 feet and a length of arc of 110.75 feet; thence running N 44° 54' 45" W, for a distance of 88.30 feet to a point; thence running along a curve to the left having a radius of 248.80 feet and a length of arc of 29.55 feet; thence running N 51° 43' 00" W, for a distance of 43.15 feet to a point; thence running along a curve to the right having a radius of 434.70 feet and a length of arc of 51.76 feet; thence running N 44° 53' 40" W, for a distance of 169.35 feet to a point; thence turning and running N 44° 37' 00" E, for a distance of 2.77 feet to a point; thence turning and running N 45° 23' 00" W, for a distance of 110.50 feet to a point; thence turning and running S 43° 30' 00" W, for a distance of 31.45 feet to a point; thence turning and running N 46° 30' 00" W, 212.88 to the point of beginning.

**SECTION 2.** The commissioner of the division of capital planning and operations shall file a copy of the lease or leases authorized by section one of this act at least twenty business days prior to the execution thereof by said division with the inspector general and a copy of same with the clerk of the house of representatives who shall forward the same to the joint committee on state administration. The inspector general shall review and comment, and any recommendations thereon by the inspector general shall be forwarded to said clerk and to said joint committee on state administration. Said lease or leases, when executed by said commissioner, shall be deemed to have been conclusively authorized hereby; provided, however, that all provisions contained therein are consistent with the provisions of this act. Said commissioner from time to time is hereby authorized to execute and deliver, in the name and on behalf of the commonwealth, a notice of such lease or leases for recording and any and all other agreements and instruments related to the lease or leases authorized hereby which said commissioner may, from time to time, determine appropriate. Any such notice of lease or leases, when executed by said commissioner shall be deemed conclusively authorized hereby; provided, however, that all provisions contained herein are consistent with this act.

No sublease or subleases of such land or any buildings, if any, or portion thereof shall be executed without the prior approval of the general court.

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No privately owned, occupied, or financed building of any kind may be erected upon said land without the written approval of said division in consultation with the metropolitan district commission. Plans for any such building shall be submitted to said divisions for its approval prior to any construction thereon. In like manner any alteration, addition thereto, or destruction or demolition thereof shall require the prior written approval of said division.

The rental payment to the commonwealth for the lease or leases authorized by this act shall not be subordinated to any leasehold mortgage of the lessee.

The lease or leases shall provide that the commonwealth may repossess the leased premises if payment of the rent or any other sum is not timely paid, or if the lessee otherwise defaults and that, notwithstanding such default, the lessee shall continue to owe rent or any other sums of money due to the commonwealth under the provisions of said lease or leases.

The lessee shall carry, in an amount approved in writing by the commissioner of said division, comprehensive general liability insurance protecting the lessee and the commonwealth against personal injuries and property damage occurring on said property, within any structure or building, if any, erected thereon, and such fire and extended risk insurance as said commissioner deems appropriate.

No sale, transfer, conveyance or any other disposition of such land, and any buildings thereon, if any, may be made without the prior approval of the general court.

**SECTION 3.** The recipient of said lease or leases authorized by section one of this act shall assume the costs of any appraisals, surveys and other expenses as deemed necessary by said commissioner for the granting of said lease or leases.

**SECTION 4.** In the event the property described in section one is not used for the purpose as so described in said section one within five years of the effective date of this act, or if the Neponset Landing Trust ceases to use said property for the aforementioned purposes at any time, said property shall revert to the commonwealth upon such terms and conditions, consistent with the provisions of this act, as determined by said commissioner.

Approved December 31, 1991.

**Chapter 480.            AN ACT PROVIDING FOR THE USE OF MARIJUANA IN  
THERAPEUTIC RESEARCH.**

*Be it enacted, etc., as follows:*

The General Laws are hereby amended by inserting after Chapter 94C the following chapter:-



CHAPTER 94D

Controlled Substances Therapeutic Research Act.

Section 1. As used in this chapter, the following words shall have the following meanings:-

"Commissioner," the commissioner of public health.

"Department," the department of public health in the Executive Office of Health and Human Services.

"Marijuana," the plant *Cannabis sativa* L., tetrahydrocannabinol, or a chemical derivative or synthesis of tetrahydrocannabinol.

"Physician," a person licensed in accordance with the provisions of section two of chapter one hundred and twelve.

Section 2. There shall be in the department a therapeutic research program, hereinafter called the program, to conduct research and monitor experimentation in the use of marijuana as a therapeutic modality in alleviating the nausea and ill-effect of cancer chemotherapy and radiation therapy, in decreasing intraocular pressure in glaucoma patients, and in decreasing airway resistance in asthmatics.

Participation in the program shall be limited to patients with respect to whom a physician has certified the following: that the patient is threatened by loss of life or sight, or asthmatics who experience severe respiratory problems or discomfort; that the patient is not responding to or has incurred severe side effects from the administration of conventional controlled substances; and that the patient has given in writing his informed consent based upon information about the nature, duration, and purpose of the research, the method and means by which it is to be conducted, the inconveniences and hazards reasonably to be expected, and the effects upon the patient's health or person which may reasonably be expected to come from his participation.

The department shall contract with the national institute on drug abuse, the national cancer institute or any other manufacturer, distributor or analytical laboratory for the receipt of analyzed marijuana, as defined by the department, for distribution to an approved patient upon the written prescription of a physician. Any such program shall comply with all applicable federal and state laws.

For the purpose of implementing this act the commissioner shall make such rules and regulations as may be necessary.

Section 3. The department shall establish guidelines for the administration of the program, after consultation with medical, psychiatric and pharmacological experts. The department shall approve participation in the program in accordance with said guidelines for patients whose physicians certify that the administration of marijuana may have beneficial therapeutic effects. The department shall review the plans, studies, and proposed annual budget of the program and file an annual report of its activities pursuant to this chapter with the governor and the general court.

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Except for its annual and interim reports, if any, the records of the department which are maintained pursuant to Chapter 94D shall not be deemed to be public records within the meaning of section seven of chapter four of the General Laws. The department may close any of its proceedings or meetings, and the provisions of section eleven A 1/2 of chapter thirty A of the General Laws shall be applicable thereto.

Approved December 31, 1991.

**Chapter 481.            AN ACT RELATIVE TO MANUFACTURED HOMES AND  
MANUFACTURED HOUSING COMMUNITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 17 of chapter 6 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 70, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 2.** Said chapter 6 is hereby further amended by striking out the caption preceding section 108 and inserting in place thereof the following caption:-  
MANUFACTURED HOMES COMMISSION.

**SECTION 3.** Said section 108 of said chapter 6, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:- There shall be a manufactured homes commission, hereinafter called the commission, consisting of five members, not more than three of whom shall be members of the same political party to be appointed by the governor, of whom one shall reside in a manufactured home. Said commission shall carry on a continuous study of manufactured homes and the problems of manufactured home residents.

**SECTION 4.** Section 8 of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 5.** Section 3 of chapter 25B of the General Laws, as so appearing, is hereby amended by striking out, in line 28, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 6.** Section 3 of chapter 40A of the General Laws, as so appearing, is hereby amended by striking out, in lines 77 and 79, each time it appears, the word "mobile" and inserting in place thereof, in each instance, the word:- manufactured.

**SECTION 7.** Section 2A of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 30, the words "mobile home park" and inserting in place thereof the words:- manufactured housing community.

**SECTION 8.** Section 5 of said chapter 59, as so appearing, is hereby amended

by striking out clause Thirty-sixth and inserting in place thereof the following clause:-

Thirty-sixth, Manufactured homes located in manufactured housing communities subject to the monthly license fee provided for under section thirty-two G of chapter one hundred and forty and mobile homes deemed, by section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, not to be located or present in or have a situs in such city or town for the purposes of taxation in respect to personal property, and for the purposes of this clause, a manufactured or mobile home shall include, but not be limited to, normal repairs and domiciliary additions and that repairs and domiciliary additions shall include, but not be limited to, repair or replacement of existing masonry, addition or replacement of new ceiling, wall floor surfacing, air conditioning installation or any domiciliary attachment.

**SECTION 9.** Section 1 of chapter 79A of the General Laws, as so appearing, is hereby amended by striking out, in line 52, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 10.** Section 2 of chapter 90D of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the word "Mobile" and inserting in place thereof the word:- Manufactured.

**SECTION 11.** Section 20B of said chapter 90D, as so appearing, is hereby amended by striking out, in line 6, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 12.** Section 5A of chapter 93B of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the word "mobile", each time it appears, and inserting in place thereof, in each instance, the word:- manufactured.

**SECTION 13.** Section 27 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "mobile home park" and inserting in place thereof the words:- manufactured housing community.

**SECTION 14.** Section 32A of said chapter 140, as so appearing, is hereby amended by striking out, in line 3, the words "mobile home park" and inserting in place thereof the words:- manufactured housing community.

**SECTION 15.** Section 32B of said chapter 140, as so appearing, is hereby amended by striking out, in line 5, the words "mobile home parks" and inserting in place thereof the words:- manufactured housing communities.

**SECTION 16.** Said chapter 140 is hereby further amended by striking out section 32C, as so appearing, and inserting in place thereof the following section:-

Section 32C. Every board of health shall, from time to time, examine all camps, motels, manufactured housing communities and cabins licensed by it under authority of section thirty-two B, and if, upon such examination, such camp, motel, manufactured housing community or cabin is found to be in an unsanitary condition, said board of health may, after notice and a hearing, suspend or revoke

such license.

**SECTION 17.** Said chapter 140 is hereby further amended by striking out section 32D, as so appearing, and inserting in place thereof the following section:-

Section 32D. Whoever conducts, controls, manages or operates any camp, motel, manufactured housing community or cabin licensed under section thirty-two B shall post, in a conspicuous place near the entrance to every such camp, motel, manufactured housing community or cabin, a copy of the rules and regulations adopted thereunder, as most recently altered or amended.

**SECTION 18.** Section 32E of said chapter 140, as so appearing, is hereby amended by striking out, in line 2, the words "mobile home park" and inserting in place thereof the words:- manufactured housing community.

**SECTION 19.** Said chapter 140 is hereby further amended by striking out sections 32F to 32R, inclusive, as so appearing, and inserting in place thereof the following thirteen sections:-

Section 32F. Any lot or tract of land upon which three or more manufactured homes occupied for dwelling purposes are located, including any buildings, structures, fixtures and equipment used in connection with manufactured homes shall be defined as a manufactured housing community. No lot or tract of land may be used for a manufactured housing community unless the owner or occupant thereof is the holder of a license granted under section thirty-two B. The board of health of a city or town shall, forthwith upon granting an original or renewal license under said section thirty-two B for a manufactured housing community, send a copy of such license to the city or town clerk.

A lot or tract of land provided by a state or county fair, agricultural and horticultural society, grange or 4-H club for the use of manufactured homes to accommodate personnel who are to participate in any fair or exhibition conducted by such organization, which fair or exhibition does not continue for a period of exceeding ten consecutive days, or a lot or tract of land provided by a college or university for the use of manufactured homes to accommodate students lacking dormitory facilities shall not be deemed a manufactured housing community.

Section 32G. In addition to the license fee provided for under section thirty-two B, each manufactured housing community owner or operator licensed under said section shall, except as hereinafter provided, pay an additional license fee of six dollars per month or a major fraction thereof, on account of each manufactured home, occupying space within such manufactured housing community; provided, however, that in a city by vote of the city council and in a town by vote of the board of selectmen, the amount of such additional license fee may be increased to an amount not exceeding twelve dollars per month. Such additional license fee shall, except as hereinafter provided, be collected by such manufactured housing community operator from the owner or occupant of each manufactured home occupying space in such manufactured housing community at the end of each

month or any major fraction thereof, and shall be deposited with the collector of taxes in the city or town in which such manufactured housing community is located not later than the tenth day of the month next following. The manufactured housing community operator shall, not later than the fifth day of each month, file with the licensing authority a list containing the amounts collected together with the name and address of each owner or occupant of a manufactured home occupying space during the preceding month, and designating the manufactured homes and the owners or occupants thereof on account of which no additional license fee is to be collected or deposited under the provisions of the last paragraph of this section. The licensing authority shall forthwith commit the list to the collector of taxes in the city or town in which the manufactured housing community is located for collection. Such collector, shall in the collection of such accounts, have all the remedies provided by sections thirty-five, thirty-six and ninety-three of chapter sixty for the collection of taxes on personal property. The collector of taxes shall, once in each week or more often, pay over to the city or town treasurer all money received by him during the preceding week or lesser period on account of such license fees. Each manufactured home subject to the license fee provided for in this section shall be exempt from any property tax as provided in clause Thirty-sixth of section five of chapter fifty-nine.

The collector of taxes shall report to the licensing authority any failure to deposit with him any license fee so collected, and any failure by a manufactured housing community operator to collect any license fee provided for under this section or to deposit with the collector of taxes any license fee so collected shall be deemed cause for the revocation of any license granted under section thirty-two B. In addition, any willful failure to deposit with the collector of taxes a licensee fee which has been so collected shall be punished by a fine of not less than ten nor more than one hundred dollars for each fee so collected and not deposited.

No additional license fee imposed by this section shall be collected by the operator of a manufactured housing community, nor shall any such fee be required to be deposited with the collector of taxes in the city or town in which such community is located, on account of a manufactured home which is deemed, by section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, not to be located or present in or to have a situs in such city or town for the purposes of taxation in respect to personal property.

Section 32H. An applicant for a license under section thirty-two B for a manufactured housing community which has not been equipped with the buildings, structures, fixtures and facilities necessary to conduct a manufactured housing community shall file with the board a plan showing the buildings, structures, fixtures and facilities and the proposed set-up which he plans to have upon said premises if and when the license may issue, together with an itemized estimate of the cost of the same and, thereupon, the board, with the approval of

the state department of environmental quality engineering, shall grant a manufactured housing community license upon the condition that such license shall issue upon the completion of the premises according to the plans and estimate submitted, providing that the proposed manufactured housing community will be in compliance with all applicable laws, ordinances, rules and regulations. Such conditional license may be suspended or revoked in accordance with the provisions of said section thirty-two B.

Section 32I. Every holder of a license for a manufactured housing community shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name or name in ordinary use, address and registration of each owner and occupant of a manufactured home or motor vehicle renting space at such park, the date of entering and the date of leaving such manufactured home or motor vehicle. Such register shall be retained by the holder of the license for a period of at least one year after the date of the last entry, and shall be open to the inspection of the licensing authorities, their agents and the police. Whoever willfully and knowingly violates any provision of this section shall be punished by a fine of not less than five dollars nor more than one hundred dollars.

Section 32J. If the manufactured home owner or person holding under him holds possession of a manufactured home site in a manufactured housing community without right, after the determination of a tenancy or other estate at will or lease as provided in this section, the licensee entitled to the manufactured home site may recover possession thereof by summary process.

Any tenancy or other estate at will or lease in a manufactured housing community, however created, and including any existing contract for occupancy of a manufactured home site in a manufactured housing community, may be terminated by the licensee entitled to the manufactured home site or his agent only for one or more of the following reasons:

- (1) nonpayment of rent;
- (2) substantial violation of any enforceable rule of the manufactured housing community;
- (3) violation of any laws or ordinances which protect the health or safety of other manufactured housing community residents;
- (4) a discontinuance in good faith by the licensee, of the use of part or all of the land owned by the licensee as a manufactured housing community subject to any existing contractual rights or agreements between the licensee and the tenants located in the manufactured housing community. No such discontinuance shall be valid for any manufactured home sold the licensee and for which a manufactured home site was made available at the time of said sale, by the licensee, for a period of five years from the date of said sale.

No action shall be maintained under this section unless:

- (1) the manufactured housing community licensee has given at least thirty days'

written notice, delivered by certified or registered mail, stating the reasons for termination and notifying the manufactured housing community resident that he has fifteen days from the date of the mailing of the notice in which to pay the overdue rent, or cure the substantial violation of the community rules or of the law or ordinance, in order to avoid eviction;

(2) the manufactured home resident has not paid the overdue rent or cured said violations within twenty days from the day on which such written notice was received; and

(3) such action, other than for nonpayment of rent, is brought within thirty days from the date of the last alleged violation; provided, however, that an action may be maintained under this section without further notice or opportunity to cure, if the same substantial violation of rules, other than nonpayment of rent, occurs within six months from the date on which such notice was delivered.

For the purposes of this section, upon the death of a manufactured housing community tenant, such tenancy shall continue in the estate of such tenant for a period of one year from the date of death or one year from the appointment of an executor or administrator, whichever first occurs.

Section 32K. Any person aggrieved by any act, rule, order or decision of the licensing board may appeal to the superior court. After suspension or revocation, the license may be reinstated or reissued if the conditions leading to such suspension or revocation have been remedied and the community is being maintained and operated in full compliance with the law.

Section 32L. The following requirements and restrictions shall apply to all manufactured housing communities:

(1) A manufactured housing community licensee may promulgate rules governing the rental or occupancy of a manufactured home site but no such rule shall be unreasonable, unfair or unconscionable.

(2) Any rule or change in rent which does not apply uniformly to all manufactured home residents of a similar class shall create a rebuttable presumption that such rule or change in rent is unfair.

(3) A manufactured housing community licensee, directly or indirectly engaged in the business of selling manufactured homes, who has sold a number of manufactured homes equal to the number of sites in a manufactured housing community, shall not then impose any conditions of rental or occupancy which restricts the manufactured home owner in his choice of manufactured home dealer nor shall a manufactured housing community licensee impose any conditions of rental or occupancy which restrict the manufactured home owner in his choice of a seller of fuel, furnishings, goods, services or accessories connected with the rental or occupancy of a manufactured home site, unless such conditions are necessary to protect the health, safety or welfare of manufactured home residents in the community. Said licensee may also impose reasonable conditions relating to

central fuel and gas meter systems in the community, providing the charges for such goods or services shall not exceed the average prevailing price in the locality for similar goods and services.

(3A) No manufactured housing community owner shall refuse to allow the transfer of a manufactured home located in said community on the ground that such manufactured housing community owner has not sold as many manufactured homes as there are sites.

(4) A manufactured housing community licensee shall not impose by any rule or condition of occupancy, any fee, charge or commission for the sale of a manufactured home located in a manufactured housing community. The licensee may, however, upon the proposed sale of such a home, contract with the manufactured home owner to sell the home for a fee not to exceed ten percent of the sale price of such home.

(5) If any manufactured housing community licensee promulgates, adds, deletes or amends any rule governing the rental or occupancy of a manufactured home site in a manufactured housing community, a new copy of all such rules shall be sent by certified mail, return receipt requested, for review to the attorney general and the secretary of communities and development at least forty-five days prior to the effective date of such promulgation, addition, deletion or amendment. A copy of such rules shall be furnished to each manufactured housing community resident in such community along with a copy of the certified mail receipts signed by a representative of the attorney general and a representative of the secretary of communities and development. Such copies shall be furnished by the manufactured housing community licensee to said residents at least thirty days prior to the effective date of such promulgations, addition, deletion or amendment. Nothing in this section shall be deemed to be an approval of such rules by the attorney general or said secretary.

(6) Any rule or condition of occupancy which is unfair or deceptive or which does not conform to the requirements of this section shall be unenforceable.

(7) Failure to comply with any of the provisions of this section shall constitute an unfair or deceptive trade practice under the provisions of paragraph (a) of section two of chapter ninety-three A. Enforcement of compliance and actions for damages shall be in accordance with the applicable provisions of section four to ten, inclusive, of said chapter ninety-three A.

(7A) Any manufactured housing community licensee having given notice, pursuant to this section, of a pending discontinuance shall survey within the period of notice given to tenants, all of the manufactured housing communities within a one hundred mile radius which are known to the licensee or which reasonably can be ascertained by him, to determine if any manufactured home sites are available or will become available during the notice period. The licensee shall prominently post at the community all of the information received regarding such available sites.



Such survey shall be done at least once each year during the two year notice period. The second survey shall be completed and posted not less than one hundred and twenty days prior to the end of the notice period. The manufactured housing community licensee shall pay to a tenant who is entitled to receive notice pursuant to this section, relocation benefits of two thousand dollars. Such relocation benefits shall be payable within fourteen days of the departure of such tenant and the removal of the manufactured home from the community. In the event that such tenant fails to remove the home from the community and the community owner is required to remove said home pursuant to the provisions of chapter two hundred and thirty-nine, the relocation benefits shall be reduced by an amount equal to the documented out-of-pocket moving costs incurred by the community owner for the physical removal of said home. Any manufactured housing community licensee shall provide to each tenant who is entitled to receive relocation benefits pursuant to this section, a rental agreement. Such agreement shall begin on the date of the issuance of the notice of discontinuance. The provisions of such rental agreement shall not alter in any manner the tenancy arrangement existing between the community owner and tenant prior to issuance of the notice of discontinuance, except with respect to the amount of annual rent, which may be increased by an amount not to exceed the increase in the Consumer Price Index for Urban Consumers, published by the United States Department of Labor, Bureau of Labor Statistics, for the calendar year immediately preceding the date upon which such rental agreement is commenced plus the proportionate amount of any documented increase in real estate taxes or other municipal fee or charge; provided, however, that the total amount of such increase shall not exceed ten percent of the annual rent charged in the immediately preceding year; and, provided further, that once a tenant has received a notice of discontinuance, his rent shall not be increased unless a year has passed from the date of the last increase imposed upon such tenant.

(8) A manufactured housing community licensee shall give at least fifteen days written notice, delivered by certified or registered mail, to each manufactured housing community tenant, that the licensee will be appearing before a governmental board, commission or body to request a permit for a change of use or discontinuance of the manufactured housing community. Upon a change of use approved by the governmental board, commission or body, or a change that requires no local governmental permit or permits, the licensee shall give to each manufactured housing community tenant at least two years written notice, delivered by certified or registered mail, prior to the manufactured housing community licensee's determination that a change of use or discontinuance will occur. The licensee shall disclose and describe in the notice the nature of the change of use or discontinuance.

(9) The manufactured housing community licensee shall give each prospective

tenant written notice prior to the inception of tenancy that the licensee is requesting a change of use before local governmental bodies, or that a change of use has been granted, or that a change of use which requires no governmental approval will occur, noting the effective date of change of use or discontinuance.

Section 32M. Upon the sale or proposed sale of a manufactured home located on a lot in a manufactured housing community and which is not owned by the manufactured housing community licensee, the prospective purchaser and members of his household may not be refused entrance if they meet the current rules of the community.

Failure to comply with the provisions of this section shall constitute an unfair or deceptive trade practice under the provisions of section two (a) of chapter ninety-three A.

Section 32N. Any manufactured housing community licensee or his agent who threatens to or takes reprisals against any manufactured housing community resident for reporting a violation or suspected violation of section thirty-two L or section thirty-two M or any applicable building or health code to the board of health of a city or town in which the manufactured housing community is located, the department of public health, the department of the attorney general or any other appropriate government agency, shall be liable for damages which shall not be less than one month's rent or more than five months' rent, or the actual damages sustained by the manufactured housing community resident, whichever is greater, and the costs of the court action brought for said damages including reasonable attorney's fees. The receipt of any notice of termination of tenancy by such manufactured housing community resident, except for nonpayment of rent, within six months after making such a report of a violation or a suspected violation, shall create a rebuttable presumption that such notice is a reprisal against the manufactured housing community resident for making such report and said presumption may be pleaded in defense to any eviction proceeding against such manufactured housing community resident brought within a year after such report.

Section 32 O. In any action to enforce the provisions of section thirty-two L or section thirty-two M, the clerk of the court shall mail copies of any judgment, decree, permanent injunction or order of the court upon the entry thereof to the attorney general and to the board of health of the city or town in which the manufactured housing community of the licensee is located.

Section 32P. All terms and conditions of occupancy must be fully disclosed in writing by the manufactured housing community owner to any prospective manufactured housing community resident at a reasonable time prior to the rental or occupancy of a manufactured home lot. Said disclosure shall include, but shall not be limited to, the amount of rent, an itemized list of any charges or fees, the names and addresses of all the owners of the manufactured housing community, and the rules and regulations governing the use of the manufactured home lot and

community. Such writing shall be signed by the manufactured housing community owner and contain the following notice printed verbatim in a clear and conspicuous manner:

**IMPORTANT NOTICE REQUIRED BY LAW**

The rules set forth below govern the terms of your lease of occupancy arrangement with this manufactured housing community. If these rules are changed in any way, the addition, deletion or amendment must be delivered to you, along with a copy of the certified mail receipts indicating that such change has been submitted to and received by the Attorney General and the Secretary of Communities and Development. This notification must be furnished to you at least thirty days before the change goes into effect. The law requires all of these rules and regulations to be fair and reasonable or else said rules and regulations cannot be enforced against you.

You may continue to stay in the community as long as you pay your rent and abide by the rules and regulations of the community. You may only be evicted for nonpayment of rent, violation of law, or for substantial violation of the rules and regulations of the community. If the community will undergo a change of use, you must receive notification of the change at least two years prior to its occurrence. In addition, no eviction proceedings may be commenced against you until you have received notice by certified mail of the reason for the eviction proceeding and you have been given fifteen days from the date of the notice in which to pay the overdue rent or to cease and desist from any substantial violation of the rules and regulations of the community; provided, however, that only one notice of a substantial violation of the rules and regulations of the community is required to be sent to you during any six month period. If a second or additional violation occurs, except for nonpayment of rent, within six months from the date of the first notice, then eviction proceedings may be commenced against you immediately.

If this community requires you to deal exclusively with a certain fuel dealer or other merchant for goods or services in connection with the use or occupancy of your manufactured home lot, the price you pay for such goods or services may not be more than the prevailing price in this locality for similar goods and services.

You may not be evicted for reporting any violations of law or health and building codes to boards of health, the Attorney General, or any other appropriate government agency. Receipt of notice of termination of tenancy by you, except for nonpayment of rent, within six months after your making such a report shall create a rebuttable presumption that such notice is a reprisal and may be pleaded by you in defense to any eviction proceeding brought within one year.

This law is enforceable by the consumer protection division of the Attorney General's office.

Section 32Q. As used in sections thirty-two A to thirty-two P, inclusive, the words "manufactured home" shall mean a structure, built in conformance to the

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National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Section 32R. In any instance in which a manufactured housing community owner has been sent a certified letter from an incorporated home owners' association indicating that such association has at least fifty-one percent of the home owners residing within said community as members and has articles of incorporation specifying all rights and powers, including the power to negotiate for, acquire and operate the manufactured housing community on behalf of the member residents, then, before a manufactured housing community may be sold for any purpose and before it may be leased for any purpose that would result in a discontinuance, the owner shall notify said association by certified mail of any bona fide offer that the owner intends to accept, to buy the community or to lease it for a use that would result in a discontinuance. The community owner shall also give notice by certified mail to the incorporated home owners' association of any intention to sell or lease the community for a use which will result in a discontinuance within fourteen days of any advertisement or other public notice by the owner or his agent that the community is for sale or the land upon which the community is located is for lease.

The notice to the home owners' association shall include the price, calculated as a single lump sum amount which reflects the present value of any installment payments offered and of any promissory notes offered in lieu of cash payments or, in the case of an offer to rent the capitalized value of the annual rent, and the terms and conditions of the offer. Any incorporated home owners' association entitled to notice under this section shall have the right to purchase, in the case of a third party bona fide offer to purchase, or to lease in the case of a third party bona fide offer to lease, the said community, provided it meets the price and substantially equivalent terms and conditions of any offer of which it is entitled to notice under this section by (1) executing a contract or purchase and sale or lease agreement with the owner within forty-five days of notice of the offer and (2) obtaining any necessary financing or guarantees within an additional forty-five days. No owner shall unreasonably refuse to enter into or unreasonably delay the execution of a purchase and sale or lease agreement with a home owners' association that has made a bona fide offer to meet the price and substantially equivalent terms and conditions of an offer for which notice is required to be given pursuant to this section. Failure of the incorporated home owner's association to execute such a purchase and sale agreement or lease within the first forty-five day period or to

obtain a binding commitment for financing within the second forty-five day period shall serve to terminate the right of such association to purchase or lease the manufactured housing community. The time periods herein provided may be extended by agreement of the association and the owner. Nothing herein shall be construed to require an owner to provide financing to any association or to prohibit an owner from requiring an association which is offering to lease a community to have within its possession a sum equivalent to the capitalized value of the proposed rent of the community and requiring that a portion of such sum, of an amount necessary to pay the rent on said community for a period of no greater than two years, be kept in escrow for such purpose during the term of the lease.

The right of first refusal created herein shall inure to a home owners' association for the time periods hereinbefore provided, beginning on the date of notice to the home owners' association. The effective period of such right of first refusal shall obtain separately for each substantially different bona fide offer to purchase the community or to lease it for a purpose that would result in a discontinuance, and for each offer substantially equivalent to an offer made more than three months prior to the later offer; provided, however, that in the case of a substantially equivalent offer made by a prospective buyer who has previously made an offer for which notice to a home owners' association was required by this section, the right of first refusal shall obtain only if such subsequent offer is made more than six months after the earlier offer. The right of first refusal shall not apply with respect to any offer received by the owner for which notice to a home owners' association is not required pursuant to this section.

No right of first refusal shall apply to a government taking by eminent domain or negotiated purchase, a forced sale pursuant to a foreclosure, transfer by gift, devise or operation of law, or a sale to a person who would be included within the table of descent and distribution if there were to be a death intestate of a community owner.

In any instance in which the incorporated home owners' association of a manufactured housing community is not the successful purchaser or lessee of such manufactured housing community, the seller or lessor of such community shall prove compliance with this section by filing an affidavit of compliance in the official records of the county where the property is located within seven days of the sale or lease of the community.

**SECTION 20.** Section 25E of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 21.** Section 61 of chapter 171 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

A credit union may make a loan for the purpose of financing the purchase of

a movable dwelling, hereinafter called a manufactured home, containing living facilities suitable for year-round occupancy by one family, including permanent provision for eating, sleeping, cooking and sanitation; provided, however, that (a) such manufactured home is to be maintained as a residence of the purchaser; (b) such manufactured home will, within ninety days after purchase, be located at a manufactured housing community or other semipermanent site within the commonwealth or within a radius of thirty-five miles of the credit union office without regard to geographical location; (c) the principal amount of such loan, including interest and other costs, shall not exceed eighty percent of the purchase price of such manufactured home, excluding any taxes, transportation expenses, insurance premiums, registration fees and other costs paid or required to be paid by the purchaser in connection with such purchase; or thirty-five thousand dollars, whichever is less; (d) such loan is required to be repaid in substantially equal monthly installments within a period of not more than twenty-five years after the date of such purchase; and (e) the note or other instrument evidencing such loan shall expressly grant to such credit union a security interest in such manufactured home and shall include such provisions as the credit committee may deem necessary for the protection of such credit union's security interest including, specifically, provisions with respect to insurance, taxes, maintenance and repairs.

**SECTION 22.** Section 14 of chapter 186 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word "mobile" and inserting in place thereof the word:- manufactured.

**SECTION 23.** Chapter 188 of the General Laws is hereby amended by striking out section 1A, as so appearing, and inserting in place thereof the following section:-

Section 1A. The real property or manufactured home of persons sixty-two years of age or older, regardless of marital status, or of a disabled person, as herein defined, shall be protected against attachment, seizure or execution of judgment to the extent of two hundred thousand dollars; provided, however, that such person has filed an elderly or disabled person's declaration of homestead protection as provided in section two; and, provided further, that such person occupies or intends to occupy such real property or manufactured home as his principal residence. A disabled person's declaration of homestead protection shall be accompanied by either of the documents referred to in the second paragraph of this section.

For the purposes of this section, a disabled person is defined as an individual who has any medically determinable permanent physical or mental impairment which would meet the disability requirements for supplemental security income under the provisions of 42 USC 1382c(a)(3)(A) and (C), which are in effect at the time of filing. An original or certified copy of a disability award letter issued to the

person by the United States Social Security Administration; or a letter signed by a licensed physician registered with the Massachusetts Board of Registration in Medicine certifying that the person meets the disability requirements stated on 42 USC 1382c(a)(3)(A) and (C), which are in effect at the time of filing, shall be recorded or filed, whichever is appropriate, with a disabled person's declaration of homestead protection.

Each individual having an ownership interest in the real property or manufactured home which serves as that individual's principal residence and who qualifies under the provisions of this section shall, upon filing of an elderly or disabled person's declaration of homestead protection, be eligible for protection of such ownership interest up to a maximum amount of two hundred thousand dollars per individual, regardless of whether such declaration is filed individually or jointly with another.

The following shall be exempt from the provisions of this section: federal, state and local taxes, assessments, claims and liens; first and second mortgages held by financial institutions or others; any and all debts, encumbrances or contracts existing prior to the filing of the declaration; an execution issued from the probate court to enforce its judgment that a spouse pay a certain amount weekly or otherwise for the support of a spouse or minor children; where buildings on land not owned by the owner of a homestead estate are attached, levied upon or sold for the ground rent of the lot whereon they stand.

The elderly or disabled person's estate or claim of homestead shall be terminated upon the sale or transfer of the real property or manufactured home during the declarant's lifetime or upon the sale or transfer of the declarant's interest in the real property or manufactured home during the declarant's lifetime or upon the death of the surviving declarant. An elderly or disabled person's estate of homestead created by this section shall be terminated during the lifetime of the declarant by deed conveying the property in which such an estate of homestead exists signed by the declarant; or by a release of the elderly or disabled person's estate of homestead, duly signed, sealed and acknowledged by the declarant and recorded in the registry of deeds for the county or district in which such real estate is located; or by a release of the elderly or disabled person's claim of homestead, duly signed, sealed and acknowledged by the declarant and filed in the city or town clerk's office in the city or town in which the manufactured home is located; or pursuant to section two.

**SECTION 24.** Section 2 of said chapter 188, as so appearing, is hereby amended by striking out, in lines 15 and 18, the word "mobile", each time it appears, and inserting in place thereof, in each instance, the word:- manufactured.

**SECTION 25.** Chapter 255 of the General Laws is hereby amended by striking out section 25A, as so appearing, and inserting in place thereof the following section:-

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Section 25A. Persons maintaining manufactured housing communities for the rental of sites to be occupied by manufactured homes and vehicles, for the furnishing of facilities in connection therewith, and for the storage and care of manufactured homes brought to their premises or placed in their care by and with the consent of the owners thereof, shall have a lien upon such manufactured homes and the contents thereof for proper charges due them for such rental, facilities, storage and care, and any tax assessed by reason of such manufactured home having occupied a site in such manufactured housing community.

Approved December 31, 1991.

**Chapter 482.            AN ACT AUTHORIZING THE ESTABLISHMENT OF A  
HOUSING TRUST FUND IN THE CITY OF CAMBRIDGE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established a trust to be known as the Cambridge Affordable Housing Trust Fund hereinafter referred to as the Trust. The purpose of the Trust is to assist in the creation and preservation of affordable housing in the city of Cambridge for the benefit of low and moderate income households.

**SECTION 2.** There is hereby established a board of trustees hereinafter referred to as the board, which shall include nine trustees, including *ex officio* the city manager. Those trustees that are not serving in an *ex officio* capacity shall be appointed by the city manager and are designated as public agents for purposes of the Constitution of the Commonwealth.

**SECTION 3.** The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include, but not be limited to, the following:-

(a) to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with provisions of the Cambridge zoning code or any other city ordinance;

(b) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(c) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration on and such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to Trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(d) to execute, acknowledge and deliver deeds, assignments, transfers,



mortgages, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the Trust;

(e) to employ advisors and agents, such as accountants, appraisers, and lawyers, and to delegate to such persons or firms ministerial or discretionary powers as the board deems necessary;

(f) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principle as the board deems advisable;

(g) to apportion receipts and charges between income and principle as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(h) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(i) to deposit any security with any protective reorganization committee, and to delegate to such committee such power and authority with relation thereto as the board may deem proper; and to pay, out of Trust property, such portion of the expenses and compensation of such committee as the board may deem necessary and appropriate;

(j) to carry property for accounting purposes other than acquisition date values;

(k) to exercise all powers and rights of subscription or otherwise which in any manner arise out of ownership of securities held as part of Trust property;

(l) to borrow money on such terms and conditions and from such sources as the board deems advisable; to mortgage and pledge Trust assets as collateral;

(m) to hold Trust property without indication of fiduciary capacity but only in the name of a registered nominee, provided the Trust property is at all times identified as such in the books of the Trust, and to hold any securities in registered or in bearer form;

(n) to make distributions or divisions of principal in kind;

(o) to compromise, arbitrate, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(p) to manage or improve real property; and to abandon any property which the board determines not to be worth retaining;

(q) to hold all or part of the Trust property uninvested for such purposes and

for such time as the board may deem appropriate;

(r) to extend the time for payment of any obligation to the Trust; and

(s) to exercise all other powers authorized by common law, statute, the constitution, or other provisions of this act.

**SECTION 4.** Notwithstanding any provisions of any general or special law to the contrary, all moneys paid to the Trust in accordance with the zoning ordinance of the city, housing mitigation fee ordinances, or private contributions shall be paid directly into the Trust and do not have to be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property; to be expended these funds do not need to be further appropriated. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the board within one year of the date they were appropriated into the Trust, remain Trust property.

**SECTION 5.** The Trust is a public employer and the members of the board are public employees for purposes of chapter two hundred and fifty-eight of the General Laws.

**SECTION 6.** The Trust shall be deemed a municipal agency and the trustees, special municipal employees, for purposes of chapter two hundred and sixty-eight A of the General Laws.

**SECTION 7.** The Trust is exempt from the provisions of chapters fifty-nine and sixty-two of the General Laws, or from any other provisions concerning the payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

**SECTION 8.** The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

**SECTION 9.** The declaration of Trust, which establishes and controls the Trust fund, shall be filed in the office of the Cambridge city clerk and in the division of public charities of the office of the attorney general of the commonwealth or such other office of the commonwealth as shall be authorized to receive accounts from public charities.

**SECTION 10.** The Trust is a governmental body for purposes of sections twenty-three A, twenty-three B, and twenty-three C of chapter thirty-nine of the General Laws.

**SECTION 11.** The Trust is a board of the city for purposes of chapter thirty B and section fifteen A of chapter forty of the General Laws; provided, however, that agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city shall be exempt from the provisions of said chapter thirty B.

**SECTION 12.** Notwithstanding the provisions of any general or special law to the contrary, any actions which caused moneys or property to be placed in the Trust established pursuant to the zoning ordinance of the city and any actions taken by

the board pursuant to the declaration of Trust, are ratified, validated and confirmed insofar as any of these actions may have been invalid by reason of the prior invalidity of the ordinance, declaration of Trust or procedures followed by the board.

**SECTION 13.** This act shall take effect upon its passage.

Approved December 31, 1991.

**Chapter 483.            AN ACT RELATIVE TO THE INITIATIVE LAW FOR POLITICAL PARTIES AND CANDIDATES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The definition of "Political designation" in section 1 of chapter 50 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following two sentences:- Certificates showing that each of the signers of said request is a registered voter at the stated address, signed by the city or town clerk shall accompany the petition. Any such request filed before December first in the year of a biennial state election shall not be effective until said December first.

**SECTION 2.** The definition of "Political party" in said section 1 of said chapter 50, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- "Political party" shall apply to a party which at the preceding biennial state election polled for any office to be filled by all the voters of the commonwealth at least three percent of the entire vote cast in the commonwealth for such office, or which shall have enrolled, according to the first count submitted under section thirty-eight A of chapter fifty-three, a number of voters with its political designation equal to or greater than one percent of the entire number of voters registered in the commonwealth according to said count.

**SECTION 3.** Chapter 51 of the General Laws is hereby amended by striking out section 36, as so appearing, and inserting in place thereof the following section:-

Section 36. The registrars shall prepare in sufficient quantity blank forms for affidavits of registration which shall be in substantially the following form:

AFFIDAVIT OF REGISTRATION  
(PLEASE PRINT)

NAME (LAST NAME FIRST) \_\_\_\_\_

RESIDENCE (ADDRESS) \_\_\_\_\_

CITY OR TOWN \_\_\_\_\_

RESIDENCE JANUARY 1, (IF DIFFERENT FROM ABOVE) \_\_\_\_\_

LAST PREVIOUS RESIDENCE IN ANOTHER CITY OR TOWN, IF ANY:  
(STREET ADDRESS) \_\_\_\_\_

(City or Town) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_

NAME YOU USED AT THIS RESIDENCE  
(IF DIFFERENT FROM ABOVE): \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_ PLACE OF BIRTH \_\_\_\_\_ U.S. CITIZENSHIP \_\_\_\_\_

\_\_\_\_\_ BIRTH \_\_\_\_\_ NATURALIZED \_\_\_\_\_

OCCUPATION \_\_\_\_\_

DO YOU WISH TO ENROLL IN A POLITICAL PARTY OR DESIGNATION? \_\_\_\_\_

(List here the names of all present political parties, each followed by a box  
which the registrant may check)

POLITICAL DESIGNATION: \_\_\_\_\_

PLEASE READ CAREFULLY

I hereby swear (affirm) that I am the person named above, that the above  
information is true, that I am a citizen of the United States, that I am not a person  
under guardianship, that I am not temporarily or permanently disqualified by law  
from voting because of corrupt practices in respect to elections, and that I consider  
this residence to be my home.

Signed under the pains  
and penalties of perjury.

WITNESS \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

A copy of this document may be forwarded to the department of revenue and  
registry of motor vehicles.

In completing an affidavit of registration, a person shall enter thereon his name written in full, or instead thereof the surname and first Christian name or that name by which he is generally known, written in full, and the initial of every other name which he may have. A person who has chosen to retain his own surname at marriage shall enter that surname on the affidavit of registration.

The state secretary shall provide bilingual, English-Spanish copies of the affidavit of registration to city and town clerks, registrars of voters and election commissioners, who shall provide such bilingual forms to Spanish-speaking applicants.

Local officials shall make copies of said affidavit available to the department of revenue and the registry of motor vehicles of all executed affidavits.

**SECTION 4.** Section 44 of said chapter 51, as so appearing, is hereby amended by inserting after the word "party", in line 8, the following words:- or political designation.

**SECTION 5.** Section 2 of chapter 53 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Except in the case of municipal nominations where a city charter or a law applying to a particular town otherwise provides and in the case of nominations to regional district school committees elected district-wide, candidates of political parties for all elective offices, except presidential elector, shall be nominated and members of political committees, except as provided in sections one and four of chapter fifty-two, shall be elected in primaries or caucuses; provided, however, that the state secretary shall not conduct presidential and state primaries in any biennial state election year for a political party which has enrolled fewer than five percent of the total number of registered voters in the commonwealth as of the most recent count submitted to the state secretary under section thirty-eight A, and whose state committee files with the state secretary a writing so requesting, not later than August first preceding a year in which a presidential primary is to occur and otherwise not later than February first of the year of the biennial state election.

**SECTION 6.** The first paragraph of section 6 of said chapter 53, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:- Nominations of candidates for any offices to be filled at a state election may be made by nomination papers, stating the facts required by section eight and signed in the aggregate by not less than the following number of voters: for governor and lieutenant governor, attorney general, United States senator, and presidential electors, ten thousand; for state secretary, state treasurer, and state auditor, five thousand; for representative in congress, two thousand; for state senator, three hundred; for state representative, one hundred and fifty; for councillor, district attorney, clerk of courts, register of probate, register of deeds, county commissioner, sheriff, and county treasurer, one thousand, except

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for clerk of courts, register of probate, register of deeds, county commissioner, sheriff, and county treasurer, in Barnstable, Berkshire, Franklin, and Hampshire counties, five hundred, and for any such offices in Dukes and Nantucket counties, twenty-five.

**SECTION 7.** The first paragraph of section 7 of said chapter 53, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "living with street and number, if any, and his or her address on January first preceding, if different" and inserting in place thereof the following word:- registered.

**SECTION 8.** Section 32 of said chapter 53, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Notwithstanding the provisions of section forty-five of chapter fifty-four or any other general or special law to the contrary, the state secretary may provide only paper ballots for a state or presidential primary in a city or town where a political party has enrolled fewer than five percent of the total number of registered voters, as of the most recent count submitted to the state secretary under section thirty-eight A before the decision to prepare said ballots must be made.

**SECTION 9.** Said chapter 53 is hereby further amended by striking out section 38A, as so appearing, and inserting in place thereof the following section:-

Section 38A. The board of registrars of voters of every city or town shall submit to the state secretary a count for each precinct of the number of voters enrolled in each political party and each political designation and the number of unenrolled voters. The count shall be correct as of the last day to register voters under section twenty-six of chapter fifty-one before every regular state and presidential primary and biennial state election, and in an even-numbered year in which no presidential primary is held, also as of February first. The secretary shall receive the count in writing not later than ten days after each such date, and shall issue a report thereof.  
*Emergency Letter: January 6, 1992 @ 4:49 P.M. Approved December 31, 1991.*

**Chapter 484.****AN ACT RELATIVE TO OWNERSHIP RIGHTS OF CERTAIN  
HEALTH CARE FACILITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 112 of the General Laws is hereby amended by striking out section 12AA, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 12AA. Any person registered or licensed pursuant to this chapter who refers a patient for physical therapy services to any partnership, corporation, firm or other legal entity in which the registered or licensed person has a financial ownership interest shall disclose such interest to the patient and shall inform the

patient that such services may be available from other physical therapists in the patient's community.

Each patient who is referred by a registered or licensed person shall be furnished by each registered or licensed person with a written referral which states conspicuously on its face the following:

"The referring registered or licensed person maintains an ownership interest in the facility to which you are being referred for physical therapy service. Physical therapy services may be available elsewhere in the community."

A physician shall also disclose such ownership interest to the board of registration in medicine on a form to be prescribed by such board. Such disclosure shall contain the names and ownership interests of all other parties owning an interest in such physical therapy service.

For the purposes of this section, the term "ownership interest" shall mean any and all ownership interest including, but not limited to, any membership, proprietary interest, stock interest, partnership interest, co-ownership in any form or any profit-sharing arrangement but shall not apply to financial arrangements between a health maintenance organization organized in accordance with chapter one hundred and seventy-six G, or a preferred provider arrangement organized in accordance with chapter one hundred and seventy-six I, and its participating providers, and shall not apply to financial arrangements among participating providers of such health maintenance organization or such preferred provider arrangement.

The board of registration in medicine shall prescribe by regulations that physicians report such ownership interest to the said board.

The board of registration in medicine may prescribe by regulations that physicians report referrals to the said board. Violation of this section shall constitute grounds for disciplinary action by the board of registration in medicine.

**SECTION 2.** Said chapter 112 is hereby further amended by striking out section 23P 1/2, as so appearing, and inserting in place thereof the following section:-

Section 23P 1/2. Any physical therapist who is involved in the private practice of physical therapy, to whom a patient is referred by a person licensed or registered under this chapter who derives income directly or indirectly from the physical therapy service, shall disclose to the patient that the referring person derives income from the provision of such service, unless such services are provided pursuant to a financial arrangement between a health maintenance organization organized in accordance with chapter one hundred and seventy-six G or a preferred provider arrangement organized in accordance with chapter one hundred and seventy-six I and the participating providers of such health maintenance organization or preferred provider arrangement.

Such ownership interest shall be in writing posted in the office of the person providing such physical therapy in a conspicuous place and shall be of such size

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and nature so that the average person would take notice of it.

Said posted notice shall contain the names of all persons who maintain an ownership interest.

For the purpose of this section, the term "ownership interest" shall mean any and all ownership interest including, but not limited to, any membership, proprietary interest, stock interest, partnership interest, co-ownership in any form or any profit-sharing arrangement.

The board of allied health professionals shall prescribe by regulation that physical therapists report such ownership interest and referrals to the said board. Violation of this section shall constitute grounds for disciplinary action by the board of allied health professionals.

**SECTION 3.** Regulations required by sections one and two shall be promulgated within one hundred and eighty days after the effective date of this act.

Approved December 31, 1991.

## **Chapter 485.        AN ACT RELATIVE TO THE LICENSING AND TRAINING OF HOISTING ENGINEERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 53 of chapter 146 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 7, the words "for a period of more than one week".

**SECTION 2.** Said section 53 of said chapter 146, as so appearing, is hereby further amended by adding the following six paragraphs:-

For licensing purposes, the commissioner shall classify hoisting machinery by categories, depending on size, weight, common usage, capacity, power source or such other characteristics as he may find appropriate; provided, however, that at least one category shall include cranes and other similar equipment, and one category shall include excavating equipment.

The commissioner shall adopt rules and regulations under the provisions of chapter thirty A, embodying the classifications of hoisting machinery and establishing criteria and procedures for the issuance, denial, renewal, suspension and revocation of licenses to operate hoisting machinery; provided, however, that a final adjudication that there has been a violation of federal or state occupational safety and health regulations, or any other rule adopted by the department, shall be cause for the denial, suspension or revocation of any license issued under this section. Criteria for issuance of such license shall include, but not be limited to, training and experience requirements appropriate to the categories of machinery for which the license is intended.



Notwithstanding any other provisions of this chapter, actions taken or decisions reached by the department or a representative thereof regarding the issuance, denial, renewal, revocation or suspension of a license to operate hoisting machinery, or appeals resulting therefrom, shall be taken or made on the basis of the rules and regulations adopted under the provisions of this section.

In cases where a district engineering inspector finds that the immediate suspension or revocation of a license to operate hoisting machinery is necessary for the preservation of the public health or safety, he may order such suspension or revocation pending the outcome of a hearing, in accordance with the procedures set forth in the regulations promulgated and adopted under this section.

A public utility company which has self propelled truck mounted cranes, derricks and similar hoisting equipment which is used for the maintenance and construction of the equipment of such company and which has at least one supervisory employee who holds a license issued by the department and is designated as the responsible person in charge of hoisting equipment shall be exempt from the provisions of this section. Such exemption shall only apply if such company has an inservice training program for employees approved by the department. The inservice training program shall be audited twice annually at approximately six month intervals by three inspectors of the department. The company shall issue to each trained and certified employee a company license which shall contain a picture of the licensee, a list of the specific hoisting equipment that the licensee has been qualified to operate and the signature of the supervisor who holds a department license.

Any other company which has equipment such as cranes, derricks and similar hoisting equipment used only upon utility company property shall also be exempt from the provisions of this section; provided, however, that all of the requirements of the preceding paragraph have been complied with.

**SECTION 3.** Said chapter 146 is hereby further amended by inserting after section 54 the following section:-

Section 54A. Whoever violates any provision of sections fifty-three or fifty-four, or any rule or regulation made thereunder, shall be punished by a fine of not less than five hundred dollars and not more than three thousand dollars, or by imprisonment for not more than three months, or both such fine and imprisonment. Whoever prevents or attempts to prevent any inspector from entering on any premises in the discharge of his duty with respect to sections fifty-three and fifty-four, shall be punished by a fine of not less than two hundred and fifty dollars and not more than three thousand dollars, or by imprisonment for not more than three months, or both such fine and imprisonment.

Any person who permits an unlicensed person to operate hoisting machinery shall be subject to a fine of not less than one thousand dollars and not more than three thousand dollars, or by imprisonment for not more than three months, or both

such fine and imprisonment.

**SECTION 4.** Said chapter 146 is hereby further amended by striking out section 55, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 55. Whoever violates any provision of sections forty-two to fifty-one, inclusive, or any rule made thereunder, or prevents or attempts to prevent an inspector from entering on any premises in the discharge of his duty with respect to said sections, shall be punished by a fine of not less than ten nor more than three hundred dollars, or by imprisonment for not more than three months.

**SECTION 5.** Said chapter 146 is hereby further amended by striking out section 65, as so appearing, and inserting in place thereof the following section:-

Section 65. Whoever desires to act as an operator of hoisting machinery shall apply to the department for a license. If the criteria for licensure established by the commissioner pursuant to section fifty-three are met by the applicant, such applicant shall be required to pass a written or practical examination, or both, in accordance with the standards set in regulations promulgated under the provisions of said section fifty-three. Any operator of hoisting machinery whose license is revoked, and any person who is penalized under the provisions of section fifty-four A, shall be required to pass both a written and practical examination before he may be issued a subsequent license. The passing of the applicable examination shall entitle the applicant to a license to operate hoisting machinery in the category or categories for which he has applied and been examined. Each license issued shall contain a photograph of the licensee.

**SECTION 6.** Section 67 of said chapter 146, as so appearing, is hereby amended by inserting after the word "thereof", in line 16, the words:- ; provided, however, that in no case shall the fee for the renewal of a license to operate hoisting machinery be less than sixty dollars, and in no case shall the fee for a new license to operate hoisting machinery be less than seventy-five dollars.

**SECTION 7.** The commissioner of public safety shall appoint a committee, to be composed of equal numbers of employers and employee representatives from organized labor in the construction industry, and in addition, such other members as he may deem appropriate, to advise him on the criteria and procedures for licensure of operators of hoisting machinery, as required by section fifty-three of chapter one hundred and forty-six of the General Laws, and on the composition and administration of written and practical examinations, as required by section sixty-five of said chapter one hundred and forty-six.

**SECTION 8.** Operators of hoisting machinery to whom licenses were issued prior to the effective date of this act shall not be subject to the training and experience requirements, or additional criteria for renewal, mandated pursuant to section fifty-three of chapter one hundred and forty-six of the General Laws, or the examination process contained in section sixty-five, or any changes in the

classification of hoisting machinery resulting from this act.

**SECTION 9.** The provisions of sections one, two, five, six, seven and eight of this act shall take effect on July first, nineteen hundred and ninety-two.

Approved December 31, 1991.

**Chapter 486.      AN ACT PROVIDING FOR THE ESTABLISHMENT OF  
ON-CAMPUS HOUSING AT BOSTON UNIVERSITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The general court finds and declares that affordable housing within the city of Boston and the town of Brookline are premium.

That a serious public housing shortage emergency exists within these communities and is exacerbated by large numbers of students who seek off-campus housing from the housing stock of the residential communities.

That it is desirable and in the public interest to encourage universities to house their student populations within school facilities.

That it is necessary to construct dormitories so as to accommodate such student populations.

That in nineteen hundred and eighty-seven Boston University completed, after extensive community review, and the Boston Redevelopment Authority subsequently approved, a plan entitled "Boston University Charles River Campus Master Plan 1986-1996", which plan provides for the former Commonwealth Armory Site to be used for student and other housing uses, as well as other uses, including, among others, recreational, athletic, parking, commercial and academic uses and which plan includes commitments and strategies to accomplish the goal of housing of seventy-five percent of Boston University's students on its campus.

That in order for Boston University to construct proposed dormitories at the location formerly occupied by the Commonwealth Armory, private financing will be required.

That to facilitate private financing, it is necessary to allow Boston University to create a security interest in a lender corporation.

That Boston University has, as part of its securing zoning approval for the project, entered into a cooperation agreement with the Boston Redevelopment Authority which is recognized as a component of the regulatory background for development of the site as a planned development area under Boston zoning.

That the passage of this act will accomplish the objectives of more available housing through dormitory construction.

**SECTION 2.** Chapter 649 of the acts of 1982 is hereby amended by striking out section 8, as amended by section 3 of chapter 812 of the acts of 1985, and inserting

in place thereof the following section:-

**Section 8.** Notwithstanding the provisions of any general or special law to the contrary, the deputy commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized and directed to sell and convey to the trustees of Boston University, by a deed approved as to form by the attorney general, in consideration of the payment of two million five hundred thousand dollars to the commonwealth, the property of the commonwealth located in the city of Boston and consisting of an irregularly shaped parcel of land, comprising about four hundred thirty-six thousand five hundred and eighty-nine square feet more or less, with buildings thereon, bounded and described as follows:

Southerly by Commonwealth Avenue in the city of Boston for a distance of 696.93 feet, more or less;

Westerly by Gaffney Street in the city of Boston for a distance of 711.69 feet, more or less;

Northerly by land presently or formerly owned by the Boston Edison Company for a distance of 193.8 feet, more or less;

Northeasterly by land presently or formerly owned by the Penn Central Railroad Company for a distance of 557.48 feet, more or less; and

Easterly by Buick Street in the city of Boston for a distance of 471.4 feet, more or less.

Said description meaning and intending to include all of the land and buildings thereon currently owned by the commonwealth and comprising the Commonwealth Armory, so-called, located at 899-925 Commonwealth avenue in the city of Boston and said conveyance to occur after the declaration that such property is surplus property in accordance with the applicable procedures of the division of capital planning and operations and the armory commission. The deputy commissioner of the division of capital planning and operations is hereby authorized to enter into a land disposition agreement with the Trustees of Boston University. The deed and agreement conveying such property to Boston University shall contain the following conditions and restrictions, which if not complied with by said Boston University or its successors shall cause the title to said property to revert to the commonwealth:

(1) that ownership and control of said property shall remain with Boston University so long as it continues to do business in the Commonwealth and carry on such activities on said property as may be authorized by this section.

(2) that use of said property shall be restricted to educational activities of students of Boston University, the provision of housing for students enrolled at and faculty members and staff of colleges and universities, athletic and recreational activities primarily of Boston University students and intercollegiate events and other such activities, and of students enrolled in the Boston public schools and in

other primary or secondary schools in the commonwealth, and the administration of or the conduct of research by Boston University;

(3) that the use of said property shall not include facilities for independent commercial activities or housing for persons other than students enrolled at and faculty and staff of colleges and universities; except for those commercial and housing activities which are incidental to or compatible with the uses provided for by this section;

(4) that Boston University shall permit the unrestricted use of the property by the National Guard of the Commonwealth, at no cost to the Commonwealth, until such time as the National Guard effectuates the transfer of activities presently conducted on the property to other suitable premises.

Notwithstanding the foregoing provisions, the commonwealth's rights of reverter for a violation of the conditions and restrictions set forth herein shall be held in abeyance with respect to and while any portion of or interest in said property and access and utility easements for the benefit of such portion or interest are subject to one or more mortgages from time to time, and, upon the foreclosure of any such mortgages by entry and possession or by the exercise of the statutory power of sale therein or by deed in lieu of the exercise of the power of sale, any possibility of reverter and all of the foregoing conditions and restrictions with respect to such portion of or interest in said property and its easements shall thereupon be extinguished forever; provided, however, that said mortgages and any ground leases of said property and the buildings thereon shall contain covenants that, in the case of mortgages, shall require that the mortgage loan proceeds be used for purposes consistent with this section and that, in the case of ground leases, the property and buildings thereon shall be used for purposes consistent with this section; and provided, further, that the Trustees of Boston University shall approve of the use of such property for such purposes, by means of a vote in the form of a separate document to be recorded with said mortgages and with notices of said ground leases recorded in the registry of deeds in Suffolk county, which shall state that said mortgages or ground leases, as the case may be, are made for purposes consistent with this section.

Approved December 31, 1991.

**Chapter 487.      AN ACT PROVIDING FOR A CERTAIN RETIRED EMPLOYEE OF THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

In order to fulfill a moral obligation and notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the industrial accident

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board is hereby authorized and directed to pay to Michael Joyce, a retired administrative judge of said industrial accident board, an amount equal to twenty percent of his accrued unused sick leave credits earned during his employment with any office, agency, department, division, or bureau of the commonwealth, less any payment that said Michael Joyce shall have already received for such purpose from said industrial accident board; provided, however, that such twenty percent shall be computed by multiplying the number of days accrued unused sick leave credit times the daily rate of salary compensation received by said Michael Joyce at the time of his retirement, and provided further that such payment for unused sick leave shall not affect the amount of retirement allowance to be paid to said Michael Joyce.

Approved December 31, 1991.

**Chapter 488.      AN ACT RELATIVE TO CRIMINAL SENTENCES OF JUVENILES CHARGED WITH MURDER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 119 of the General Laws is hereby amended by striking out section 60, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 60. An adjudication of any child as a delinquent child under sections fifty-two to fifty-nine, inclusive, or any disposition thereunder of any child so adjudicated, or any evidence given in any case arising against any child under said sections fifty-two to fifty-nine, or any records in cases arising against any child under said sections fifty-two to fifty-nine shall not be received in evidence or used against such child for any purpose in any proceedings in any court except in subsequent delinquency or criminal proceedings in determining bail and in imposing sentence in any criminal proceeding against the same person; nor shall such adjudication or disposition or evidence operate to disqualify a child in any future examination, appointment, or application for public service under the government either of the commonwealth or of any political subdivision thereof; provided, however, that adjudication of delinquency by reason of the child having committed an offense against the commonwealth may be used for impeachment purposes in subsequent delinquency or criminal proceedings in the same manner and to the same extent as prior criminal convictions.

**SECTION 2.** Section 61 of said chapter 119, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The court shall hold a transfer hearing whenever the commonwealth so

requests. The court shall order a transfer hearing in every case in which the offense alleged is murder in the first or second degree, manslaughter, or a violation of section eighteen, twenty-two, twenty-two A or twenty-six of chapter two hundred and sixty-five, or section fourteen of chapter two hundred and sixty-six.

**SECTION 3.** Said section 61 of said chapter 119, as so appearing, is hereby further amended by striking out the third and fourth paragraphs and inserting in place thereof the following three paragraphs:-

At said transfer hearing, which shall be held before any hearing on the merits of the charges alleged, the court shall first determine whether probable cause exists to believe that the child has committed the offense or violation charged. If the offense alleged is murder in the first or second degree, manslaughter, or a violation of section eighteen, twenty-two, twenty-two A or twenty-six of chapter two hundred and sixty-five, or section fourteen of chapter two hundred and sixty-six, the probable cause portion of said transfer hearing shall be held within fifteen days of the child's first appearance before the court following the date of the complaint; provided, however, that a failure to hold such probable cause portion of the hearing within said fifteen days shall not prohibit such hearing from being held at a later time as determined by the court. If probable cause is found, the court shall then determine whether the child presents a danger to the public, and whether the child is amenable to rehabilitation within the juvenile justice system. In making such determination the court shall consider, but shall not be limited to, evidence of the nature, circumstances, and seriousness of the alleged offense; the child's court and delinquency record; the child's age and maturity; the family, school and social history of the child; the success or lack of success of any past treatment efforts of the child; the nature of services available through the juvenile justice system; the adequate protection of the public; and the likelihood of rehabilitation of the child.

If the offense alleged is murder in the first or second degree, manslaughter, or a violation of section eighteen, twenty-two, twenty-two A or twenty-six of chapter two hundred and sixty-five, or section fourteen of chapter two hundred and sixty-six, this portion of the transfer hearing shall be held within thirty days of the probable cause portion; provided, however, that a failure to hold such portion of the transfer hearing within said thirty days shall not prohibit such hearing from being held at a later time as determined by the court.

If the offense alleged is murder in the first or second degree, the commonwealth may proceed by filing a complaint in juvenile court or in a juvenile session of a district court, as the case may be, or by filing an indictment in such court. In such proceedings initiated by the filing of a complaint, a probable cause hearing shall be held within the time set forth in this section, unless the commonwealth shall have proceeded by indictment prior to such hearing. If the commonwealth has proceeded by indictment, no probable cause hearing shall be held, and a transfer hearing shall be held as provided by this section. In all cases brought pursuant to

the provisions of this paragraph, the child shall have the right to an indictment proceeding under section four of chapter two hundred and sixty-three, unless such child, upon advice of counsel, duly waives indictment.

**SECTION 4.** The fourth paragraph of said section 61 of said chapter 119, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following three sentences:- If the court fails to make such findings the court shall state its reasons in writing and the commonwealth may appeal the decision of the court under the provisions of section twenty-eight E of chapter two hundred and seventy-eight. Any such appeal shall be taken within ten days after the court's failure to make said findings and further proceedings shall be stayed pending the entry of an order of the appellate court. If the time for the commonwealth to appeal expires, or if such appeal is denied then the court shall proceed on the delinquency complaint.

**SECTION 5.** The fifth paragraph of said section 61 of said chapter 119, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following three sentences:- If the court fails to make such findings the court shall state its reasons in writing and the commonwealth may appeal the decision of the court under the provisions of section twenty-eight E of chapter two hundred and seventy-eight. Any such appeal shall be taken within ten days after the courts failure to make such findings and further proceedings shall be stayed pending the entry of an order of the appellate court. If the time for the commonwealth to appeal expires, or if such appeal is denied then the court shall proceed on the delinquency complaint.

**SECTION 6.** The sixth paragraph of said section 61 of said chapter 119, as so appearing, is hereby further amended by inserting after the word "degree", in line 41, the words:- manslaughter, or any violation of section eighteen, twenty-two, twenty-two A or twenty-six of chapter two hundred and sixty-five, or section fourteen of chapter two hundred and sixty-six.

**SECTION 7.** Said chapter 119 is hereby further amended by striking out section 72, as so appearing, and inserting in place thereof the following section:-

Section 72. Courts shall continue to have jurisdiction in their juvenile sessions over children who attain their seventeenth birthday pending a hearing under section sixty-one of this chapter, or adjudication of their cases, or pending hearing and determination of their appeals, or during continuances or probation, or after their cases have been placed on file; and if a child commits an offense prior to his seventeenth birthday, and is not apprehended until between his seventeenth and eighteenth birthdays, the court shall deal with such child in the same manner as if he had not attained his seventeenth birthday, and all provisions and rights applicable to a child under seventeen shall apply to such child; provided, however, that if said child is charged with a violation of murder in the first or second degree, manslaughter, or any violation of section twenty-two, twenty-two A or twenty-six



of chapter two hundred and sixty-five and is not apprehended until after his eighteenth birthday the court shall immediately conduct a hearing under the provisions of section sixty-one.

Courts shall continue to have jurisdiction in their juvenile sessions over persons who attain their eighteenth birthday pending the determinations allowed under section sixty-one of this chapter, or pending adjudication of their cases, or pending hearing and determination of their appeals, or during continuances or probation, or after their cases have been placed on file. Nothing herein shall authorize the commitment or a person to the department of youth services after he has attained his nineteenth birthday, or give any court in its juvenile session any power or authority over a person after he has attained his nineteenth birthday.

If a child is adjudicated a delinquent by reason of having violated section one of chapter two hundred and sixty-five shall if the adjudication is for murder in the first degree such child shall be committed to a maximum confinement of twenty years. Such confinement shall be to the custody of the department of youth services in a secure facility until a maximum age of twenty-one years and thereafter shall be to the custody of the department of correction for the remaining portion of that commitment but in no case shall the confinement be for less than fifteen years and said child shall not be eligible for parole under section one hundred and thirty-three A of chapter one hundred and twenty-seven until said child has served fifteen years of said confinement. Thereafter said child shall be subject to the provisions of law governing the granting of parole permits by the parole board. If said child is adjudicated a delinquent by reason of having violated section one of chapter two hundred and sixty-five and if that adjudication is for murder in the second degree such child shall be committed to a maximum confinement of fifteen years. Such confinement shall be to the custody of the department of youth services in a secure facility until a maximum age of twenty-one years and thereafter to the custody of the department of correction for the remaining portion of that sentence, but in no case shall the confinement be for less than ten years and said child shall not be eligible for parole under section one hundred and thirty-three A of chapter one hundred and twenty-seven until said child has served ten years of said confinement. Thereafter said child shall be subject to the provisions of law governing the granting of parole permits by the parole board. Notwithstanding any other provisions of this section, if said adjudication is for manslaughter said child shall be committed to the custody of the department of youth services until he reaches twenty-one years of age.

**SECTION 8.** The first paragraph of subsection (a) of section 10 of chapter 120 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- In cases where a person has been adjudicated a delinquent for a violation of section one of chapter two hundred and sixty-five, the commissioner of youth services may, with the concurrence of the commissioner of correction,

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transfer the custody of said child to the department of correction, provided that such person has reached his eighteenth birthday.

**SECTION 9.** Section 27 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word "prison", in line 3, the words:- ; provided, however, that the juvenile court or the juvenile session of a district court shall have the power to commit a child adjudicated a delinquent by reason of having violated section one of chapter two hundred and sixty-five and sentenced in accordance with the provisions of section seventy-two of chapter one hundred and nineteen.

**SECTION 10.** Section 4 of chapter 263 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

A juvenile charged in juvenile court or in a juvenile session of a district court with delinquency by violation of section one of chapter two hundred and sixty-five, shall also have the right to be proceeded against by indictment.

**SECTION 11.** Section 28E of chapter 278 of the General Laws, as so appearing, is hereby amended by inserting after the word "cases", in line 3, the words:- and in all delinquency cases.

**SECTION 12.** Said section 28E of said chapter 278, as so appearing, is hereby further amended by striking out, in line 5, the word "or", - and by inserting after the word "evidence", in line 5, the words:- , or (3) denying a motion to transfer pursuant to section sixty-one of chapter one hundred and nineteen.

*Emergency Letter: December 31, 1991 @ 12:51 P.M. Approved December 31, 1991.*

**Chapter 489.            AN ACT RELATIVE TO THE ISSUANCE, USE AND ENFORCEMENT OF GENERAL REGISTRATIONS AND GENERAL REGISTRATION NUMBER PLATES ISSUED BY THE REGISTRAR OF MOTOR VEHICLES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide new procedures for the issuance and reissuance of general registration plates by the registrar of motor vehicles, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 25 of chapter 64H of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the third paragraph.

**SECTION 2.** Section 26 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the third paragraph.

**SECTION 3.** Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Dealer” and inserting in place thereof the following definition:-

“Dealer”, any person who is engaged principally and substantially in the business of buying, selling or exchanging motor vehicles or trailers or motor vehicle bodies who maintains a facility dedicated to carrying out said business and, except for a person who exchanges such vehicles on a wholesale basis, is open to the public.

**SECTION 4.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of “Established place of business” and inserting in place thereof the following definition:-

“Established place of business”, a permanently enclosed premises owned or leased exclusively by a repairman which is open to the general public. Unless said business is limited solely to the towing of motor vehicles or trailers for the public, said repairman shall possess the necessary tools and facilities reasonably necessary to conduct a repair business. If more than one business is located within the same building or structure and the other businesses are not owned or controlled by the same principals, the repair business shall maintain a separate and exclusive entrance.

**SECTION 5.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of “Farmer” and inserting in place thereof the following definition:-

“Farmer”, any person who is engaged principally or substantially in the occupation of farming or raising horses, livestock or poultry, excluding domestic pets, on land owned or controlled by him for an ultimate commercial purpose.

**SECTION 6.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of “Manufacturer” and inserting in place thereof the following definition:-

“Manufacturer”, any person who is engaged principally and substantially in the business of manufacturing motor vehicles, trailers, motor vehicle bodies or complete mechanical units for excavating or carrying materials and does not incidentally sell used motor vehicles.

**SECTION 7.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of “Owner-contractor” and inserting in place thereof the following definition:-

“Owner-contractor”, any person who is not a manufacturer, dealer or repairman who owns a fleet of ten or more vehicles, trailers, special mobile equipment, mobile construction cranes or combination thereof, which is used or leased exclusively by him in his principal business and who maintains an establishment with facilities for the repair, alteration or equipment of such vehicles or trailers.

**SECTION 8.** Said section 1 of said chapter 90, as so appearing, is hereby further

amended by striking out the definition of "Repairman" and inserting in place thereof the following definition:-

"Repairman", any person who is principally and substantially engaged in the business of repairing, altering, reconditioning, equipping or towing motor vehicles or trailers for the public and who maintains an established place of business, as defined in this section.

**SECTION 9.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Special mobile equipment" and inserting in place thereof the following definition:-

"Special mobile equipment", a motor vehicle which is principally designed to conduct excavations or lift building materials at a public or private construction site and is operated on a way for the sole purpose of transportation to or from said construction site and has a gross vehicle weight of at least twelve thousand pounds. This definition shall not include a motor vehicle which is designed to carry passengers, or any load, on a way.

**SECTION 10.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Transporter" and inserting in place thereof the following definition:-

"Transporter", any person principally and substantially engaged in the business of transporting or delivering motor vehicles under their own power not owned by him and who possesses a valid license for said business issued by the department of public utilities, or any person or agent thereof, licensed to engage in the business of financing the purchase of or insuring motor vehicles who is required to take into possession such motor vehicles by foreclosure or subrogation of title.

**SECTION 11.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Repossessor".

**SECTION 12.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Tow truck operator".

**SECTION 13.** Section 2 of said chapter 90, as so appearing, is hereby amended by striking out the thirteenth paragraph.

**SECTION 14.** Said chapter 90 is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. (a) The registrar may issue general registrations and general registration number plates in such form as he determines to any person engaged in the following occupations who meet the eligibility requirements stated in this chapter and the rules and regulations of the registry of motor vehicles:

- (1) manufacturer;
- (2) dealer;
- (3) repairman;
- (4) recreational vehicle and recreational trailer dealer;
- (5) boat and boat trailer dealer;

- (6) farmer;
- (7) owner-contractor;
- (8) transporter; and

(9) person involved in the harvesting of forest products as defined by the regulations of the registry of motor vehicles.

(b) No person shall be eligible for a general registration and general registration number plates unless said person holds the necessary license or permit required by any federal, state or local law for engaging in said occupation, and provides truthful and complete information in the application for general registrations and number plates in the form prescribed by the registrar.

(c) Unless prohibited by this chapter or any rule or regulation of the registry, any motor vehicle or trailer owned or controlled by any person who has been issued a general distinguishing registration number which properly displays the valid corresponding general registration number plate shall be regarded as registered under this chapter; provided however, that no motor vehicle or trailer so registered shall be loaned or let for hire for more than five consecutive days.

(d) An owner-contractor who has received a general registration and number plate may only operate or tow the following vehicles or trailers with said registration and number plate:

- (1) Any special mobile equipment as defined in section one;
- (2) A mobile construction crane as defined in said section one; and
- (3) Any other motor vehicle or trailer authorized by the rules and regulations of the registry.

A dealer in recreational vehicles and recreational vehicle trailers or a dealer in boats and boat trailers who has received such a registration and plate may only operate with said registration trailers owned by him and held for sale and demonstration.

A farmer who has received such a registration and plate may only operate or tow a vehicle or trailer under said registration and plate principally used for and dedicated to carrying on a farm related activity. Such registration and plate may not be used on a passenger motor vehicle.

A transporter, as defined in section one, who has received such a registration and plate may only operate with said registration a motor vehicle or trailer not owned by him and only in the course of such business.

(e) Except for a dealer, any person who owns a motor vehicle or trailer registered for operation with a general registration issued under this section shall apply to the registrar for a sticker or decal which indicates that said owner has complied with the requirements of chapters sixty-four H, sixty-four I and ninety D, with respect to each motor vehicle or trailer so registered.

(f) The registrar may make rules and regulations relative to the issuance, use and display of general registration numbers, number plates and stickers or decals

issued under this section. The registrar shall prescribe the form of a written voucher document which shall be carried on the person of any operator of a motor vehicle. A copy of said voucher shall be retained by said dealer on the licensed premises.

(g) Whoever makes a false statement in an application for a general registration and number plate shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not less than thirty days nor more than two years.

(h) In addition to any penalty provided by law, the registrar may suspend or revoke, after notice and an opportunity for a hearing, any general registration or number plate if he has reason to believe that the holder thereof has violated the provisions of this section or the rules and regulations of the registry made pursuant hereto.

**SECTION 15.** Section 9 of said chapter 90, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- A motor vehicle which is being towed or drawn by a motor vehicle designed to draw or tow such vehicles need not be so registered if (a) the towing vehicle is properly registered and displays a valid repair plate issued pursuant to section five, (b) said towing vehicle maintains insurance which also provides coverage for the motor vehicle being towed, and (c) said towing vehicle has been issued a certificate by the department of public utilities pursuant to paragraph (b) of section three of chapter one hundred and fifty-nine B.

**SECTION 16.** Section thirty-two I of said chapter ninety is hereby repealed.

**SECTION 17.** Subdivision (7) of section 33 of said chapter 90, as appearing in the 1990 Official Edition, is hereby amended by striking out the seventh and eighth paragraphs.

**SECTION 18.** Section 58 of chapter 140 of the General Laws is hereby amended by striking out the last two paragraphs, added by section 95 of chapter 653 of the acts of 1989.

**SECTION 19.** Notwithstanding any other provisions of this act, where the registrar has determined, after investigation, that a domestic corporation's commercial motor vehicles, trailers, and semi-trailers are engaged in interstate commerce under contract with the United States' Department of Defense, or outside of the commonwealth in states belonging to the International Registration Plan more than seventy-five percent of the time, the registrar may authorize that proportion of such vehicles registered in states belonging to the International Registration Plan to be operated on the ways of the commonwealth without registration therein until such time as the commonwealth becomes a participating member of the International Registration Plan.

**SECTION 20.** This act shall take effect as of January first, nineteen hundred and ninety-two.

Approved December 31, 1991.

**Chapter 490.            AN ACT RELATIVE TO SECURITIES ENFORCEMENT ACTIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 204 of chapter 110A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "order", in line 1, the words:- impose an administrative fine or censure or.

**SECTION 2.** Subsection (a) of said section 204 of said chapter 110A, as so appearing, is hereby amended by striking out clauses (F) and (G) and inserting in place thereof the following two clauses:-

(F) is the subject of any of the following orders which are currently effective or which were issued within the last five years;

(i) an order by the securities agency or administrator of another state, Canadian province or territory, or the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a broker dealer, agent or investment advisor, or the substantial equivalent of those terms as defined in this chapter;

(ii) a suspension or expulsion from membership in an association with a self regulatory organization registered under the Securities Exchange Act of 1934 or the Commodities Exchange Act;

(iii) a United States Postal Service fraud order;

(iv) a cease and desist order entered after notice and opportunity for hearing by the secretary or the securities agency or administrator of any other state, Canadian province or territory, the Securities and Exchange Commission, or the Commodity Futures Trading Commission; or

(v) an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act;

(G) has engaged in any unethical or dishonest conduct or practices in the securities, commodities or insurance business.

**SECTION 3.** Section 407A of said chapter 110A, as so appearing, is hereby amended by striking out the caption preceding said section and inserting in place thereof the following caption:-

Violations; Cease and Desist Orders; Costs.

**SECTION 4.** Said section 407A of said chapter 110A, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) If the secretary determines, after notice and opportunity for hearing, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order issued thereunder, he may order such person to cease and desist from such unlawful act or practice

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and may take such affirmative action, including the imposition of an administrative fine, the issuance of an order for an accounting, disgorgement or rescission or any other such relief as in his judgment may be necessary to carry out the purposes of this chapter. No administrative fine imposed pursuant to this chapter shall exceed ten thousand dollars for each violation.

**SECTION 5.** Said section 407A of said chapter 110A, as so appearing, is hereby further amended by adding the following subsection:-

(d) a registrant, applicant for registration, issuer or other person upon whom the secretary has conducted an examination, audit, investigation or adjudicatory proceeding who has been found to have violated the provisions of this chapter shall pay for all the costs incurred in the conduct of such examination, audit, investigation or proceeding. Such costs shall include, but not be limited to, the salaries and other compensation paid to clerical, administrative, investigative and legal personnel of the secretary in the conduct of such examination, audit, investigation or adjudicatory proceeding.

**SECTION 6.** Section 408 of said chapter 110A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Upon a proper showing, the court may grant a preliminary or permanent injunction or a temporary restraining order and may order an accounting, disgorgement, rescission and such other relief as may be in the public interest, including but not limited to the appointment of a receiver or conservator for the defendant or the defendant's assets.

**SECTION 7.** Subsection (e) of section 410 of said chapter 110A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person may sue under this section more than four years after the discovery by the person bringing the action of a violation of this chapter or any rule promulgated or order issued thereunder.

*Emergency Letter: January 30, 1992 @ 3:22 P.M. Approved December 31, 1991.*

**Chapter 491.****AN ACT AUTHORIZING THE MASSACHUSETTS WATER RESOURCES AUTHORITY TO SELL, LEASE OR DISPOSE OF CERTAIN REAL PROPERTY WITHOUT PRIOR APPROVAL OF THE GOVERNOR AND THE GENERAL COURT.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of paragraph (d) of section nine of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four or any other general or special law to the contrary, the Massachusetts Water Resources Authority shall not be required to obtain prior approval of the governor and the



general court to sell, lease or dispose of any interest in a certain parcel of land with buildings thereon situated in the town of Dedham, known and numbered as 26 Commonwealth Avenue and shown as lot numbered one hundred sixty-six B on a plan drawn by E. Worthington, Engineer dated January fourth, nineteen hundred and twenty-nine, as approved by the Land Court, filed in the Land Registration Office as No. 2045W, a copy of a portion of which is filed in Norfolk Registry District with Certificate NO. 13022, Book 66, bounded and described as follows:

southwesterly by Commonwealth Avenue, as shown on said plan, eighty-eight and 94/100 (88.94) feet;

northwesterly by the junction of said Commonwealth Avenue and Riverview Street, as shown on said plan, forty-two and 92/100 (42.92) feet;

northerly by said Riverview Street, fifty-five and 51/100 (55.51) feet;

easterly by lot numbered one hundred sixty-seven, as shown on said plan, ninety (90) feet; and

southeasterly by lot numbered one hundred sixty-five, as shown on said plan, twenty-eight and 47/100 (28.47) feet.

Said sale, lease or disposition shall not impair the maintenance and operation of said authority's sewer and waterworks systems.

Approved December 31, 1991.

## **Chapter 492. AN ACT RELATIVE TO THE PLACEMENT OF CHILDREN IN FOSTER CARE.**

*Be it enacted, etc., as follows:*

Section 23 of chapter 119 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first paragraph the following four paragraphs:-

Whenever a child is placed in a foster home, or is transferred from one foster home to another, or from a state facility for the care of children to a foster home, a completed child profile form shall precede or accompany the child to the foster home.

In the case of an emergency placement, such child profile form shall be received by the foster parents from the department, the department of youth services, the department of mental health, other departments of the commonwealth responsible for the placement of foster children, or placement agency within ten days of the child's placement in the foster home. At the time of an emergency placement, the department, the department of youth services, the department of mental health, other departments of the commonwealth responsible for the placement of foster children, or placement agency shall provide to the foster parents, in verbal or

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written form, a brief statement describing the child's outstanding problem behaviors and mental and emotional problems.

The department shall develop a child profile form which shall be used by all other departments of the commonwealth or placement agencies and which shall contain the child profile and any other relevant information necessary to the care, well-being, protection, and parenting of the child by the foster parents. Said child profile shall contain, but not be limited to, a history of the child's previous placements and reasons for placement changes; a history of the child's problem behaviors and mental and emotional problems; educational status and school related problem behaviors, and any other psychological, educational, medical, and health information necessary.

The child profile form shall immediately be prepared by the department of the commonwealth which is granted care and custody of the child at the time such care and custody is granted.

Approved December 31, 1991.

**Chapter 493.           AN ACT RELATIVE TO EMERGENCY EDUCATIONAL ASSISTANCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain other activities and projects, the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise in the items, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one for the fiscal year ending June thirtieth, nineteen hundred and ninety-two or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.**

Item

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE**

*Miscellaneous*

1599-0000 For	Emergency Educational Assistance to cities, towns, regional school districts, and county agricultural schools, to be distributed in accordance with section four of this act	\$30,000,000
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**EXECUTIVE OFFICE OF EDUCATIONAL AFFAIRS***Office of the Secretary*

7066-1010 For fiscal year nineteen hundred and ninety-two reimbursements to certain cities and towns or regional school districts for losses incurred under the provisions of the school choice law financing provision, section three hundred and four of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one provided, however, that the amount of such reimbursement for any city or town or regional school district shall be limited to fifty percent of the loss of so-called chapter 70 funds due to the provisions of said section three hundred and four except in the case of any such city, town or regional school district which incurs a loss equal to or greater than two percent of its total school budget in which case said limit shall be seventy-five percent; provided, further, that to qualify for such reimbursement a community or regional school district shall submit an application for such reimbursement to the secretary of education on or before January twenty-third, nineteen hundred and ninety-two together with an educational corrective action plan containing information, recommendations and suggestions relative to (1) areas needing improvement within the school system of the applicant, (2) methods of improvement to be employed, (3) goals and objectives of said improvement, (4) evaluation and control methods to be used, (5) personnel to be engaged in such improvement, (6) results intended to be accomplished within one year from the date of application, and (7) methods of increasing parental involvement to be employed; provided, further, that approval of said plan by said secretary shall act as a condition precedent to the distribution of funds from this item to the applicant community or regional school district; provided, further, that after all of the above obligations have been met any remaining balance in this account may be transferred to item 0610-1500 of section two of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one for the purpose of reimbursing said item for payments made on behalf of students residing within a city, town or regional school district which does not receive any so-called chapter 70 funds during fiscal year nineteen hundred and ninety-two \$2,700,000

**SECTION 3.** Chapter 222 of the acts of 1991 is hereby amended by striking out section 5A and inserting in place thereof the following section:-

*Section 5A.* Section 2 of chapter 138 of the acts of 1991 is hereby amended by inserting after item 9749-0100 the following item:-

9749-0200 For the expenses of the study authorized by section forty-three of chapter one hundred and forty-two of the acts of nineteen hundred and ninety-one; provided, however, that the expenditure of funds appropriated herein shall be contingent on the prior receipt of private donations equal to or greater than said expenditure; provided, further, that said donations shall be deposited into the General Fund \$100,000

**SECTION 4.** The division of local services within the department of revenue shall develop and promulgate regulations in consultation with the department of education pursuant to the provisions of chapter thirty A of the General Laws to provide for the disbursement of emergency educational assistance funds, as provided for in section two of this act, no later than January thirteenth, nineteen hundred and ninety-two; provided, however, that no city, town, regional school district or county agricultural school shall apply for said assistance until such regulations are promulgated. The regulations shall require that the receiving city, town, regional school district or county agricultural school be required to repay to the commonwealth, in each of five successive fiscal years beginning with fiscal year nineteen hundred and ninety-three, an amount equal to ten percent of the amount of emergency aid received pursuant to this section for fiscal year nineteen hundred and ninety-two; provided, however, that the foregoing repayment obligation shall be forgiven in any year when the amount of chapter seventy school aid does not increase, over the amount of such chapter seventy aid received for the preceding year, by an amount equal to at least ten percent of the amount of the emergency aid actually received pursuant to this section in fiscal year nineteen hundred and ninety-two; provided, further, that such regulations shall determine repayment procedures for regional school districts. Such regulations shall further require that the department of education certify, after study and analysis, that a serious educational emergency exists in an applicant city, town, regional school district, or county agricultural school, in order for such applicant to qualify for such assistance. Such regulations shall further state criteria for qualification for such emergency assistance, and the purposes for which such money may be expended, which shall include remediation of the condition or conditions outlined in clauses (a) to (c), inclusive, of this section and shall be limited to reasonable expenditures approved by the division of local services and the department of education as necessary and feasible to alleviate the educational emergency during the current fiscal year. Said criteria for qualification for emergency assistance shall include, but not be limited to, at least one of the following: (a) a decline in per-pupil spending from the preceding school year; (b) regular education classrooms with thirty-five or more students; or (c) shortages of textbooks and other instructional materials. At least eighty percent of the funds appropriated for emergency educational assistance shall be made available to cities, towns, regional school districts, and

county agricultural schools currently receiving equal education opportunity grants. Such regulations shall further provide the following: that no portion of aid received shall supplant funds previously approved by cities, towns, or the members of said regional school districts, or the appropriating body of such county agricultural school for the use of the public schools in the current school year; that no portion of such aid shall be expended for the purpose of paying for educational administrative costs in any city, town, regional school district or county agricultural school, except in unusual and compelling circumstances approved by the division of local services and the department of education; that the finance or fiscal control board shall approve expenditures of amounts received pursuant to this section; and that the local appropriating authority, as defined in section twenty-one C of chapter fifty-nine of the General Laws, shall submit applications for aid pursuant to this section; provided, however, that the application of a regional school district shall require the approval of a two-thirds vote of the local appropriating authorities of the member municipalities. Such regulations shall also include a requirement for the filing of a report with said departments by any city, town, regional school district or county agricultural school which receives said emergency assistance funds, with said report to include a detailed list of emergency assistance expenditures and the impact of emergency assistance.

**SECTION 5.** This act shall take effect upon its passage.

Approved December 31, 1991.

**Chapter 494.      AN ACT RELATIVE TO MITIGATING THE EFFECTS OF  
INTERNAL REVENUE SERVICE REGULATIONS CONCERN-  
ING SOCIAL SECURITY COVERAGE FOR PART TIME  
EMPLOYEES OF THE COMMONWEALTH AND ITS PO-  
LITICAL SUBDIVISIONS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide for participation in a deferred compensation plan that will meet the requirements of regulations promulgated by the Internal Revenue Service, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 64 of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following three paragraphs:-

The state treasurer, on behalf of the commonwealth, shall contract with every

person, who is receiving compensation from the commonwealth for services performed for the commonwealth and who is not eligible for membership or has exercised an option not to participate in the state retirement system set forth in chapter thirty-two, to defer a portion of that person's compensation, and shall invest the deferred portion of that person's income in a deferred compensation program established in accordance with said Code. For persons holding positions which would have rendered the holder of the position eligible for participation in the commonwealth's deferred compensation program on November fifth, nineteen hundred and ninety, the state treasurer shall contract for plan years prior to January first, nineteen hundred and ninety-three, to defer six percent of that person's regular compensation, as defined in section one of chapter thirty-two for the period subsequent to December thirty-first, nineteen hundred and forty-five, but no greater than the maximum deferral allowable for that person pursuant to the provisions of said Code for government deferred compensation programs. For persons holding positions which would not have rendered the holder of the position eligible for participation in the commonwealth's deferred compensation program on November fifth, nineteen hundred and ninety, the state treasurer shall contract to defer seven and one-half percent of that person's regular compensation, as defined in said section one of said chapter thirty-two for the period subsequent to December thirty-first, nineteen hundred and forty-five, but no greater than the maximum deferral allowable for that person pursuant to the provisions of said Code for government deferred compensation programs.

Notwithstanding the provisions of this section, the state treasurer need not contract with any part-time, seasonal or temporary employee not required by said Code to participate in a public retirement system. All contracts formed with part-time, seasonal or temporary employees pursuant to the provisions of the previous paragraph shall entitle the employee to a single-sum distribution of the employee's deferrals plus reasonable interest.

Nothing in this section shall be construed to create or grant any rights not previously enjoyed under chapter thirty-two A or one hundred and fifty E.

**SECTION 2.** Said chapter 29 is hereby further amended by inserting after section 64C the following section:-

Section 64D. Any governmental body, as defined in section sixty-four B, may require any person, who is receiving compensation from the governmental body for services performed and who is not a member of a retirement system as provided under chapter thirty-two or any other retirement system which meets the requirements of Section 3121 (b)(7)(F) of the Internal Revenue Code and the regulations promulgated thereunder, to participate in the deferred compensation program established with regard to the governmental body, or tax sheltered annuity or any other defined contribution plan. The treasurer, or if there is no treasurer, the chief financial officer by whatever name that person is called, on

behalf of a governmental body which has accepted the provisions of this section shall contract with any person, who is receiving compensation from the governmental body for services performed for the governmental body and who is not eligible for membership in the retirement system set forth in said chapter thirty-two that pertains to the governmental body, to withhold from that person's compensation at least such amounts as are necessary to provide the minimum level of benefits required to qualify said deferred compensation program, tax sheltered annuity or other defined contribution plan as a retirement system for said person as defined under said Section 3121 (b)(7)(F) of said Code and the regulations promulgated thereunder but no greater than permitted under other provisions of the Internal Revenue Code.

All contracts formed with part-time, seasonal or temporary employees pursuant to the provisions of the first paragraph shall entitle the employee to a single-sum distribution of the employee's deferral plus reasonable interest.

A governmental body may accept the provisions of this section by a majority vote of the selectmen for a town, the city council for a city, the county council for a county, the district members in a district, the members of the authority in an authority, and the governing body, by whatever name and in whatever form composed, in any other political subdivision, body politic and corporate, or public instrumentality created by the commonwealth.

Any governmental body already requiring, on the effective date of this act, participation in a public retirement system for persons who are receiving compensation from the governmental body for services performed and who are not members of a retirement system as provided under said chapter thirty-two shall be deemed to have accepted the provisions of this section without the requirement of a majority vote of the selectmen for a town, the city council for a city, the county council for a county, the district members in a district, the members of the authority in an authority, and the governing body, by whatever name and in whatever form composed, in any other political subdivision, body politic and corporate, or public instrumentality created by the commonwealth.

**SECTION 3.** Chapter 32 of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. Notwithstanding the provisions of any general or special law to the contrary, a person receiving compensation from the commonwealth for services performed for the commonwealth who is not eligible for membership in the state retirement system shall be subject to the provisions of section sixty-four of chapter twenty-nine.

**SECTION 4.** Section 34A of chapter 235 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words "or individual retirement account".

**SECTION 5.** Said section 34A of said chapter 235, as so appearing, is hereby

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further amended by inserting after the figure "1974", in line 4, the words ", or in an individual retirement account established and maintained in accordance with section 408 of the Internal Revenue Code as codified at 26USC408".

Approved December 31, 1991.

**Chapter 495. AN ACT IMPROVING HEALTH CARE ACCESS AND FINANCING.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide affordable health care to citizens of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 6A of the General Laws is hereby amended by striking out section 31, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 31. As used in sections thirty-two to seventy-seven, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Charge", the uniform price for each specific service within a revenue center of a hospital.

"Commission", the rate setting commission established under section thirty-two.

"Community health centers", health centers operating in conformance with the requirements of Section 330 of United States Public Law 95-626, as most recently amended by Public Law 97-35, and shall include all community health centers which file cost reports as requested by the commission.

"Eligible person", a person who qualifies for financial assistance from a governmental unit in meeting all or part of the cost of general health supplies, care or rehabilitative services and accommodations.

"General health supplies, care or rehabilitative services and accommodations", all supplies, care and services of medical, optometric, dental, surgical, podiatric, psychiatric, therapeutic, diagnostic, rehabilitative, supportive or geriatric nature, including inpatient and outpatient hospital care and services, and accommodations in hospitals, sanatoria, infirmaries, convalescent and nursing homes, retirement homes, facilities established, licensed or approved pursuant to the provisions of chapter one hundred and eleven B and providing services of a medical or health-related nature, and similar institutions including those providing treatment, training, instruction and care of children and adults; provided, however, that



rehabilitative service shall include only rehabilitative services of a medical or health-related nature which are eligible for reimbursement under the provisions of Title XIX of the Social Security Act.

"Governmental unit", the commonwealth, any department, agency board or commission of the commonwealth, and any political subdivision of the commonwealth.

"Gross patient service revenue", the total dollar amount of a hospital's charges for services rendered in a fiscal year.

"Hospital", any hospital licensed under section fifty-one of chapter one hundred and eleven, the teaching hospital of the University of Massachusetts Medical School and any psychiatric facility licensed under section nineteen of chapter nineteen.

"Hospital agreement", an agreement between a nonprofit hospital service corporation and the hospital signatory thereto approved by the commission under section five of chapter one hundred and seventy-six A.

"Nonacute hospital", any hospital which is not an acute hospital.

"Patient", any natural person receiving health care service from a hospital.

"Provider of health care services", any person, corporation partnership, governmental unit, state institution or other entity which furnishes general health supplies, care or rehabilitative services and accommodations to an eligible person.

"Purchaser", a natural person responsible for payment for health care services rendered by a hospital.

"Revenue center", a functioning unit of a hospital which provides distinctive services to a patient for a charge.

"State institution", any hospital, sanatorium, infirmary, clinic and other such facility owned, operated or administered by the commonwealth, which furnishes general health supplies, care or rehabilitative services and accommodations.

**SECTION 2.** Section 32 of said chapter 6A, as so appearing, is hereby amended by striking out, in line 2, the word "shall" and inserting in place thereof the words:- except as provided in chapter six B, shall.

**SECTION 3.** Section thirty-two B of said chapter six A, inserted by section three of chapter twenty-three of the acts of nineteen hundred and eighty-eight, is hereby repealed.

**SECTION 4.** Section thirty-two C of said chapter six A is hereby repealed.

**SECTION 5.** Section 36 of said chapter 6A, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the word "Any" and inserting in place thereof the words:- Except for rates established pursuant to chapter six B, any.

**SECTION 6.** Sections fifty-nine to sixty-four, inclusive, of said chapter six A are hereby repealed.

**SECTION 7.** The first paragraph of section 65 of said chapter 6A, as appearing

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in the 1990 Official Edition, is hereby amended by striking out the second and third sentences.

**SECTION 8.** Said section 65 of said chapter 6A, as so appearing, is hereby further amended by striking out the last paragraph.

**SECTION 9.** Sections sixty-five A to seventy, inclusive, of said chapter six A are hereby repealed.

**SECTION 10.** Section seventy-six of said chapter six A is hereby repealed.

**SECTION 11.** Sections seventy-eight to one hundred and two, inclusive, of said chapter six A are hereby repealed.

**SECTION 12.** The General Laws are hereby further amended by inserting after chapter 6A the following chapter:-

**CHAPTER 6B.**

**ACUTE HOSPITAL FINANCE.**

Section 1. As used in this chapter, the following words shall unless the context clearly requires otherwise have the following meanings:-

“Actual costs”, all direct and indirect costs incurred by a hospital or a community health center in providing medically necessary care and treatment to its patients, determined in accordance with generally accepted accounting principles.

“Acute hospital”, a hospital licensed under section fifty-one of chapter one hundred and eleven and the teaching hospital of the University of Massachusetts Medical School, which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department of public health.

“Case mix”, the description and categorization of a hospital’s patient population according to criteria approved by the commission including, but not limited to, primary and secondary diagnoses, primary and secondary procedures, illness severity, patient age and source of payment.

“Charge”, the uniform price for each specific service within a revenue center of an acute hospital established in accordance with section seven.

“Commission”, the rate setting commission established under section thirty-two of chapter six A.

“Community health centers”, health centers operating in conformance with the requirements of section 330 of the United States Public Law 95-626, as most recently amended by Public Law 97-35, and shall include all community health centers which file cost reports as requested by the commission.

“Comprehensive cancer center”, the hospital of any institution so designated by the national cancer institute under the authority of 42 USC sections 408(a) and 408(b) organized solely for the treatment of cancer, and offered exemption from the medicare diagnosis related group payment system under 42 C.F.R. 405.475(f).

“Disproportionate share hospital”, any acute hospital that exhibits a payer mix where a minimum of sixty-three percent of the acute hospital’s gross patient service revenue is attributable to Title XVIII and Title XIX of the federal Social Security Act

other government payors and free care.

"DRG", a patient classification scheme which provides a means of relating the type of patients a hospital treats, such as its case mix, to the cost incurred by the hospital.

"Financial requirements", a hospital's requirement for revenue which shall include, but not be limited to, reasonable operating, capital and working capital costs, the reasonable costs of depreciation of plant and equipment and to reflect reasonable costs associated with changes in medical practice and technology.

"Fiscal year", the twelve month period with reference to which a hospital keeps its accounts and which ends in the calendar year by which it is identified.

"Free care", unpaid hospital charges of medically necessary services to (1) patients deemed financially unable to pay, in whole or in part, for their care, pursuant to regulations of the department of medical security; (2) uninsured patients who receive emergency care in a hospital emergency room or who receive other hospital care associated with such emergency care services, for which the costs have not been collected after reasonable efforts pursuant to regulations of the department of medical security; or (3) patients in situations of medical hardship where major expenditures for health care have depleted or can reasonably be expected to deplete the financial resources of the individual to the extent that medical services will be unpaid, as determined pursuant to the regulations of the department of medical security. For purposes of this section, "emergency care" shall include, but not be limited to, hospital services provided after sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity including, but not limited to, severe pain of which the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part, examination or treatment for emergency medical condition or active labor in women or any such other service rendered to the extent required pursuant to 42 USC 1395(dd).

"Gross inpatient service revenue", the total dollar amount of a hospital's charges for inpatient services rendered in a fiscal year.

"Gross patient service revenue", the total dollar amount of a hospital's charges for services rendered in a fiscal year.

"Medically necessary services", medically necessary inpatient and outpatient services as mandated under Title XIX of the Federal Social Security Act; provided, however, that "medically necessary services" shall not include: (1) nonmedical services, such as social, educational, and vocational services; (2) cosmetic surgery; (3) canceled or missed appointments; (4) telephone conversations and consultations; (5) court testimony; (6) research or the provision of experimental or unproven procedures including, but not limited to, treatment related to sex-reassignment surgery, and pre-surgery hormone therapy; and (7) the provision

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of whole blood; provided, however, that administrative and processing costs associated with the provision of blood and its derivatives shall be payable.

"Patient", a person receiving health care services from a hospital.

"Publicly aided patient", a person who receives hospital care and services for which a governmental unit is liable, in whole or in part, under a statutory program of public assistance.

"Purchaser", a natural person responsible for payment for health care services rendered by a hospital.

"Sole community provider", any acute hospital which qualifies as a sole community provider under medicare regulations or under regulations promulgated by the rate setting commission.

"Specialty hospital", an acute hospital qualifying as exempt from the medicare prospective payment system regulations or any acute hospital which limits its admissions to patients under active diagnosis and treatment of eyes, ears, nose and throat or to children or patients under obstetrical care.

"State institution", a hospital, sanatorium, infirmary, clinic and other such facility owned, operated or administered by the commonwealth, which furnishes general health supplies, care or rehabilitative services and accommodations.

"Third party payer", an entity including, but not limited to, Title XVIII and Title XIX programs, other governmental payers, insurance companies, health maintenance organizations and nonprofit hospital service corporations; provided, however, that "third party payer" shall not include a purchaser responsible for payment, either to the purchaser or to the hospital, for health care services rendered by a hospital.

"Uninsured patient", a patient who is not covered by a health insurance plan as defined in section two of chapter one hundred and eighteen F, a self-insurance health plan, as defined in such section, or a medical assistance program, as defined in such section.

Section 2. (a) All rates of payment to acute hospitals under Title XIX of the Federal Social Security Act shall be established by contract between the provider of acute hospital services and the department of public welfare, except as provided in subparagraphs (b) and (c). All rates shall be subject to all applicable Title XIX statutory and regulatory requirements.

(b) For disproportionate share hospitals, the commission shall establish rates that equal the financial requirements of providing care to recipients of medical assistance.

(c) The commission shall establish rates of payment which shall apply to emergency services and continuing emergency care provided in acute hospitals to medical assistance program recipients, including examination or treatment for an emergency medical condition or active labor in women or any other care rendered to the extent required by 42 USC 1395(dd), unless such services are provided

pursuant to an agreement between the department of public welfare and the acute hospital. Such rates of payment shall reflect the reasonable costs of providing such care and shall take into account the characteristics of the hospital in which such care is provided including, without limitation, its status as a teaching hospital, specialty hospital, disproportionate share hospital or sole community provider. An acute hospital shall, where a medical assistance program recipient requires, post emergency room care and, after screening and stabilizing the patient's condition, notify the department or its designated representative and assist said department, to the extent possible, in transferring the recipient to an appropriate medical setting in accordance with department's direction.

Nothing herein shall require the hospital to breach its obligation under, or require the recipient to forego any right to refuse transfer pursuant to 42 USC 1395(dd). Where an acute hospital is unable to or prohibited by law or regulation from transferring the patient in accordance with the department's direction, said department shall pay for any and all care associated with the patient's treatment including, but not limited to, care or services provided in the emergency room or inpatient or outpatient setting. Whenever the department is required to pay for such care rendered in a nonemergency room setting, said department shall pay all reasonable costs for such services in such hospital, as determined by the commission pursuant to this chapter and consistent with the provisions of Title XIX laws.

(d) No acute hospital may charge to a governmental unit for services provided to publicly aided patients at a rate higher than the rate payable by the department of public welfare under Title XIX for the same service, unless such service is provided by said department pursuant to a unique arrangement such as a selective contract or a managed care contract.

(e) Nothing in this chapter shall be construed to conflict with the provisions of a waiver of otherwise applicable federal requirements which the department of public welfare may obtain from the secretary of health and human services for the purpose of implementing a primary care case management system for delivering services, or for the purpose of implementing any other type of managed care service delivery system in which the eligible recipient is directed to obtain services exclusively from one provider or one group of providers.

(f) If the department of public welfare contracts with any third party payer for the provision of medical benefits for medical assistance recipients under Title XIX, said department shall assure that on a quarterly basis such contracted third party payers notify each acute hospital of the number of inpatient days of service provided by the hospital to such recipients covered by such contracts.

Section 3. No acute hospital shall deny access to care and services which the hospital would provide under chapter one hundred and eighteen E to recipients of benefits under chapter one hundred and seventeen A.

Section 4. Except to the extent prohibited by federal law or regulation, any third party payer shall have the option to require utilization review for acute hospital admissions and continued acute hospital stays, as well as ancillary services and outpatient services, if applicable. The payer shall have the option to contract with a medical peer review organization or the acute hospital to perform utilization review or to conduct its own utilization review. A medical peer review organization may also contract with acute hospitals to perform review on a delegated basis. In any such hospital performing reviews on a delegated basis, the medical peer review organization shall monitor the effectiveness of such hospital's review plans to determine whether continued delegation is warranted. The utilization review process shall provide for the timely notification of patients by the third party payer that further services are deemed inappropriate or not medically necessary. Such notification shall inform the patient that the patient's third party payer will cease coverage after a stated period from the date of such notification. No third party payer shall be liable for charges for acute hospital services provided subsequent to the end of the notification period, except that the Medicaid program under Title XIX shall be liable for appropriate payments consistent with the provisions of Title XIX for acute hospital services for Title XIX recipients.

Nothing contained in this section shall be construed to authorize a third party payer or other person, other than through the use of persons licensed to practice medicine, with or without the assistance of other licensed health care personnel, or through the use of licensed health care personnel under the guidance of persons licensed to practice medicine, to conduct utilization review.

Section 5. Nothing in this chapter shall be construed to authorize any person not licensed to practice medicine to exercise supervision or control over the practice of medicine or the manner in which medical services are provided, except as provided in section four.

Section 6. A hospital aggrieved by any action or failure to act by the commission under this chapter or the department of medical security, under chapter one hundred and eighteen F, may file an appeal pursuant to the provision of section thirty-six of chapter six A.

Section 7. All purchasers and third party payers may enter into contractual arrangements with acute hospitals for services. No such arrangement, including but not limited to prices or charges which may be charged for non-contracted services or which may be negotiated in individual contracts between such purchasers or third party payers and such acute hospitals, shall be subject to prior approval by any public agency; provided, however, that charges established by an acute hospital for health care services rendered shall be uniform for all patients receiving comparable services.

Section 8. There is hereby established the hospital payment system advisory commission, hereinafter known as "HospPAC", to be composed of seven members

appointed by the governor one of whom shall be an attorney at law proficient in the areas of anti-trust and contract law; one of whom shall have knowledge and experience in the area of hospital financial management; and the remainder of whom shall be selected from among recognized experts in the fields of health economics, general management and economics, public health policy, or medical science and practice. The governor shall appoint one member to serve as chairman.

Two HospPAC members shall be first appointed to terms of one year. Two HospPAC members shall be first appointed to terms of two years, and three members first appointed shall be appointed to terms of three years. All subsequent appointments shall be for a term of three years.

HospPAC may appoint an executive director to serve at its pleasure, who may employ a qualified staff. Such director and staff shall not be subject to provisions of chapter thirty-one. HospPAC may point advisory committees of knowledgeable experts and interested parties to assist it in carrying out its duties and may enter into agreements for services of attorneys at law, accountants, financial experts and other consultants as it deems necessary and appropriate.

The annual budget of HospPAC and the compensation for its staff shall be set by appropriation. Any such appropriation shall be reimbursed, directly through assessments to acute hospitals and public and private grant funds as may be secured. Meetings shall be governed by section eleven A 1/2 of chapter thirty A. Records of reports shall be public records as defined by the twenty-sixth clause of section seven of chapter four and shall be disclosed in accordance with the provisions of chapter sixty-six.

The department of public health, department of public welfare, department of medical security, the rate setting commission and the division of insurance shall provide relevant data to HospPAC except where prohibited by law from releasing such data. Where necessary to perform its function, HospPAC may require the collection of additional data through the rate setting commission, or through other agencies pursuant to their data collection authority.

The principal duties of HospPAC shall be as follows:

(i) to oversee and evaluate in an advisory capacity to the rate setting commission the implementation of the hospital rates of payment for disproportionate share hospitals pursuant to section two;

(ii) to annually evaluate rates of payment contracted by the department of public welfare pursuant to section two to ensure that such rates do not jeopardize access to necessary hospital services of appropriate scope and quality in the commonwealth, with particular attention to services provided by facilities recognized by the rate setting commission as sole community providers, disproportionate share hospitals and specialty hospitals;

(iii) to assess adherence by payers and providers to recognized fair market contracting standards and to propose to the general court, whenever deemed

appropriate, additional safeguards to prevent unfair or discriminatory contracting or pricing practices;

(iv) make an assessment of the determination of need program in the commonwealth and submit recommendations, as deemed necessary, by July fifteenth, nineteen hundred and ninety-two, to the legislature to repeal or modify such program to make it consistent with the hospital payment environment established by this act, including, but not limited to, the impact, if any, of the proximity to state borders on the competitive position of health care facilities.

Section 9. Each acute hospital shall pay to the commonwealth an amount for the estimated expenses of the commission. Such amount shall be equal to the amount appropriated by the general court for the purposes of the commission each year multiplied by the ratio of the hospital's gross patient service revenues to the total of all such hospital's gross patient service revenues. On October first of each year each acute hospital shall make a preliminary payment to the commission of an amount equal to one-half of the previous year's total assessment. Thereafter, each hospital shall pay, within thirty days notice from the commission, the balance of the total assessment for the current year based upon its most current projected gross patient service revenue. The commission shall subsequently adjust the assessment for any variation in actual and estimated expenses of the commission and for changes in hospital gross patient service revenue. Such estimated and actual expenses shall include an amount equal to the cost of fringe benefits as established by the commissioner of administration pursuant to section six B of chapter twenty-nine. In the event of late payment by any such hospital, the treasurer shall advance the amount of due and unpaid funds to the commission prior to the receipt of such monies in anticipation of such revenues up to the amount authorized in the then current budget attributable to such assessments, and the commission shall reimburse the treasurer for such advances upon receipt of such revenues. The provisions of this paragraph shall not apply to any state institution or to any acute hospital which is operated by a city or town.

Section 10. The commission shall, by regulation, designate information necessary to effect the purposes of this chapter including, without limitation, the filing of a charge book, the filing of cost data and audited financial statements, and the submission of merged billing and discharge data. Further, said commission shall, by regulation, designate standard systems for determining, reporting and auditing volume, case-mix, proportion of low income patients and any other information necessary to permit the commission to effect the purposes of this chapter and to prepare reports comparing acute care hospitals in terms of cost, utilization and outcome. Such regulations may not require information in excess of that which is necessary to serve reasonably the purpose of collection and shall avoid imposing duplicative or prohibitively expensive reporting requirements. Such regulations may require acute hospitals to file required information and data



by electronic means; provided, however, that the commission shall allow reasonable waivers from such requirement.

The commission shall, at least annually, publish a report analyzing such comparative information for the purpose of assisting third-party payers and other purchasers of health services in making informed decisions. Such report shall contain comparative price and service information relative to outpatient mental health services.

The commission shall work with other agencies including, without limitation, the departments of public health, mental health and public welfare and the division of insurance to collect and disseminate data concerning the cost of health insurance in the commonwealth and the health status of individuals. Said commission shall work with such other agencies to publish such data and to make it available to the public.

Section 11. For purposes of this section, unless specifically noted otherwise, the terms used herein shall have the same definitions as provided in section two of chapter one hundred and eighteen F.

(1) There shall be a separate and identifiable uncompensated care fee assessed by acute hospitals on all accounts charged to purchasers and third party payers exclusive of Titles XVIII and XIX and publicly aided patients, payment of which shall be required in full, in addition to any other payments for services established pursuant to contract or otherwise. Such uncompensated care fee shall reflect the product of the uncompensated care percentage to be calculated by the commission and the charges for patient care services on such accounts; provided, however, that such charges shall appear on each such account notwithstanding the actual amount of payments for such services established pursuant to contract or otherwise. The proceeds of such fees shall be deposited into the fund established pursuant to section seventeen of chapter one hundred and eighteen F.

(2) For each fiscal year, the commission shall calculate the uncompensated care percentage on a prospective basis using available information and such percentage need not be recalculated thereafter except at the commission's discretion. The percentage so calculated shall equal the ratio of the uncompensated care liability of purchasers and third party payers for said fiscal year, as determined by the general court, to the estimated charges to purchasers and third party payers for patient care services for said fiscal year, exclusive of charges to Titles XVIII and XIX and publicly aided patients and eligible free care charges.

(3) In establishing the percentage on a prospective basis, the commission shall require each acute hospital to file a schedule thirty days before the beginning of the fiscal year with the rate setting commission, setting forth estimated patient care charges to purchasers and third party payors exclusive of Titles XVIII and XIX and publicly aided patients and eligible free care charges for said fiscal year. The commission shall review said projected charges for reasonableness, taking into

account the hospital's actual charges to said purchasers and third party payers for the current fiscal year. The commission may update this percent as more current data becomes available throughout the year.

(4) The commission shall calculate for each hospital a cost to charge ratio which shall be used by the department of medical security in determining the uncompensated care pool's liability to the hospital in accordance with section fifteen of chapter one hundred and eighteen F. In the case of nondisproportionate share hospitals such calculation shall represent the ratio of the reasonable actual costs of patient care services, as determined by the commission, to gross patient service revenue for the most recent year for which audited financial statements for the hospital are available. In the case of disproportionate share hospitals, such calculation shall represent the ratio of the hospital's reasonable financial requirements, as determined by the commission, to gross patient service revenue for the most recent year for which audited financial statements for such hospital are available. The commission shall, throughout the year, update each acute hospital's ratio in the event more current audited financial statement information becomes available. Further, said commission shall further establish, for each nondisproportionate share acute hospital for any given fiscal year, a final ratio using the reasonable costs for patient care services and gross patient service revenues as appearing in the audited financial statements for fiscal year. For disproportionate share hospitals, said commission shall establish a final ratio based upon its reasonable financial requirements, as defined by the commission, and actual gross patient service revenues as appearing in the audited financial statements for the fiscal year.

Section 12. An acute hospital which makes a charge or accepts payment based upon a charge in excess of that filed with the commission under sections seven and ten or approved by the commission or which fails to file any data, statistics or schedules or other information required under this chapter or by any regulation promulgated by the commission or which falsifies same, shall be subject to a civil penalty of not more than one thousand dollars for each day on which such violation occurs or continues, which penalty may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. The attorney general shall bring any appropriate action, including injunctive relief, as may be necessary for the enforcement of the provisions of this chapter.

Section 13. The commission, in carrying out its duties as set forth in this chapter and in relation to the establishment, review or approval of acute hospital rates and charges, shall not, in any computation involving such actions, consider the following as resources of such hospital: restricted and unrestricted grants, gifts, contributions, bequests, fund principle, term endowments and endowment balances, restricted gifts, unrestricted gifts and all income from any of the foregoing, including unrestricted income from endowment funds and income and

gains from investment of unrestricted funds.

As used in this section, the following words shall have the following meanings:

"Income and gains from investment of unrestricted funds", interest, dividends, rents or other income on investments, including net gains or losses resulting from investment transactions.

"Term endowment", funds available upon termination of restrictions.

"Unrestricted gifts", gifts, grants, contributions, and bequests upon which there are no restrictions imposed by the donor.

"Unrestricted income from endowment funds", income earned on investment of endowment funds which have no restrictions on income.

Section 14. Notwithstanding any provisions of this chapter to the contrary, all costs and charges for patients who are residents of other countries shall, as provided herein, be exempted from the limitations imposed by this chapter. Any hospital shall be allowed to impose a surcharge on the normal charges that would otherwise be allowed for such residents of other countries. Such surcharges shall not be included in the calculation of gross patient service revenues. The normal charge and the patient discharge statistics shall otherwise be included under the provisions of this chapter.

Section 15. A health maintenance organization organized under chapter one hundred and seventy-six G may (i) negotiate directly with any hospital with respect to such health maintenance organization's rate of payment for hospital services and (ii) enter into an agreement with such hospital reflecting such rate of payment without the approval of the commission established under section thirty-two of chapter six A. The specification in this section of contracting rights of health maintenance organizations shall not be construed as affirming or denying such rights with respect to any other third party payer.

Section 16. (a) There shall be within the executive office of human services an acute hospital conversion board, hereinafter referred to as "the board", to consist of the commissioner of public health, who shall serve as the chairman, the chairman of the rate setting commission, the executive director of the Massachusetts health and educational facilities authority, the deputy commissioner for medical assistance in the department of public welfare and the commissioner of the department of medical security. Said board shall administer the provisions of this section concerning the closing of acute hospitals or their conversion to other health, rehabilitative or public purposes and shall review the results of negotiations between sole community providers and federally designated rural referral centers and Blue Cross/Blue Shield or any other third party payor to determine whether such negotiations fairly took account of the importance of such sole community provider or rural referral center to its service area. Further said board shall provide assistance to acute hospitals in the identification and development of alternative financial resources and site uses, and in the expedition of state regulatory

processes. Further said board shall advise the division of employment security, the Massachusetts industrial service program and any other appropriate agencies or institutions regarding the need for re-employment training incentive programs for employees of acute hospitals whose employment is or will be terminated because of the closing or conversion of an acute hospital. Said board shall further continue to provide guidance and advice as necessary to hospitals granted regulatory relief before January first, nineteen hundred and ninety-two.

(b) Upon receiving certification pursuant to this section of a hospital's intention to close or convert to another purpose, the board shall immediately notify the Massachusetts industrial service program established under chapter twenty-three D.

(c) The board shall further have the authority to exempt such closing or converting hospital or any hospital undertaking to purchase or merge with such closing or converting hospital from the provisions of sections twenty-five B to twenty-five G, inclusive, of chapter one hundred and eleven with regard to any substantial change in services, as defined in said sections any regulations pursuant thereto, proposed as a result of such closing or converting hospital's cessation of operation as an acute hospital; provided, however, that said board approves such proposal pursuant to this section; and provided further, that the result of any such exempted proposal shall be a net reduction in the number of medical-surgical, pediatric, obstetric and maternity beds equal to the number of such beds contained in such closing or converting hospital; provided, however, that any such proposal which is not approved or disapproved within ninety days of its submission shall be deemed approved for purposes of this section and shall thereupon be exempt from the provisions of said sections twenty-five B to twenty-five G, inclusive, of chapter one hundred and eleven.

(d) Any acute hospital which qualifies for and receives regulatory relief pursuant to this section shall give its employees at least ninety days prior written notice of the termination of their employment; provided, however, that such notice shall be in a form and manner prescribed by the board and shall include, but not be limited to, the following: notice of their right to continued health benefits pursuant to statute or applicable collective bargaining agreement, notice of their rights pursuant to sections seventy-one A to seventy-one J, inclusive, of chapter one hundred and fifty-one A, and notice of the availability of the comprehensive job placement and reemployment training program established pursuant to section four of chapter twenty-three D.

(e) In carrying out its duties pursuant to this section, the board shall seek the advice of an advisory council to consist of the following members: one representative each designated by the Massachusetts hospital association, the Massachusetts nurses' association, and Blue Cross of Massachusetts, Inc., a representative of a collective bargaining unity for hospital workers designated by the Massachusetts

AFL-CIO, and one representative each to be appointed by said board from the following: a large teaching hospital, a community hospital, a large business, a small business, a commercial insurance company, and a health care consumer.

(f) Notwithstanding any provision to the contrary of this chapter or of any general or special law, the board is authorized to continue any rate adjustments, compliance relief, regulatory relief, or any other assistance granted to any hospital prior to January first, nineteen hundred and ninety-two to the extent such relief was authorized prior to said date.

**SECTION 13.** Subsection (b) of section 1 of chapter 30B of the General Laws, as most recently amended by section 112 of chapter 138 of the acts of 1991, is hereby further amended adding the following two clauses:-

(27) contracts or agreements entered into by a municipal hospital or a municipal department of health;

(28) contracts entered into by a governmental body on behalf of a hospital owned by such governmental body where such contract is funded by expenditures from an operations account, so-called, or a special account, established pursuant to a special act that is maintained for the benefit of and designated with the name of such hospital.

**SECTION 14.** Chapter 64C of the General Laws is hereby amended by striking out section 28, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 28. (a) Fifteen million dollars collected in any fiscal year shall be credited to the Health Care Access Fund established pursuant to section seventeen A of chapter one hundred eighteen F.

(b) Forty percent of the amount in excess of one hundred sixty-nine million, eight hundred thousand dollars received during a fiscal year, after crediting the amount required under paragraph (a), shall be credited to the Local Aid Fund.

(c) Eighty and seventy-seven hundredths percent of the balance remaining after crediting the amounts required under paragraphs (a) and (b), shall be credited to the General Fund.

(d) Nineteen and twenty-three hundredths percent of the balance remaining after crediting the amounts required under paragraphs (a) and (b), shall be credited to the Highway Fund.

**SECTION 15.** The second paragraph of section 25C of chapter 111, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- A determination by the department of need therefor shall be required for the acquisition of equipment designed or intended to provide magnetic resonance imaging services.

**SECTION 16.** Section 51 of said chapter 111, as so appearing, is hereby amended by inserting after the word "twenty-five C", in lines 23 and 24, the words:- ; and provided further, that no license shall be issued or renewed to any applicant

to establish or maintain an acute hospital as defined pursuant to chapter six B if the department has been notified by the department of medical security that such applicant or such hospital owes an outstanding obligation to the uncompensated care pool pursuant to section fifteen of chapter one hundred and eighteen F.

**SECTION 17.** The second paragraph of section 1 of chapter 118E of the General Laws, as amended by section 170 of chapter 138 of the acts of 1991, is hereby further amended by inserting after the word "Title XIX", in line 8, the words:- ; provided, however, that said benefits shall be available to otherwise eligible recipients who are residents of long-term care facilities as of July first, nineteen hundred and ninety-two and whose income and resources are insufficient to meet the cost of their medical care as determined by the financial eligibility requirements of said program; and provided, further, that such otherwise eligible recipients who are residents of long-term care facilities shall only be eligible for said benefits if the foregoing provision is permitted pursuant to Title XIX of the Social Security Act and if expenditures therefor are eligible for federal financial participation.

**SECTION 18.** Chapter 118F of the General Laws is hereby amended by striking out section 2, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 2. As used in this chapter the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Acute hospital", a hospital which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds as defined by the department of public health.

"Bad debt", an account receivable based on services furnished to any patient which (i) is regarded as uncollectable, following reasonable collection efforts consistent with the regulations of the department, which regulations shall allow third party payers to negotiate with hospitals to collect the bad debt of its enrollees, (ii) is charged as a credit loss, (iii) is not the obligation of any governmental unit or of the federal government or any agency thereof, and (iv) is not free care.

"Charge", the uniform price for each specific service within a revenue center of an acute hospital established in accordance with section seven of chapter six B.

"Child", a person who is under eighteen years of age.

"Chronic hospital", a hospital which is not an acute hospital.

"Community health centers", health centers operating in conformance with the requirements of Section 330 of United States Public Law 95-626, as most recently amended by Public Law 97-35, and shall include all community health centers which file cost reports as requested by the commission.

"Department", the department of medical security.

"Dependent", the spouse and children of any employee if such persons would qualify for dependent status under the Internal Revenue Code or for whom a support order could be granted under chapters two hundred and eight, two

hundred and nine or two hundred and nine C.

"Employee", a person who performs services primarily in the commonwealth for remuneration for an in the commonwealth employer; provided, however, that a person who is self-employed shall not be deemed to be an employee.

"Employer", an employer as defined in section one of chapter one hundred and fifty-one A.

"Enrollee", a person who becomes a member of an insurance program of the department either individually or as a member of a family.

"Free care", unpaid hospital charges for medically necessary services to (1) patients deemed financially unable to pay, in whole or in part, for their care, pursuant to regulations of the department of medical security; (2) uninsured patients who receive emergency care in a hospital emergency room or other hospital care associated with such emergency care services, for which the costs have not been collected after reasonable efforts pursuant to regulations of the department of medical security; or (3) patients in situations of medical hardship where major expenditures for health care have depleted or can reasonably be expected to deplete the financial resources of the individual to the extent that medical services will be unpaid as determined pursuant to the regulations of the department of medical security. For the purposes of this section, "emergency care" shall include, but not be limited to, hospital services provided after sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity including, but not limited to, severe pain in which the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of a bodily organ or part, examination or treatment for emergency medical condition or active labor in women or any other service rendered to the extent required by 42 USC 1395(dd).

"Health care services", supplies, care and services of medical surgical, optometric, dental, podiatric, chiropractic, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, supportive or geriatric nature including, but not limited to, inpatient and outpatient acute hospital care and services and services provided by a community health center, by a sanatorium, as included in the definition of "hospital" in Title XVIII of the Social Security Act, and treatment and care compatible with such services or by a health maintenance organization.

"Health insurance company", a company as defined in section one of chapter one hundred and seventy-five which engages in the business of health insurance.

"Health insurance plan", the medicare program or an individual or group contract or other plan providing coverage of health care services which is issued by a health insurance company, a hospital service corporation, a medical service corporation or a health maintenance organization.

"Health maintenance organization", a company which provides or arranges for

the provision of health care services to enrolled members in exchange primarily for a prepaid per capita or aggregate fixed sum as further defined in section one of chapter one hundred and seventy-six G.

"Hospital", a hospital licensed pursuant to section fifty-one of chapter one hundred and eleven, and the teaching hospital of the University of Massachusetts Medical School and any psychiatric inpatient facility licensed under section twenty-nine of chapter nineteen.

"Hospital service corporation", a corporation established for the purpose of operating a nonprofit hospital service plan as provided in chapter one hundred and seventy-six A.

"Managed health care plan", a health insurance plan which provides or arranges for, supervises and coordinates health care services to enrolled participants, including plans administered by health maintenance organizations and preferred provider organizations.

"Medicaid program", the medical assistance program administered by the department of public welfare pursuant to chapter one hundred and eighteen E and in accordance with Title XIX of the Federal Social Security Act.

"Medical assistance program", the medicaid program, the Veterans Administration health and hospital programs and any other medical assistance program operated by a governmental unit for persons categorically eligible for such program.

"Medical service corporation", a corporation established for the purpose of operating a nonprofit medical service plan as provided in chapter one hundred and seventy-six B.

"Medicare program", the medical insurance program established by Title XVIII of the Social Security Act.

"Provider", any person, corporation, partnership, governmental unit, state institution and other entity qualified under the laws of the commonwealth to perform or provide health care services.

"Publicly aided patient", a person who receives hospital care and services for which a governmental unit is liable in whole or in part under a statutory program of public assistance.

"Purchaser", a natural person responsible for payment for health care services rendered by a hospital.

"Resident", a person living in the commonwealth, as defined by the department by regulation; provided, however, that the person did not move into the commonwealth for the sole purpose of securing health insurance under this chapter; and, provided further, that confinement of a person in a nursing home, hospital or other medical institution shall not by itself be sufficient to qualify such person as a resident.

"Self-employed", a person who, under the common law applicable to the



employer-employee relationship, is not considered to be an employee and whose primary source of income is derived from the pursuit of a bona fide business.

"Self-insurance health plan", a plan which provides health benefits to the employees of a business, which is not a health insurance plan, and in which the business is liable for the actual costs of the health care services provided by the plan and administrative costs.

"Small business", a business, including a business consisting only of the self-employed, in which the total of full time equivalent employees when averaged on an annual basis does not exceed fifty.

"Third party payer", an entity including, but not limited to, the medicaid program, the medicare program, a health insurance company, a health maintenance organization, a hospital service corporation, a medical service corporation; provided, however, that "third-party payer" shall not include a consumer responsible for payment to a provider for health care services rendered by such provider.

"Uninsured patient", a patient who is not covered by a health insurance plan, a self-insurance plan or a medical assistance program.

**SECTION 19.** Said chapter 118F is hereby further amended by striking out section 15, as most recently amended by section 188 of chapter 138 of the acts of 1991, and inserting in place thereof the following section:-

Section 15. (1) The department shall administer the uncompensated care pool consisting of revenues produced by the uncompensated care fee established pursuant to section twelve of chapter six B, matching funds received through federal financial participation for uncompensated care payments to disproportionate share hospitals and legislative appropriations.

(2) The hospital's liability to the pool shall equal the product of the uncompensated care fee percentage established by the commission pursuant to paragraph two of section twelve of chapter six B times charges for purchasers and third party payers, excluding charges for Title XVIII, Title XIX, publicly-aided patients and free care services eligible for payment by the uncompensated care pool.

(3) The pool's liability to the hospital shall equal the product of allowable free care charges multiplied by the applicable ratio developed by the commission pursuant to paragraph four of section twelve of chapter six B.

(4) The department shall administer the pool and require payments to the pool or disburse funds from the pool consistent with each hospital's net liability to or from the pool. The department shall specify, by regulation, appropriate mechanisms that provide for interim determination and payment of a hospital's liability to or from the pool during the year and final settlement of each year's pool. The final pool settlement shall be determined using actual gross patient service revenues, actual free care charges, adjusted for any audit findings, and any final ratios calculated by the commission in accordance with section twelve of chapter six B. The department shall also provide for an appropriate reconciliation of any

interim payments and estimated liabilities to or from the pool with a hospital's actual liability to or from the pool for each year.

(5) The department shall not at any time make payments from the pool for any period in excess of amounts that have been paid into or are available in the pool for such period; provided, however, that the department may temporarily prorate payments from the pool for cash flow purposes; provided, however, that should there exist a shortfall of pool revenue, in any fiscal year, to cover allowable free care payments, the department shall allocate such payments so that those hospitals with the greatest proportional requirement for pool income shall receive a greater proportional payment from the pool.

(6) The department shall establish an appropriate mechanism for enforcing a hospital's obligation to the pool in the event a hospital does not make a scheduled payment to the pool. Such enforcement mechanism will include notification to the department of public welfare to offset payments on a hospital's Title XIX claims from the department of public welfare in the amount of payment owed to the pool plus a surcharge of five percent on the amount, and to transfer the withheld funds into said pool. If the department of public welfare offsets claims payments as ordered by the department, it shall be deemed not to be in breach of contract or any other obligation for payment of non-contracted services, and hospitals to which payment is offset under order of the department shall serve all Title XIX recipients in accordance with the contract then in effect with the department of public welfare, or, in the case of a non-contracting or disproportionate share hospital, in accordance with its obligation for providing services to Title XIX recipients pursuant to this act. In no event shall the department direct the department of public welfare to offset claims unless the hospital has maintained an outstanding obligation to the uncompensated care pool for a period longer than forty-five days and has received proper notification of the department's intention in accordance with regulations to be developed by the department.

(7) Payments by acute hospitals to the pool, state revenues appropriated for the purposes of the pool, and federal financial participation funds deposited in the pool shall be placed in an uncompensated care trust fund established in section seventeen. Amounts placed in the fund may be expended by the department for the purposes of said pool; and provided further, the department shall establish mechanisms to make payments from the pool to community health centers for free care expenses. Such payments for such free care expenses shall be at the level of actual cost.

(8) The department shall manage the pool in order to encourage maximum efficiency and appropriateness in the utilization of acute hospital services and may require utilization review in accordance with section four of chapter six B. Said department may refuse to allow payments to hospitals for free care for which reimbursement is available from other sources including, but not limited to, the

medicare program. Said department may adopt regulations prohibiting payments from the pool for the costs of health care provided to residents of foreign countries. Said department may adopt regulations requiring disproportionate share hospitals to use a portion of payments received from the pool to reimburse physicians for the costs of free care which such physicians provide in such hospitals. Said department shall promulgate regulations detailing the definition of free care, including regulations setting standards for reasonable efforts to collect costs of emergency care and standards to determine medical hardship. Said department shall also adopt any other regulations necessary to manage said pool including, but not limited to, regulations providing audit standards for said pool, regulations establishing an enforcement mechanism pursuant to subdivision (7), and regulations containing reasonable controls on utilization.

**SECTION 20.** Said chapter 118F is hereby further amended by inserting after section 12 the following section:-

Section 12A. The department shall establish an advisory board relating to small business health insurance reform issues in connection with chapter one hundred and seventy-six J. Said board shall advise the department relative to small business health insurance access and affordability. Said board shall consist of nine members appointed by the governor, five of whom shall represent small businesses, one of whom shall be a health insurance underwriter, one of whom shall represent a nonprofit hospital service corporation, one of whom shall represent a commercial insurance company and one of whom shall represent a health maintenance organization.

**SECTION 21.** Said chapter 118F is amended by inserting after section 14 the following section:-

Section 14A. The department shall establish a continuing program of investigation and study of the health insurance needs of the residents of the geographically isolated or rural areas of the commonwealth.

One such study shall examine the impact of the lack of, or inadequacy of, health insurance programs available to these individuals. The study shall document such impact and shall develop recommendations and proposals to remedy the situation. Such proposals shall include, but be not limited to, gaining access to both health maintenance organizations and indemnification insurance plans.

Another such study shall examine the overall impact of programs developed by the department and the department of public welfare on the residents of such areas.

**SECTION 23.** Said chapter 118F is hereby further amended by inserting after section 17 the following section:-

Section 17A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Health Care Access Fund. There shall be credited to said fund the following: (a) all fees assessed or generated from

programs authorized pursuant to this section; (b) revenues generated pursuant to paragraph (a) of section twenty-eight of chapter sixty-four C; (c) to the extent available, federal financial participation made available under Title XIX of the Social Security Act to match the costs of the uncompensated care pool and to the extent such monies are authorized to be transferred to said fund pursuant to general or special law; (d) and all interest earned on monies within said fund.

Amounts credited to the Health Care Access Fund shall be used for the following purposes subject to appropriation:

(i) to establish a program of preventive pediatric health care services for the benefit of dependent and adoptive children, from birth through the age of six, who do not receive such services pursuant to chapter one hundred and eighteen E section forty-seven C of chapter one hundred and seventy-five, section eight B of chapter one hundred and seventy-six G. Said program which, shall be administered by the department of medical security shall provide preventative and primary care service for children. For the purposes of this paragraph, preventive care services shall mean services rendered to a dependent or adoptive child from the date of birth through the attainment of six year of age and shall include physical examination, history measurements, sensory screening, neuropsychiatric evaluation and development screening, and assessment at the following intervals: six times during the child's first year after birth, three times during the next year, annually until age six. Such services shall also include hereditary and metabolic screening at birth, appropriate immunizations, and tuberculin tests, hematocrit, hemoglobin or other appropriate blood tests, and urinalysis as recommended by the physician and other such services as periodically recommended by the American Academy of Pediatrics.

Such coverage shall also include screening for lead poisoning as required by the regulations promulgated pursuant to section one hundred and ninety-three of chapter one hundred and eleven. Premium contributions shall be charged according to the following schedule: persons with gross family incomes up to one hundred and thirty-three percent of the federal poverty level, inclusive, shall not be responsible for any such costs; and provided further, that persons with gross family incomes exceeding one hundred and thirty-three percent through two hundred percent of the federal poverty level, inclusive, shall be responsible for copayments; and provided further, that persons with gross family incomes exceeding two hundred percent through four hundred percent of the poverty level, inclusive, shall be responsible for the first forty percent of the premium cost; and provided further that persons with gross family incomes exceeding four hundred percent of the federal poverty level shall be responsible for the full premium cost of said program. The cost of such program shall be further funded, in part, by copayments and deductibles contributed by enrollees according to a sliding scale established by the department of medical security; provided that persons with gross

family incomes up to one hundred and thirty-three percent of the federal poverty level shall not be responsible for any such costs. The department shall in consultation with the department of public health and the department of public welfare, promulgate regulations necessary to implement the requirements of this subsection.

(ii) to establish a program of managed care within community health centers pursuant to regulations promulgated by the department of medical security.

(iii) to fund the Vaccine Trust Fund established pursuant to section one hundred and forty-one of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine.

(iv) a program of medical respite services provided by the Boston health care for the homeless program.

**SECTION 24.** Chapter 175, as so appearing, is hereby amended by inserting after section 24A the following two sections:-

Section 24B. The commissioner shall require that a policy, contract, agreement, plan or certificate of insurance for coverage of health care services, including any self-insured sickness, health or welfare plan issued within or without the commonwealth and including, but not limited to, those of a non-profit hospital service corporation organized pursuant to chapter one hundred and seventy-six A, a nonprofit medical service corporation organized pursuant to chapter one hundred and seventy-six B, an insurance company licensed pursuant to this chapter, a health maintenance organization organized pursuant to chapter one hundred and seventy-six G and any preferred provider organization organized pursuant to chapter one hundred and seventy-six I, shall provide, the following: (i) to the policyholder, subscriber or, in the case of a group policy, the group representative, prior notice of modifications in covered services under the policy and an annual notice listing all preferred or selective providers of health care services, if applicable; (ii) prior notice to providers of health care services which or who have been regularly paid for services to policyholders or subscribers of such companies of modifications in payments to such providers or modifications in covered services that will be in effect and the effective date of such modifications. The commissioner shall promulgate regulations to enforce the provisions of this section.

**SECTION 25.** Paragraph (a) of section 47B of said chapter 175, as appearing in the 1990 Official Edition, is hereby amended by adding the following two sentences:- Notwithstanding the foregoing provisions, the period of confinement may be calculated by substituting, solely at the insurer's option and, where medically appropriate, two days of outpatient treatment at a community mental health center or other mental health clinic or psychiatric day treatment center licensed by the department of public health or two days of outpatient day treatment at a psychiatric hospital licensed by the department of mental health, for one day

of inpatient hospital care. For the purposes of this section, an "outpatient hospital day" shall be defined by the division of insurance.

**SECTION 26.** Paragraph (a) of subdivision (H) of section 110 of said chapter 175, as so appearing, is hereby amended by adding the following two sentences:- Notwithstanding the foregoing provisions, the period of confinement may be calculated by substituting, solely at the insurer's option and, where medically appropriate, two days of outpatient day treatment for one day of inpatient hospital care. For the purposes of this section, an "outpatient hospital day" shall be defined by the division of insurance.

**SECTION 27.** Section 5 of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out, in lines 56, 59, 63, 66, 68, 70, 71, 73, 74 and 83, the word "hospital" and inserting in place thereof, in each instance, the words:- non-acute hospital.

**SECTION 28.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 62, 64, 69, 75, 76 and 84, the word "hospitals" and inserting in place thereof, in each instance, the words:- non-acute hospitals.

**SECTION 29.** The twelfth paragraph of said section 5 of said chapter 176A, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:- A nonacute hospital shall file with the commission in accordance with regulations adopted after public hearing such data, statistics, schedules or other information as the commission may reasonably require to enable it to approve or disapprove contracts with or rates of payment to nonacute hospitals. For the purpose of approving, disapproving, or permitting the continuance of all rates of payment under such contracts, the commission may require an examination of the books of account and statistical records of each nonacute hospital and such examination shall be made under the direction and supervision of the commission.

**SECTION 30.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in line 121, the words "hospital or provider of other health services" and inserting in place thereof the words:- nonacute hospital.

**SECTION 31.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in line 131, the words "hospital or provider of other health services" and inserting in place thereof the words:- nonacute hospitals.

**SECTION 32.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 141 and 142, the words ", each interested hospital and provider of other health services involved agree" and inserting in place thereof the words:- and each interested nonacute hospital involved agrees.

**SECTION 33.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 152 and 153, the words ", each interested hospital and provider of other health services involved agree" and inserting in place

thereof the words:- and each interested nonacute hospital involved agrees.

**SECTION 34.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 157 and 158, the words "each interested hospital or provider of other health services" and inserting in place thereof the words:- nonacute hospital.

**SECTION 35.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 166 and 167, the words "hospital and provider of other health services" and inserting in place thereof the words:- nonacute hospital,- and by striking out, in lines 170 and 171, the words ", each hospital and provider of other health services involved agree" and inserting in place thereof the words:- and each interested nonacute hospital involved agrees.

**SECTION 36.** Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out the seventeenth paragraph and inserting in place thereof the following paragraph:-

Any non-profit hospital service corporation, nonacute hospital or provider of other health services aggrieved by an order, finding, decision or other action made or taken under this section by the commission may, within twenty days of the filing thereof by the commission in its office as a public record, appeal such order, filing, decision or other action by filing a petition with the division of administrative law appeals, established pursuant to section four H of chapter seven, if the total amount subject to appeal is less than one hundred thousand dollars or, may file in the supreme judicial court for the county of Suffolk for a review of such order, finding, decision or other action. In the event that there is an appeal from an order of the commission disapproving a rate of payment between a non-profit hospital service corporation and a nonacute hospital or provider of other health services, any level of payment which the commission did approve shall be used pending the determination of the appeal and any difference in the rates established as a result of the appeal and the interim rate shall be adjusted, as the court may determine.

**SECTION 37.** Paragraph (a) of section 8A of said chapter 176A, as so appearing, is hereby amended by adding provisions the following two sentences:- Notwithstanding the foregoing provisions, the period of confinement may be calculated by substituting, solely at the corporation's option and, where medically appropriate, two days of outpatient treatment at a community mental health center or other mental health clinic or psychiatric day treatment center licensed by the department of public health or two days of outpatient day treatment at a psychiatric hospital licensed by the department of mental health, for one day of inpatient hospital care. For the purposes of this section, an "outpatient hospital day" shall be defined by the division of insurance.

**SECTION 38.** Paragraph (a) of the fourth paragraph of section 10 of said chapter 176A, as so appearing, is hereby amended by adding the following two sentences:- Notwithstanding the foregoing provision, the period of confinement

may be calculated by substituting, solely at the corporation's option and, where medically appropriate, two days of outpatient day treatment for one day of inpatient hospital care. For the purposes of this section, an "outpatient hospital day" shall be defined by the division of insurance.

**SECTION 39.** Paragraph (a) of section 4A of chapter 176B, as so appearing, is hereby amended by adding the following two sentences:- Notwithstanding the foregoing provisions, the period of confinement may be calculated by substituting, solely at the non-profit medical service corporation's option and, where medically appropriate, two days of outpatient treatment at a community mental health center or other mental health clinic or psychiatric day treatment center licensed by the department of public health or two days of outpatient day treatment at a psychiatric hospital licensed by the department of mental health, for one day of inpatient hospital care. For the purposes of this section, an outpatient hospital day shall be defined by the division of insurance.

**SECTION 40.** Paragraph (a) of section 4A 1/2 of said chapter 176B, as so appearing, is hereby amended by adding the following two sentences:- Notwithstanding the foregoing provisions, the period of confinement may be calculated by substituting, solely at the non-profit medical service corporation's option and, where medically appropriate, two days of outpatient day treatment for one day of inpatient hospital care. For the purposes of this section, an "outpatient hospital day" shall be defined by the division of insurance.

**SECTION 41.** Chapter 176D of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance by entities organized under chapters one hundred and seventy-six A, one hundred and seventy-six B, one hundred and seventy-six G, and one hundred and seventy-six I, or licensed under chapter one hundred and seventy-five: (i) entering into any agreement to commit or by any concerted action committing any act of, boycott, coercion, intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; (ii) refusal to enter into a contract with a health care facility on the basis of the facility's religious affiliation; (iii) seeking to set the price to be paid to any health care facility by reference to the lowest price paid that provider under contract with any other nonprofit hospital service corporation, medical service corporation, insurance company, health maintenance organization, or preferred provider arrangement; (iv) refusal to contract or affiliate with a health care facility solely because the facility does not provide a specific service or range of services, provided, however, that the selection of health care facilities shall be based primarily on cost, availability and quality of covered services.

**SECTION 42.** The General Laws are hereby further amended by inserting after



chapter 176I the following chapter:-

**CHAPTER 176J.**

**SMALL GROUP HEALTH INSURANCE.**

Section 1. As used in this chapter the following words shall have the following meanings, unless the context clearly requires otherwise:-

“Actuarial opinion”, a signed written statement by a member of the American Academy of Actuaries based upon the person’s examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health benefit plans.

“Adjusted average market premium price”, the arithmetic mean of all premium rates for a given prototype plan sold to eligible insureds with similar case characteristics by all carriers selling prototype plans in the commonwealth.

“Association group policy”, a group policy that (i) is issued to an association or to a trust or to the trustee of a fund established, created or maintained for the benefit of members of one or more associations, and (ii) insures or provides coverage to any of the following members of such association: employees thereof or employees of members or one or more of the preceding or all of any class or classes thereof. If employees are covered, such coverage shall be for the benefit of persons other than the employees’ employer. A minimum of one hundred persons shall be eligible for coverage under the group policy as of its original issue date. The association shall have been organized and maintained in good faith for purposes other than that of obtaining insurance, as determined by the commissioner, shall have a constitution and by-laws or other governing documents analogous thereto and shall have been in active existence for at least one year.

“Benefit level”, the health benefits provided by, and the benefit payment structure of, a health benefit plan.

“Carrier”, an insurer licensed or otherwise authorized to transact accident and health insurance under chapter one hundred and seventy-five; a non-profit hospital service corporation organized under chapter one hundred and seventy-six A; a nonprofit medical service corporation organized under chapter one hundred and seventy-six B; a health maintenance organization organized under chapter one hundred and seventy-six G; and an insured group health benefit plan that includes a preferred provider arrangement organized under chapter one hundred and seventy-six I; which issues a health benefit plan to one or more eligible insureds on or after March first, nineteen hundred and ninety-two.

“Case characteristics”, age, sex, rate basis type, industry, number of eligible persons, and participation rate of a group.

“Class of business”, all or a distinct grouping of eligible insureds as shown on the records of the carrier which is provided with a health benefit plan through a health care delivery system operating under a license distinct from that of another grouping.

"Commissioner", the commissioner of the division of insurance.

"Eligible employee", an employee who: (1) works on a full-time basis with a normal work week of thirty or more hours, and includes an owner, a sole proprietor or a partner of a partnership; provided however, that such owner, sole proprietor or partner is included as an employee under a health care plan of an eligible small business but does not include an employee who works on a temporary or substitute basis, and (2) is hired to work for a period of not less than five months.

"Eligible dependent", the spouse or child of an eligible person, subject to the applicable terms of the health benefit plan covering such employee.

"Eligible small business" or "group", any sole proprietorship, firm, corporation, partnership or association actively engaged in business who, on at least fifty percent of its working days during the preceding year employed from among one to not more than twenty-five eligible employees, the majority of whom worked in the commonwealth; provided, however, that a health carrier may offer health insurance to a business of more than twenty-five employees in accordance with the provisions of this chapter. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation shall be considered one business. Except as otherwise specifically provided, provisions of this chapter which apply to an eligible small business shall continue to apply through the end of the rating period in which an eligible insured no longer meets the requirements of this definition.

"Emergency services", covered services provided after the sudden onset of a medical condition manifesting itself by acute symptoms, including severe pain, which are severe enough that the lack of immediate medical attention could reasonably be expected to result in: (1) placing the patient's health in serious jeopardy; (2) serious impairment of bodily functions; or, (3) serious dysfunction of any bodily organ or part.

"Financial impairment", a condition in which, as determined by the commissioner, the applicant is, or if subjected to the provisions of this chapter could reasonably be expected to be, insolvent, or otherwise in an unsound financial condition such as to render its further transactions of business hazardous to the public or its policyholders or members, or compelled to compromise, or attempt to compromise, with its creditors or claimants on the grounds that it is financially unable to pay its claims.

"Group average premium rates", a set of numbers, one for each rate basis type, where each number is the total of the premiums charged to an eligible small business for all eligible employee and eligible dependents of that rate basis type, divided by the number of insured eligible employees of that rate basis type.

"Group base premium rates", the group average premium rates that would be charged by a carrier at the beginning of the rating period if the premiums were based solely upon the age, gender, industry, group size, participation rate, and rate

basis type of the members of the group. The group base premium rates for every group shall be adjusted to a January first basis by dividing each group base premium rate by a deflator. The deflator equals the sum of trend for that carrier and the number one (1), raised to the power of the fraction of the calendar year which has elapsed at the time the new rating period begins.

"Health benefit plan", any individual, general, blanket or group policy of health, accident and sickness insurance issued by an insurer licensed under chapter one hundred and seventy-five; a group hospital service plan issued by a non-profit hospital service corporation under chapter one hundred and seventy-six A; a group medical service plan issued by a non-profit hospital service corporation under chapter one hundred and seventy-six B; a group health maintenance contract issued by a health maintenance organization under chapter one hundred and seventy-six G; an insured group health benefit plan that includes a preferred provider arrangement under chapter one hundred and seventy-six I; and any multiple employer welfare arrangement (MEWA) required to be licensed under chapter one hundred and seventy-five; offered to an eligible small business. The term "health benefit plan" shall not include accident only, credit, dental or disability income insurance, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, insurance under which beneficiaries are payable with or without regard to fault and which is statutorily required to be contained in a liability insurance policy or equivalent self-insurance, long-term care only insurance, or any group blanket or general policy which provides supplemental coverage to medicare or other governmental programs.

"Intermediary", a chamber of commerce, trade association, or other organization, formed for purposes other than obtaining insurance, as determined by the commissioner, which offers as a service to its members the option of purchasing a health benefit plan.

"Late enrollee", an eligible employee or dependent who requests enrollment in an eligible small business' health insurance plan or insurance arrangement after the group's initial enrollment period, their initial eligibility date provided under the terms of the plan or arrangement, or the group's annual open enrollment period, provided however, that an eligible employee or dependent shall not be considered a late enrollee if the request for enrollment to the insurer is made within thirty days after termination of coverage provided under another health insurance plan or arrangement where such coverage has ceased due to termination of the spouse's employment or death of the spouse.

"Mandated benefit", a health service or category of health service provider which a carrier is required by its licensing or other statute to include in its health benefit plan.

"MEWA", or "multiple employer welfare arrangement", also called a "multiple

employer trust", either: (1) a fully-insured multiple employer welfare arrangement as defined in sections 3 and 514 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC 1002 and 1144, as amended; or, (2) an entity holding itself out to be a multiple employer welfare arrangement or so-called "multiple employer trust" which is not fully insured and, therefore, shall be required to be licensed under chapter one hundred and seventy-five. An arrangement that constitutes a MEWA is considered a separate group health plan with respect to each employer maintaining the arrangement.

"Participation rate", the percentage of eligible employees electing to participate in a health benefit plan out of all eligible employees, or the percentage of the sum of eligible employees and eligible dependents electing to participate in a health benefit plan out of the sum of all eligible employees and eligible dependents at the election of the carrier. In either case, the numbers used to compute these percentages shall not include any eligible employee or eligible dependent who does not participate in the eligible small business' health benefit plan, but who is enrolled in a health benefit plan through a source other than the eligible small business.

"Participation requirement", a policy provision, or a carrier's underwriting guideline if there is no such provision, which requires that a group attain a certain participation rate in order for a carrier to accept the group for enrollment in the plan. For groups of five or fewer eligible persons, a carrier may require a participation rate not to exceed one hundred percent. For groups of six or more eligible persons, a carrier may require a participation rate not to exceed seventy-five percent.

"Preexisting conditions provision", a health benefit plan provision which excludes coverage for charges or expenses incurred during a specified period following the insured's effective date of coverage (i) as to a condition which, during a specified period immediately preceding the effective date of coverage, had manifested itself in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment or for which medical advice, diagnosis, care or treatment was recommended or received or (ii) as to a pregnancy existing on the effective date of the coverage.

"Prototype plan", a health benefit plan which meets the criteria established by the commissioner. At least one prototype plan shall have benefit and cost sharing levels that are consistent with the basic method of operation and the benefit plans of health maintenance organizations, including any restrictions imposed by federal law.

"Qualifying health plan", any (i) blanket or general policy of medical, surgical or hospital insurance described in subdivisions (A), (C) or (D) of section one hundred and ten of chapter one hundred and seventy-five; (ii) policy of accident or sickness insurance as described in section one hundred and eight of chapter one

hundred and seventy-five which provides hospital or surgical expense coverage; (iii) nongroup or group hospital or medical service plan issued by a non-profit hospital or medical service corporation under chapters one hundred and seventy-six A and one hundred and seventy-six B; (iv) nongroup or group health maintenance contract issued by a health maintenance organization under chapter one hundred and seventy-six G; (v) insured group health benefit plan that includes a preferred provider arrangement under chapter one hundred and seventy-six I; (vi) self-insured or self-funded employer group health plan; (vii) health coverage provided to persons serving in the armed forces of the United States; or (viii) medical assistance provided under chapter one hundred and eighteen E. The commissioner may, by regulation, define other health coverage as a qualifying health plan for the purposes of this chapter.

"Rate basis type", each category of individual or family composition for which separate rates are charged for a health benefit plan as determined by the carrier subject to restrictions set forth in regulations promulgated by the commissioner.

"Rating period", the period for which premium rates established by a carrier are in effect, as determined by the carrier.

"Trend", the annual change, from the first day of a group's prior rating period to the first day of that group's new rating period, in the average of all groups' base premium rates attributable to factors other than changes in benefit levels, adjusted for rating periods greater or lesser than one year.

"Waiting period", a period immediately subsequent to the effective date of an insured's coverage under a health benefit plan during which the plan does not pay for some or all hospital or medical expenses.

Section 2. (a) Except as otherwise provided, this chapter applies to all health benefit plans issued, made effective, delivered or renewed to any eligible small business after April first, nineteen hundred and ninety-two, whether issued directly by a carrier, or through an intermediary. Nothing in this chapter shall be construed to require a carrier which does not issue health benefit plans subject to the provisions of this chapter to issue health benefit plans subject to the provisions of this chapter.

(b) Coverage to an eligible small business through an association group policy issued for delivery outside of the commonwealth and providing coverage for residents of at least five of the states of the United States of America including for these purposes, the District of Columbia, shall be exempted from the requirements of this chapter by the commissioner, except that such coverage shall be considered a "health benefit plan" and a "health benefit plan covering eligible small businesses" for purposes of section eight of this chapter.

No association group policy shall qualify for the exemption provided in this paragraph if

(i) the majority of insured persons reside in the commonwealth; or

(ii) the premium contribution payable under any such policy by any eligible small business is determined by reference to the actual or anticipated claim experience of such eligible small business as opposed to the claim experience of the association as a whole.

(c) Coverage provided to an eligible small business through an association group policy not granted an exemption pursuant to paragraph (b) shall be subject to all of the requirements of this chapter, except that, notwithstanding subsection (a) of section four, if a carrier would, as of the effective date of this chapter, be subject to the requirements of this chapter solely as a result of providing such coverage, then such carrier shall not be required to issue a health benefit plan to any eligible small business that is not a member of any such association group insured by such carrier unless the association group conditions membership in the association or eligibility of members in the association group's health benefit plan coverage on health status, claim experience or duration of coverage since issue.

(d) Coverage provided by an insurer for non-group health insurance or by any other carrier for non-group health care coverage shall not be subject to the requirements of this chapter.

(e) To qualify for the exemptions provided in paragraphs (b) and (c), the carrier providing coverage must report annually, within ninety days of the end of each calendar year, a certified statement containing the following information to the commissioner, and such other information as the commissioner may specify by regulation: (1) the number of persons insured within the association group policy in total, and the number who reside in the commonwealth, (2) a complete listing of the states, including the District of Columbia, in which these persons reside, (3) a statement describing whether the association conditions health benefit plan coverage on health status, claims experience, or duration of coverage since issue, and (4) a statement describing whether premium rates for health benefit plan insureds vary based on claims experience, health status, or duration of coverage since issue.

Section 3. (a) Premiums charged to every eligible small business for a health benefit plan issued or renewed on or after April first, nineteen hundred and ninety-two shall satisfy the following requirements:

(1) For every health benefit plan issued or renewed on or after April first, nineteen hundred and ninety-two, the group base premium rates charged by a carrier to each group during a rating period shall not exceed two times the group base premium rate which could be charged by that carrier to the group with the lowest group base premium rate for that rate basis type within that class of business.

(2) A carrier may establish a benefit level rate adjustment for all groups which shall be expressed as a number. The number shall represent the relative actuarial value of the benefit level of the health benefit plan issued to that group as compared to the actuarial value of other health benefit plans within that class of business. If

a carrier chooses to establish benefit level rate adjustments, every group shall be subject to the applicable benefit level rate adjustment.

(3) The commissioner shall annually establish not less than five distinct regions of the state for the purposes of area rate adjustments. A carrier may establish an area rate adjustment for each distinct region, the value of which shall range from eight-tenths to one and one-fifth. If a carrier chooses to establish area rate adjustments, every group within each area shall be subject to the applicable area rate adjustment.

(4) A carrier may establish a group size rate adjustment, the value of which shall range from ninety-five one-hundredths to one and five one-hundredths. The group size rating must be based only upon actual administrative costs or other business costs borne by the carrier for serving groups of varying sizes. If a carrier chooses to establish group size rate adjustments, every group shall be subject to the applicable group size rate adjustment.

(5) A carrier may establish participation-rate rate adjustments for any health benefit plan or plans for any ranges of participation rates below the minimum participation requirements established in accordance with the definition of participation requirement in section two, the value of which shall be expressed as a number. The participation-rate rate adjustments must be based upon actuarially sound analysis of the differences in the experience of groups with different participation rates. If a carrier chooses to establish participation-rate rate adjustments, every group with a participation rate within the ranges defined by the carrier shall be subject to the applicable participation-rate rate adjustment.

(6) A carrier may establish a wellness program rate discount for any eligible small businesses which provide employees wellness programs which meet minimum standards established by the commissioner. The value of the wellness program rate discount shall range from ninety-five one-hundredths to ninety-nine one-hundredths. If a carrier establishes a wellness program rate discount, every eligible insured with a wellness program that meets such standards shall be subject to the applicable wellness program rate discount.

(7) A carrier who, as of December thirty-first, nineteen hundred and ninety-one, varies rates by health status, claims experience, duration, or any factors other than case characteristics or area may establish a phase-out rate adjustment for each group. The phase-out rate adjustments shall range from sixty-seven one-hundredths to one and thirty-three one-hundredths between April first, nineteen hundred and ninety-two and December thirty-first, nineteen hundred and ninety-two, inclusive. The phase-out rate adjustment shall range from three-quarters to one and one-quarter between January first, nineteen hundred and ninety-three and December thirty-first, nineteen hundred and ninety-three, inclusive. The phase-out rate adjustments shall range from eighty-five one-hundredths to one and fifteen one-hundredths between January first, nineteen hundred and ninety-four and

December thirty-first, nineteen hundred and ninety-four, inclusive. No phase-out rate adjustments shall be permitted after December thirty-first, nineteen hundred and ninety-four. If a carrier chooses to establish phase-out rate adjustments, every group which was part of the carrier's in-force business on April first, nineteen hundred and ninety-two shall be subject to a phase-out rate adjustment, but all groups which were not part of the carrier's in-force business on April first, nineteen hundred and ninety-two shall not be subject to a phase-out rate adjustment.

A carrier who, as of December thirty-first, nineteen hundred and ninety-one varies rates by health status, claims experience, duration, group size, or any factors other than case characteristics or area, may base its phase-out rate adjustments only upon those factors other than case characteristics or area which it used to vary its rates on December thirty-first, nineteen hundred and ninety-one and may vary its rates due to these factors only by the amount of the phase-out rate adjustments established in this section, or by the amount which it varied its rates due to those factors on December thirty-first, nineteen hundred and ninety-one, whichever is less. A carrier who, as of December thirty-first, nineteen hundred and ninety-one, does not vary rates by any factors other than case characteristics may not establish a phase-out rate adjustment for any group. Effective January first, nineteen hundred and ninety-five, no carrier may charge a premium rate to an eligible small business which is based upon a group's health status, duration of coverage, or actual or expected claims experience.

(8) A carrier who, as of December thirty-first, nineteen hundred and ninety-one, varies rates by the age of the insured may establish an age rate adjustment for each eligible small business. The age rate adjustments shall range from sixty-seven one-hundredths to one and thirty-three one-hundredths between April first, nineteen hundred and ninety-two and December thirty-first, nineteen hundred and ninety-three, inclusive.

The premium rate charged by a carrier to each group on the date the group's policy is issued or renewed shall be established such that the average premium rates charged for each rate basis type at the beginning of the rating period, adjusted to a January first basis, equals that rate basis type's group base premium rate, multiplied by the benefit level rate adjustment, multiplied by the area rate adjustment, multiplied by the group size rate adjustment, multiplied by the participation-rate rate adjustment, multiplied by the wellness program rate discount, multiplied by the phase-out rate adjustment, multiplied by the age rate adjustment, as may be applicable pursuant to this section.

Notwithstanding the provisions of any general or special law to the contrary, including the provisions of this section, any carrier that issues, delivers or renews a health benefit plan on or before December thirty-first, nineteen hundred and ninety-four, subject to this chapter without a phase-out rate adjustment may charge a group base premium rate which does not exceed the rate band allowable for any



other carrier under paragraph (1) of subsection (a).

(b) For all rating periods which begin between April first, nineteen hundred and ninety-two and December thirty-first, nineteen hundred and ninety-four, inclusive, the premium rate for each group which renews its coverage with a carrier shall not exceed the premium rate charged by that carrier for that group during the prior rating period by more than: (1) trend within that class of business for that carrier; plus, (2) the sum of any premium changes due to changes in the age, sex, group size, area, participation rate, or rate basis types represented in the group and any change in the applicable wellness program discount; plus (3) ten percent; plus, (4) the change in the actuarial value of the benefits due to changes in the benefit level for that eligible insured.

Section 4. (a) (1) Every carrier shall make available to every eligible small business every health benefit plan which it provides to any eligible small business. Upon the request of an eligible small business, a carrier must provide that business with a price for every health benefit plan which it provides to any eligible small business. Except under the conditions set forth in paragraph (3) of subsection (a) and paragraph (2) of subsection (b), every carrier shall accept for enrollment any eligible small business which seeks to enroll in a health benefit plan. Every carrier shall permit every eligible small business group to enroll all eligible persons and all eligible dependents; provided that the commissioner shall promulgate regulations which limit the circumstances under which coverage must be made available to an eligible employee who seeks to enroll in a health benefit plan significantly later than he was initially eligible to enroll.

Nothing in this chapter shall be construed to prohibit a carrier from offering coverage in a group to a person, and his dependents, who does not satisfy the hours per week or period employed portions of the definition of eligible employee.

Notwithstanding any other provision in this section, a carrier may deny a group enrollment in a health benefit plan if the carrier certifies to the commissioner that the carrier intends to discontinue selling that health benefit plan to new eligible small businesses. The commissioner is authorized to promulgate regulations which ensure that a carrier cannot use the provisions of this paragraph to circumvent the intent of this chapter. Notwithstanding any other provision in this section, between April first, nineteen hundred and ninety-two and December thirty-first, nineteen hundred and ninety-four, inclusive, a carrier may choose to limit the time during which it will accept new groups for coverage to a period of not less than ninety consecutive days during each consecutive twelve month period. Notwithstanding any other provision in this section, for between April first, nineteen hundred and ninety-two and December thirty-first, nineteen hundred and ninety-three, inclusive, a carrier may choose not to accept a new group if the group was covered by a health benefit plan on the day this chapter is enacted.

Notwithstanding any other provision in this section, a carrier may deny a group

of five or fewer eligible persons enrollment in a health benefit plan unless the group enrolls through an intermediary. If a group of five or fewer eligible employees elects to enroll through an intermediary, a carrier may not deny that group enrollment. The carrier shall implement such requirements consistently, treating all similarly situated groups in a similar manner.

(3) A carrier shall not be required to issue a health benefit plan to an eligible small business if the carrier can demonstrate to the satisfaction of the commissioner that within the prior twelve months, (a) the small business has repeatedly failed to pay on a timely basis the required health premiums; or, (b) the small business has committed fraud, misrepresented whether or not a person is an eligible employee, or misrepresented other information necessary to determine the size of a group, the participation rate of a group, or the premium rate for a group; or, (c) the small business has failed to comply in a material manner with a health benefit plan provision, including carrier requirements regarding employer contributions to group premiums; or, (d) the small business has been covered by three or more health benefit plans within the same class of business during the four years prior to the date of application for coverage. A carrier shall not be required to issue a health benefit plan to an eligible small business if the small business fails to comply with the carrier's requests for information which the carrier deems necessary to verify the application for coverage under the health benefit plan.

(4) A carrier shall not be required to issue a health benefit plan to an eligible small business if the carrier can demonstrate to the satisfaction of the commissioner that: (a) the small business fails at the time of issuance or renewal to meet a participation requirement established in accordance with the definition of participation rate in section one; or, (b) acceptance of an application or applications would create for the carrier a condition of financial impairment, and the carrier makes such a demonstration to the same commissioner.

(5) Notwithstanding any other provision of this section, a health maintenance organization shall only be required to offer coverage or accept applications for a prototype plan.

A health maintenance organization shall not be required to accept applications from or offer coverage: (a) to a group, where the group is not physically located in the health maintenance organization's approved service area; or (b) to an eligible employee who applies as part of a group, where the employee does not meet the health maintenance organization's requirements regarding residence or employment with the health maintenance organization's approved service area; or, (c) within an area, where the health maintenance organization reasonably anticipates, and demonstrates to the satisfaction of the commissioner, that it will not, within that area, have the capacity in its network of providers to deliver services adequately to the members of such groups because of its obligations to existing contract holders and enrollees; provided that, a health maintenance organization that makes

such a demonstration to the satisfaction of the commissioner may not offer coverage in the applicable area to any new cases of business groups of any size until the later of ninety days after each such refusal or the date on which the carrier notifies the commissioner that it has regained capacity to deliver services to eligible small business groups.

(b) (1) Every health benefit plan shall be renewable with respect to all eligible persons and eligible dependents at the option of the eligible small business.

(2) A carrier shall not be required to renew the health benefit plan of an eligible small business if the small business: (a) has not paid the required premiums; or, (b) has committed fraud, misrepresented whether or not a person is an eligible employee, or misrepresented information necessary to determine the size of a group, the participation of a group, or the premium rate for a group; or, (c) failed to comply in a material manner with health benefit plan provisions including carrier requirements regarding employer contributions to group premiums; or, (d) fails, at the time of renewal, to meet the participation requirements of the plan; or, (e) fails, at the time of renewal, to satisfy the definition of an eligible small business; or, (f) is not actively engaged in business.

(3) A carrier may refuse to renew enrollment for an eligible employee or eligible dependent if: (a) the individual has committed fraud, misrepresented whether or not he is an eligible employee, or misrepresented information necessary to determine his eligibility for a health benefit plan or for specific health benefits; or, (b) the individual fails to comply in a material manner with health benefit plan provisions.

(c) The commissioner shall promulgate regulations to enforce the provisions of this section.

Section 5. (a) No policy shall exclude any eligible employee or eligible dependent on the basis of an actual or expected health condition of such person.

(b) Preexisting conditions provisions shall not exclude coverage for a period beyond six months following the individual's effective date of coverage and may only relate to (i) conditions which had, during the six months immediately preceding the effective date of coverage, manifested themselves in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment or for which medical advice, diagnosis, care or treatment was recommended or received or (ii) a pregnancy existing on the effective date of coverage.

In determining whether a preexisting condition provision applies to an eligible employee or dependent, all health benefit plans shall credit the time such person was covered under a previous qualifying health plan provided by a carrier if the previous coverage was continuous to a date not more than thirty days prior to the effective date of the new coverage, exclusive of any applicable service waiting period under such new coverage, and if the previous qualifying coverage was

reasonably actuarially equivalent to the new coverage, as determined by the commissioner.

(c) No policy may provide for a waiting period of more than six months beyond the insured's effective date of coverage under the health benefit plan; provided, however, that a carrier may not impose any waiting period upon a new employee who had coverage under a previous qualifying health plan immediately prior to, or until, employment by the eligible small business. If a policy includes a waiting period, emergency services must be covered during the waiting period. In determining whether a waiting period applies to an eligible employee or dependent, all health benefit plans shall credit the time such person was covered under a previous qualifying health plan if the insured experiences only a temporary interruption in coverage, and if the previous qualifying coverage was reasonably actuarially equivalent to the new coverage, both as determined by the commissioner. The waiting period may only apply to services which the new plan covers, but which were not covered under the old plan.

When a group changes from one health benefit plan to another, whether such plan is with the same carrier or a different carrier, the carrier may impose a new waiting period of not more than six months on all members of the group.

The commissioner shall promulgate regulations to enforce the provisions of this section.

Section 6. Notwithstanding any law to the contrary, the commissioner shall be authorized to approve health insurance policies submitted to the division of insurance for the purpose of being provided to eligible small businesses. Said health insurance policies shall be subject to the provisions of this chapter and may exclude coverages of mandated benefits. The commissioner shall promulgate regulations regarding eligibility criteria. Said eligibility criteria shall require that health insurance policies which exclude mandated benefits shall only be offered to small businesses which did not provide health insurance to its employees as of April first, nineteen hundred and ninety-two. Said eligibility criteria may require an employer contribution of at least fifty percent of the health insurance premium for employees. Said eligibility criteria shall also provide that small businesses shall not have any health insurance policies which exclude mandated benefits for more than a five year period.

Section 7. Every carrier shall make reasonable disclosure to prospective small business insureds, as part of its solicitation and sales material of:

(a) between April first, nineteen hundred and ninety-two and December thirty-first, nineteen hundred and ninety-four, inclusive, the extent, if any, to which premium rates are established or adjusted in part based upon the actual or expected variation in claim costs, the actual or expected variation in health conditions of employees or dependents of small businesses, or the time elapsed since initial enrollment in a health benefit plan; and

(b) the surcharge, if any, which shall be applied to a group's premium if one or more members are covered in the plan set forth in section eight of this chapter; and,

(c) the participation requirements or participation rate adjustments of the carrier with regard to each health benefit plan.

Every carrier, as a condition of doing business under the jurisdiction of this chapter, shall file with the commissioner an actuarial opinion that the carrier's rating methodologies and rates comply with the requirements of this chapter and any regulations promulgated under the authority of this chapter. Every carrier shall maintain at its principal place of business a complete and detailed description of its rating practices including information and documentation which demonstrates that its rating methods and practices are based upon commonly accepted actuarial assumptions, are in accordance with sound actuarial principles, and comply with the provisions of this chapter. Such information shall be made available to the commissioner upon request, but shall remain confidential.

If the commissioner determines that a carrier is not complying with the provisions of this chapter, the commissioner may disapprove the rating methodologies and the rates which the carrier uses.

Section 8. There is established a nonprofit entity to be known as the "Massachusetts Small Employer Health Reinsurance Plan". All commercial carriers issuing health benefit plans to an eligible small business on or after April first, nineteen hundred and ninety-two shall be members of the reinsurance program. Non-profit hospital and medical service corporations and health maintenance organizations shall not participate in the reinsurance program established by this section.

Such plan shall be prepared and administered by a governing committee appointed by the governor for terms of three years, consisting of seven members representing small business health insurers participating in the plan. At least one member of the governing committee shall be a small business domestic health insurer. The governing committee shall be responsible for the hiring of the employees of the plan.

On or before March thirty-first, nineteen hundred and ninety-two, the governing committee shall submit to the commissioner a plan of operation. The commissioner shall, after notice and hearing, approve or disapprove the plan of operation. Subsequent amendments to such plan shall be deemed approved by the commissioner if not expressly disapproved in writing by the commissioner within thirty days from the date of the filing. The plan shall not reimburse a carrier with respect to the claims of a reinsured employer or dependent in any calendar year until the carrier has paid five thousand dollars in benefits in a calendar year for benefits otherwise covered by the plan. The governing board may increase said dollar amount upon the approval of the commissioner.

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Meetings of the governing committee of the plan shall be conducted in accordance with the provisions of section eleven A of chapter thirty A.

Premium rates charged for coverage reinsured by the plan shall be established as follows or as the commissioner may direct, in consultation with the governing committee:

(1) one and one-half times the adjusted average market premium price established by the plan for that classification or group with similar characteristics and coverage, with respect to the eligible employees, and their dependents, of a small employer, all of whose coverage is reinsured with the plan, minus a ceding expense factor determined by the plan.

(2) five times the adjusted average market premium price established by the program for that classification or group with similar characteristics and coverage, with respect to an eligible employee or his dependents, minus a ceding expense determined by the reinsurance program.

To control the size of the population of the plan, the plan shall annually provide for territorial and classification credits for those companies voluntarily writing small business health insurance within those territories and classifications that would otherwise be disproportionately represented in the plan. The size of the credits shall be such as to enhance the prospects that no classification or territory is disproportionately represented in the plan.

Any member may reinsure coverage of an eligible employee of an eligible insured, or any dependent of such an employee with the reinsurance program, provided:

(1) with respect to a prototype plan, the reinsurance program shall reinsure the level of coverage provided;

(2) with respect to other plans issued to eligible small businesses, the reinsurance program shall reinsure the level of coverage provided, up to, but not exceeding, the level of coverage provided in a prototype plan;

(3) with respect to eligible employees and their dependents, who are employed by a small business as of the date such employer's coverage by the carrier, or other benefit arrangement commences coverage may be reinsured within sixty days of the commencement of such employer's coverage with the carrier, or other benefit arrangement except in the case of late enrollees.

(4) with respect to eligible employees, and their dependents who are hired subsequent to the commencement of such employer's coverage by a carrier, or other benefit arrangement, coverage may be reinsured within sixty days of the commencement of their coverage under the plan except in the case of late enrollees.

(5) with respect to eligible employees, and their dependents, when a carrier, or other benefit arrangement reinsures the entire employer group, coverage may be reinsured:

(a) within sixty days of the commencement of the groups coverage under the plan; or

(b) in the case where a new entrant to an employer group is reinsured under the provisions of clause (5), on the first plan anniversary after the new entrant became a member of the employer's plan;

(6) no carrier, or other benefit arrangement may reinsure through the reinsurance program, the health benefit plan coverage of all of the eligible employees, and their dependents, of any small employer unless:

(a) such coverage provides at least the benefits contained in the prototype plan, and

(b) such coverage uses cost containment and managed care techniques as established by the reinsurance program.

(c) such plan contains a participation requirement at issuance of at least seventy-five percent of eligible employees, for plans with six or more eligible employees, and at renewal, the participation requirements that the carrier, or other benefit arrangement required at issuance.

(7) if an eligible small business group is covered under a plan other than a prototype plan and the carrier chooses to reinsure the group subsequent to the initial coverage period, or if a new individual joins the group and the carrier wants to reinsure that individual, the carrier cannot force the small business to change to a prototype plan. The carrier must allow the small business to maintain the same benefit plan and reinsure only the portion of the plan consistent with a prototype plan.

Following the close of each fiscal year, the governing committee shall determine the premiums charged for reinsurance coverage, the reinsurance plan expenses for administration, and the incurred losses, if any, for the year, taking into account investment income and other appropriate gains and losses. Any net loss for the year shall be recouped by assessment of the members. Said assessments shall be apportioned in proportion to said members' respective shares of the total premiums earned in the commonwealth from health benefit plans covering eligible small businesses. Such assessments shall not exceed five percent of such premiums from such health benefit plans.

If the assessment level is inadequate, the governing committee may adjust reinsurance thresholds, retention levels or consider other forms of reinsurance. The governing committee shall report annually to the commissioner and the joint committee on insurance on its experience, the effect of reinsurance and small group rates on individual ceding and recommendations, if any, on additional funding sources, if needed. If other funding sources are not made available, the committee may enter into negotiations with plan members to resolve any deficit through reductions in future payment levels for reinsurance plans. Any such recommendations shall take into account the findings of an actuarial study to be

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undertaken within the first three years of the plan's operation to evaluate and measure the relative risks being assumed by differing types of health benefit plan carriers. The study shall be conducted by three actuaries appointed by the commissioner, one of whom shall represent risk assuming carriers, one of whom shall represent reinsuring carriers and one of whom shall represent the commissioner.

**SECTION 43.** Section eighty-one of chapter twenty-three of the acts of nineteen hundred and eighty-eight is hereby repealed.

**SECTION 44.** Sections fifty-five and ninety-eight of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one are hereby repealed.

**SECTION 45.** Item 4600-1050 in section 2 of chapter 138 of the acts of 1991, is hereby amended by striking out, in lines 4 to 8, inclusive, the words "that not less than four million dollars of revenues from this pool shall be expended for a managed health care program at community health centers; provided further,"- and by striking out, in lines 15 to 18, inclusive, the words, "; provided further, that not less than ten million seven hundred thousand dollars of revenues from the pool shall be transferred to the Vaccine Trust Fund".

**SECTION 46.** Said section 2 of said chapter 138 is hereby further amended by inserting after item 4600-1050 the following four items:-

4600-1200	For a program of preventive pediatric health care services established pursuant to section six A and six B of chapter one hundred and eighteen E of the General Laws	\$5,000,000
	Health Care Access Fund	100.0%

4600-1210	For a program of managed care established pursuant to section fifteen of chapter one hundred and eighteen F of the General Laws, within community health centers pursuant to regulation promulgated by the department of medical security	\$4,000,000
	Health Care Access Fund	100.0%

4600-1220	For monies required to fund the Vaccine Trust Fund established pursuant to section one hundred and forty-one of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine	\$10,700,000
	Health Care Access Fund	100.0%

4600-1230	For a program of medical respite services provided by the Boston health care for the homeless program established pursuant to section seventeen A of chapter one hundred and eighteen F of the General Laws	\$300,000
	Health Care Access Fund	100.0%

**SECTION 47.** Section eighty-seven of chapter one hundred and fifty of the acts of nineteen hundred and ninety shall take effect no earlier than July first, nineteen hundred and ninety-two.



**SECTION 48.** Section 2 of chapter 255 of the acts of 1991 is hereby amended by striking out item 4408-1000 and inserting in place thereof the following item:-

4408-1000 For a program of cash assistance to certain residents of the commonwealth entitled emergency aid to the elderly, disabled and children found by the department of public welfare to be eligible for such aid, pursuant to regulations promulgated by said department and subject to the limits of appropriation therefor; provided, however, that said program may include a program of medical benefits as defined by regulations of the department of public welfare; provided, however, that said program shall include services provided in public detoxification and outpatient substance abuse treatment centers; provided, further, that the department may provide benefits to persons over the age of sixty-five who have applied for benefits under chapter one hundred and eighteen A of the General Laws, to persons suffering from those physical or mental incapacities designated by the department, and which have been verified by a medical practitioner designated by the department, and to certain persons caring for a disabled person; provided, further, that the costs of verifying disability may be paid from this item; provided, further, that in designating those physical or mental incapacities which are disabling, the department may include those impairments listed in 20 C.F.R. 404, Subpart P, Appendix I; provided, further, that the department may apply age, educational and vocational standards to those individuals who have a medical disability which does not meet the medical standards established by regulations of the department; provided, further, that the payment standard shall not exceed the payment standard in effect for the General Relief program in fiscal year nineteen hundred and ninety-one; provided, further, that a thirty-five dollar rent benefit, to the extent determined to be possible within the appropriation by the department, shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided, further, that families with dependent children, whose sole reason for ineligibility under chapter one hundred and eighteen is either an inability to satisfy the work history requirement of said program or an inability to satisfy the relationship requirement, may be eligible under this program; provided, further, that the department may provide participants in the Vocational Rehabilitation program of the Massachusetts rehabilitation commission, as defined in 106 CMR 312, benefits under this program if otherwise eligible;

provided, further, that benefits may be provided to an otherwise eligible student under age twenty-one who is regularly attending full-time a grade, high school, technical or vocational school not beyond the secondary level; provided, further, that the department is authorized to promulgate emergency regulations pursuant to section three of chapter thirty A of the General Laws to implement this program promptly and within the appropriation; provided, further, that the department may begin the eligibility determination process prior to the effective date of regulations hereunder; provided, further, that no ex-offender, person over age forty-five without a prior work history, or person in a residential treatment facility shall be eligible for benefits under this program unless said person otherwise meets the eligibility criteria described herein and defined by regulations of the department; provided, further, that benefits under this program shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens, provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits, and any other benefits, under this program, the department shall take into account the amounts available to it for expenditure under this chapter so as not to exceed the appropriation, and may, in its discretion, depart from prior practices in accordance with the provisions of this item; provided, further, that notwithstanding the provisions of any special or general law to the contrary, or this line item, thirty days before implementing eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerk of the house of representatives and the clerk of the senate a report setting forth such proposed changes; provided, further, that the report shall contain detailed information concerning the current and proposed operation of the program, including categories of eligibility, number of eligible persons in each category, demographic information regarding said persons, services rendered to said persons, direct service costs, administrative costs, and an explanation of the need for the proposed changes in eligibility requirements or benefit levels or both which shall be implemented and a determination by the secretary of human services that available appropriations for said program will be insufficient to

meet projected expenses; provided, further, that the department is authorized to promulgate emergency regulations pursuant to chapter thirty A of the General Laws to implement these eligibility or benefit changes or both, provided, further that in establishing the initial program only, the department shall include all eligibility categories permitted herein at the payment standard in effect for the former general relief program in fiscal year nineteen hundred and ninety-one; provided, further that nothing herein shall be construed as creating any right accruing to recipients of the former general relief program; provided, further, that any person incarcerated in a correctional institution shall not be eligible for benefits under said program; provided, further, that the secretary of health and human services shall report on December first, nineteen hundred and ninety-one, and every three months thereafter to the house and senate committees on ways and means for the preceding three months on the numbers of persons applying for benefits under this program, by category, age, and disability, if any, and the number of persons receiving and denied benefits under this program by category, age, and disability, if any; provided, further, that notwithstanding any general or special law to the contrary, that the funds made available herein shall be the only funds available for said program, and the department shall not spend funds for said program in excess of the amount made available herein, and subject to the condition that no funds appropriated herein shall be expended for the payment of abortions not necessary to prevent the death of the mother

\$102,517,000

**SECTION 49.** Section three of chapter three hundred and thirty-seven of the acts of nineteen hundred and eighty-nine is hereby repealed.

**SECTION 51.** Notwithstanding any general or special law to the contrary, for fiscal years nineteen hundred and ninety-two and nineteen hundred and ninety-three, acute hospitals, except for specialty hospitals, as defined in chapter six B, shall be subject to price caps and to maximum gross inpatient service revenue limitations which shall be determined as follows:

(i) Using merged billing and discharge tapes submitted by each hospital including specialty hospitals pursuant to commission regulations, the commission shall group all discharges for inpatient services provided from October first, nineteen hundred and ninety through September thirtieth, nineteen hundred and ninety-one into DRGs, as defined in section one of chapter six B of the General Laws, utilizing the New York Version 8.0 Grouper. After grouping said discharges, the commission shall calculate, by hospital, an average charge for each DRG by dividing total charges by total discharges in each DRG;

(ii) The commission shall then rank all hospitals' including specialty hospitals average charge for each DRG and determine the ninetieth percentile highest charge level in each DRG;

(iii) The commission shall then multiply each charge level determined in subparagraph (ii) by one plus an inflation index for the fiscal year beginning on October first, nineteen hundred and ninety-one. Said inflation index shall account for the projected annual increase in the market basket of goods and services purchased by hospitals for said fiscal year. The resultant amounts shall constitute the fiscal year nineteen hundred and ninety-two price caps in each applicable DRG;

(iv) The commission shall multiply the fiscal year nineteen hundred and ninety-two price cap for each DRG by one plus an inflation index for the fiscal year beginning on October first, nineteen hundred and ninety-two. Said inflation index shall account for the projected annual increase in the market basket of goods and services purchased by hospitals for said fiscal year. The resultant amounts shall constitute the fiscal year nineteen hundred and ninety-three price caps in each applicable DRG;

(v) Within one hundred and twenty days after the end of each quarter, each hospital shall file with the commission a schedule listing all admissions of non-insured, non-contracting purchasers where charges for the admission exceeded the applicable price cap. Said schedule shall also list the payment received by the hospital. If the commission determines that any non-contracting, non-insured purchaser paid an amount in excess of said price cap, the commission shall direct the hospital to refund said overpayment;

(vi) Within one hundred and twenty days after the end of each quarter, each hospital except for a specialty hospital shall also file with the commission a schedule comparing actual gross inpatient service revenues to the maximum gross inpatient service revenue limitation calculated pursuant to subparagraph (vii);

(vii) A hospital's maximum gross inpatient service revenue limitation shall be determined by multiplying the total number of discharges in each DRG by the fiscal year nineteen hundred and ninety-two or fiscal year nineteen hundred and ninety-three charge cap as appropriate for that DRG, summing the resulting amounts for all DRGs;

(viii) In cases where a hospital's actual gross inpatient service revenues exceed its maximum gross inpatient service revenue limitation the commission shall ensure that future charges are reduced to effect compliance with said maximum gross inpatient service revenues.

If, at the end of fiscal year nineteen hundred and ninety-three, the commission determines a hospital's actual gross inpatient service revenues for fiscal years nineteen hundred and ninety-two and nineteen hundred and ninety-three exceeded its maximum gross inpatient service revenue limitation for those years, the commission shall require the hospital to pay a portion of said excess revenue into

the uncompensated care pool, as established pursuant to chapter one hundred and eighteen F of the General Laws, within a reasonable time frame. The commission shall determine said amount by multiplying that portion of the excess charges attributable to purchasers and third party payers, excluding Title XVIII, Title XIX, publicly aided patients, inpatient free care and charges that were listed on the quarterly schedules submitted in accordance with subparagraph five of this section, by one minus the average inpatient discount provided to purchasers and third party payers, excluding Title XVIII, Title XIX, publicly aided patients, inpatient free care, and non-contracting, non-insured purchasers.

The commission shall develop by regulation the methodologies and schedules necessary to implement this section.

For purposes of this section, the terms and definitions used herein shall have the same meanings ascribed to them in section one of chapter six B of the General Laws.

**SECTION 52.** (1) The department of public health shall establish a pilot loan assistance program for teaching hospitals. Hospitals participating in the pilot program shall administer said program. Further, said hospitals agree to provide loan repayment assistance to medical residents at their institutions who: (a) have a minimum of fifty thousand dollars in education debts upon graduation from medical school; (b) are training in primary care; (c) agree to continue practicing in Massachusetts for at least three years upon completion of residency in a location approved by the Area Health Education Center the University of Massachusetts at Worcester; (d) agree to treat those patients covered for health and medical services under Title XIX (Medicaid) of the federal Social Security Act. (2) The loan repayment assistance would: (a) be paid in the amount of ten thousand dollars directly by each participating hospital to the banks holding the loans for the three participating residents from that hospital; (b) begin after the second year of residency when the federal deferment period ends; (c) be offered by each participating hospital beginning in July nineteen hundred and ninety-two for a period of three years. (3) Said department would: (a) provide listings of available positions meeting the commonwealth's criteria; (b) maintain a record of residents in the loan forgiveness program to ensure their compliance with its terms. (4) Said department, in consultation with participating teaching hospitals shall evaluate the loan repayment assistance program in its third year and make any recommendations therefor.

**SECTION 53.** The department of public health, in consultation with local boards of health, shall investigate the health service needs of the commonwealth to ensure that critical health services are available in communities of the commonwealth. In determining critical services to be preserved, the department shall analyze the health status of the community, existing alternative medical care available, and population-based monitoring of hospital use patterns. Such analysis

shall further include consideration of the existence of viable health care providers located within an acute hospital facility and determination of the feasibility of conversion of underutilized or non-essential acute operations, consolidation of shared services and expansion of services while ensuring the availability of critical services to the community. The department shall report periodically to the governor and the senate and house of representatives on the status of access to critical health services in communities of the commonwealth and identify, analyze, and recommend solutions to any significant access problems.

**SECTION 54.** (a) For fiscal year nineteen hundred and ninety-two only, the uncompensated care pools liability to a hospital shall be calculated net of any payments received during said fiscal year prior to calculations made in accordance with this act.

(b) For fiscal year nineteen hundred and ninety-two only, a hospital's liability to the pool for the period prior to implementation of the uncompensated care fee pursuant to section eleven of chapter six B of the General Laws shall equal the product of the uniform statewide allowance previously in effect, multiplied by private sector patient care costs established pursuant to the most recent hospital agreement. This liability shall be calculated net of all payments made by the hospital to the extent it participated in the uncompensated care pool on a voluntary basis prior to the calculations made in accordance with this act. For fiscal year nineteen hundred and ninety-two, if the fee as authorized pursuant to said section eleven of said chapter six B of the General Laws is initially calculated after the beginning of the hospitals' fiscal year, payments by purchasers and third party payers exclusive of Titles XVIII and XIX and publicly aided patients shall be made through a combination of the allowance previously included in charges for the period prior to said calculation, and said fee.

**SECTION 55.** For hospital fiscal year nineteen hundred and ninety-two, the uncompensated care liability of purchasers and third party payers to the uncompensated care pool established pursuant to section seventeen of chapter one hundred eighteen F of the General Laws and derived from the uncompensated care fee assessed by acute hospitals on all accounts charged to purchasers and third party payers exclusive of Titles XVIII and XIX and publicly aided patients shall not exceed three hundred million dollars. For state fiscal year nineteen hundred and ninety-two, notwithstanding any general or special law to the contrary, thirty-five million dollars generated by federal financial participation made available under Title XIX of the Social Security Act to match the costs of said pool for disproportionate share hospitals shall be deposited into said pool, and five million dollars of said federal financial participation shall be deposited into the Health Care Access Fund established pursuant to section seventeen A of chapter one hundred eighteen F of the General Laws.

**SECTION 56.** Notwithstanding any general or special law to the contrary, for

fiscal years prior to nineteen hundred and ninety-two, the rate setting commission shall expeditiously complete all pertinent pending maximum allowable cost and approved revenue reviews and audits, using such thresholds, allowances and other measures it deems necessary, fair and reasonable for the settlement of such pending matters. Upon completion of required reviews and audits, the commission shall determine a hospital's revenue compliance with the provisions of sections seventy-eight to one hundred of chapter six A of the General Laws, inserted by chapter twenty-three of the acts of nineteen hundred and eighty-eight. The commission shall notify a hospital of any over generation of approved revenues and require the hospital to pay a portion of such excess revenue into the uncompensated care trust fund established pursuant to section seventeen of chapter one hundred and eighteen F. The commission shall specify, in regulation, the methodology for determining the appropriate portion of approved revenues to be paid into the trust fund and shall provide for such required payment to be amortized over a period not to exceed five years.

**SECTION 57.** Except for emergency regulations adopted pursuant to section two of chapter thirty A, any new regulation or any amendment or repeal of any regulation adopted by the department of medical security for the purpose of defining free care eligibility and free care for charges to which the free care pool is liable to any hospital, shall, after the compliance with all applicable provisions of said chapter thirty A, except section five, be submitted to the general court. The commissioner of the department of medical security shall file the proposed regulations, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of chapter thirty A, except section five, have been complied with. The clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the joint committee on health care. Within thirty days after such referral, said committee may hold a public hearing on the regulations and may issue a report to said commissioner within thirty days of said meeting. Said report shall contain any proposed changes to the regulations voted upon by the committee. Said commissioner shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairman of the health care committee its final regulations. Not earlier than one hundred and twenty days after the proposed regulations have been filed with said clerk of the house of representatives, said commissioner shall file the final regulations with the state secretary as provided in section five of said chapter thirty A and said regulations shall thereupon take effect.

**SECTION 58.** Notwithstanding the provisions of any general or special law to the contrary, acute hospitals shall be allowed to sell claims for payment to collection agencies for a fee; provided, however, that such claims for payment shall not include any claim for payment of any charge which is considered to be free

care as defined in chapter one hundred and eighteen F of the General Laws. The department of medical security may by regulation establish a mechanism for the bulk sale of claims for payment by two or more participating acute hospitals to collection agencies; provided, further, that nothing shall prevent acute hospitals from combining their debt for sale to collection agencies outside of this regulatory mechanism.

**SECTION 59.** There is hereby established an advisory commission to collect and disseminate evidence for the value and success of recognized quality improvement principles and methods in the health care industry. The advisory commission consisting of seventeen members shall be appointed by the governor and shall consist of the commissioner of public health, who shall serve as chairman, the deputy commissioner of public welfare for medical assistance, the chairman of the rate setting commission, the commissioner of medical security, health policy experts, members of the business community with recognized industrial quality management experience, and a representative from each of the following trade associations: the Massachusetts Hospital Association, the Massachusetts Nurses Association, the Massachusetts Medical Society, the Massachusetts Federation of Nursing Homes, the Massachusetts Association of Homes for the Aged, the Massachusetts League of Community Health Centers, the Visiting Nurses Association of Massachusetts, and the Massachusetts Association of Health Maintenance Organizations. In reviewing evidence for the value of quality improvement methods in the health care industry, advisory commission members shall consider the success of existing quality improvement methods, including but not limited to Total Quality Management and Computerized Quality Screening, employed in various industries; the utility or applicability of severity adjustment methods and outcome measurement determinants; the impact of state and Joint Commission on Accreditation of Health Care Organizations regulations on the goal of quality improvement in the health care industry.

The advisory commission may apply for and receive grants to carry out its purpose.

The advisory commission shall report its findings and make its recommendations, if any, to the governor and the joint committee on health care, no later than October first, nineteen hundred and ninety-two.

**SECTION 60.** Notwithstanding any general or special law to the contrary, the special commission on the practice of nursing shall be granted until June thirtieth, nineteen hundred and ninety-two to complete its work and file its report with the general court.

**SECTION 61.** The commissioner of insurance shall conduct a study of the effectiveness of chapter one hundred and seventy-six J of the General Laws. Said study shall consider the effect of the chapter on improving access, affordability, and stability in the small business insurance market and may recommend amendments



to the chapter as the commissioner may determine. A report of said study's findings shall be filed with the committee on insurance no later than December thirty-first, nineteen hundred and ninety-two.

**SECTION 62.** Notwithstanding the provision of section twenty-five C of chapter one hundred and eleven of the General Laws, any person who prior to October first, nineteen hundred and ninety-one filed notice of intent to acquire or has acquired medical equipment designed or equipped to provide magnetic resonance imaging services under the solo or group practice exclusion from the definition of "clinic" in section fifty-two of chapter one hundred and eleven of the General Laws may own such equipment without obtaining a determination of need from the department of public health. Notwithstanding the foregoing, no such person may implement an addition, expansion, conversion, transfer of site or transfer of ownership, as such terms are defined pursuant to sections twenty-five B to twenty-five G, inclusive, of said chapter one hundred and eleven of medical equipment with a fair market value in excess of one hundred and fifty thousand dollars designed or equipped to provide magnetic resonance imaging services unless such person is first issued a determination of need therefor by the department of public health.

**SECTION 63.** The commissioner of public health is hereby directed to conduct a statewide review of procedures used by hospitals in informing the next-of-kin upon the death of an individual in an emergency room. The commissioner shall forward the results of said review to the chairs of the joint committee on health care within one hundred and twenty days of the effective date of this act.

**SECTION 64.** Any rule or regulation promulgated pursuant to this act shall contain reporting requirements governing mandatory disclosure of comprehensive financial data, in such form as the rate setting commission shall determine, concerning every organization with which an acute hospital is affiliated, including but not limited to related or affiliated corporations, partnerships, holding companies and subsidiaries. Such data shall include all compensation and benefits for the five top officers.

**SECTION 65.** Sections one, two, four, five, six, seven, eight, nine, ten, eleven, twelve, sixteen, eighteen, fifty-one, fifty-four and fifty-six of this act shall take effect on October first, nineteen hundred and ninety-one.

**SECTION 66.** Section three of this act shall take effect on January first, nineteen hundred and ninety-two.

**SECTION 67.** Except as otherwise provided the remaining provisions of this act shall take effect upon passage.

Approved December 31, 1991.

**Chapter 496.            AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF GREENFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The charter of the town of Greenfield which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3.10 and inserting in place thereof the following section:-

*Section 3.10 Conflict of Interest.* No member of the town council, member of any town board, agency or commission or any officer of the Town shall vote or participate in any matter or action which necessitates any decision or necessitates any vote of the councillor, selectmen, officer or member of any board, agency or commission of the Town which violates any conflict of interest statute, rule or regulation of the commonwealth.

**SECTION 2.** Section 10.2 of said charter is hereby amended by adding the following sentence:- The town manager and library trustees shall consult each other prior to the submission of the library budget to the board of selectmen for appropriation.

**SECTION 3.** Said charter is hereby further amended by striking out section 11.1 and inserting in place thereof the following section:-

*Section 11.1 Composition, Term, Appointment.* There shall be a recreation commission which shall consist of five members and two alternate members who are appointed by the board of selectmen for a staggered term of three years. Alternate members may participate in the deliberation of the commission but not vote unless one or more of the regular members is not in attendance. The right for the alternate to vote shall be assigned by seniority.

**SECTION 4.** Said charter is hereby further amended by striking out section 11.2 and inserting in place thereof the following section:-

*Section 11.2 Powers and Duties.* The recreation commission shall have all powers which are conferred on recreation commissions by the General Laws, and such other powers and duties as may be provided by the by-laws of the town of Greenfield. Said recreation commission shall advise the town manager in connection with the recreational needs of the town and shall assist the town manager relative to establishing plans to meet the recreational needs of the town.

**SECTION 5.** Said charter is hereby further amended by striking out sections 18.1 to 18.5, inclusive, and inserting in place thereof the following five sections:-

*Section 18.1 Emergency By-laws.* No by-law shall be passed on the date it is introduced, except in case of special emergency involving the health or safety of the people or their property.

*Section 18.2* No by-law shall be regarded as an emergency by-law unless the

emergency is defined and declared in a preamble to such by-law, separately voted upon and receiving an affirmative vote of the majority of the town council.

*Section 18.3* No by-law making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege of any kind or nature shall be passed as an emergency measure, and except as provided in sections seventy and seventy-one of chapter one hundred and sixty-four and in chapter one hundred and sixty-six of the General Laws, no such grant, renewal or extension shall be made otherwise than by by-law.

*Section 18.4* Emergency by-laws shall stand repealed on the sixty-first day following their adoption, unless an earlier expiration date is specified in the emergency by-law, or unless a measure is passed in conformity with the procedures for measures generally has been passed extending it.

*Section 18.5 Measures in General.* Excepting only proposed by-laws, appropriation of orders and loan authorizations, the town council may pass any other measure through all of its stages at any one meeting. But, if any five members object, a vote on the measure shall be postponed to the next meeting of the town council.

**SECTION 6.** Said charter is hereby further amended by striking section 18.7 and inserting in place thereof the following section:-

*Section 18.7 Publication.* A summary of every proposed by-law, appropriation order or loan authorization, except emergency by-laws as herein provided, shall be published one in a local newspaper, and in any additional manner as may be provided by by-law, at least five days before its initial consideration by either the town council or a standing committee of the town council. After final passage, it shall be posted on the Town bulletin board and otherwise published as may be required by by-law or statute.

**SECTION 7.** Said charter is hereby further amended by striking out section 19.3 and inserting in place thereof the following section:-

*Section 19.3 Supplementary Budgets.* Whenever there shall be submitted to the Town Council a request for an appropriation of any sum of money, whether as a supplement to the annual operating budget or for an item or items not included therein, the town council shall not act upon such request until it has (1) given notice by publication in a local newspaper of the request five days before its initial consideration by either the town council or a standing committee of the town council; and (2) held a public hearing concerning such requests by either the town council or a standing committee of the town council not less than five days before a council vote.

**SECTION 8.** Said charter is hereby further amended by striking out section 20.1 and inserting in place thereof the following section:-

*Section 20.1 Submission.* The board of selectmen shall prepare and submit to the town council a capital outlay program of not less than five years' duration on

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**Chap. 497**

or before March first, of each year.

Approved December 31, 1991.

**Chapter 497.        AN ACT AUTHORIZING THE PLACING OF CERTAIN LIENS  
ON PROPERTIES IN THE CITY OF REVERE.**

*Be it enacted, etc., as follows:*

The city of Revere is hereby authorized to place a lien on the property of any person who has an outstanding balance due the city from any penalties, fines, assessments or other charges resulting from violations of the health code. Any such lien shall be included on certificates of taxes and other assessments furnished by said city under the provisions of section twenty-three of chapter sixty of the General Laws.

Approved December 31, 1991.

**Chapter 498.        AN ACT RELATIVE TO INDEMNIFICATION FOR DAM-  
AGES IN CERTAIN CIVIL ACTIONS.**

*Be it enacted, etc., as follows:*

Chapter 175 of the General Laws is hereby amended by inserting after section 112 the following section:-

Section 112A. Any insurer doing business in the commonwealth shall reveal to an injured party making claim against an insured, the amount of the limits of said insured's liability coverage, upon receiving a request in writing for such information from the injured party or his attorney. A reply shall be made within thirty days of receiving such request. Any insurer who fails to comply with the provisions of this section shall be liable to pay to the claimant the sum of five hundred dollars plus reasonable attorneys' fees and expenses incurred in obtaining the coverage information provided for herein.

Approved December 31, 1991.

**Chapter 499.        AN ACT AUTHORIZING CERTAIN ADJUSTMENTS TO  
ENSURE FISCAL STABILITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general

appropriation act and for certain other activities and projects, the sums set forth in sections two and three are hereby appropriated from the General Fund unless specifically designated otherwise in the items, for the several purposes and subject to the conditions specified therein, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one for the fiscal year ending June thirtieth, nineteen hundred and ninety-two or for such period as may be specified, the sums so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer funds from item 1103-2200, originally received from the trial court and placed into the Final Contract account, so-called, to the items of appropriation listed below. The funds so transferred shall be for the purposes of and subject to the conditions stated in the line-items. The comptroller is further authorized and directed to submit to the house and senate committees on ways and means, not later than January first, nineteen hundred and ninety-two, an itemized list of all funds transferred into line-item 1103-2200, the line-items from which said funds were transferred, the purpose of said funds, and all relevant documentation including copies of contracts pertaining to said Final Contract account.

Item

0330-2000	For the salaries and expenses of certain law libraries	\$684,250
1599-3850	For a reserve to meet the city of Chelsea's unanticipated unemployment costs incurred in fiscal year nineteen hundred and ninety-two which resulted due to the delay in approving the municipal budget for the city	\$539,216

**SECTION 3.**

Item

**PUBLIC SAFETY.**

*Massachusetts Emergency Management Agency.*

8800-0033	For the state share of disaster relief assistance connected with the October thirty, nineteen hundred and ninety-one, coastal storm; provided, that funds may be allocated from this item to the department of public welfare in accordance with an interagency agreement	\$668,750
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**SECTION 4.** Section 2 of chapter 138 of the acts of 1991 is hereby amended in item 3722-8878 by striking after the word "commitments," the word:- contracts.

**SECTION 5.** Said section 2 of said 138 is hereby further amended in item 3722-8878 by striking out the words "; and provided further, that only contracts signed previous to June twenty-fourth, nineteen hundred and ninety-one shall be funded".

**SECTION 6.** Said section 2 of said chapter 138 is hereby further amended in item 7070-0065 by inserting after the words "within the commonwealth;" the following words:- provided, that students awarded full or partial scholarships under the Christian A. Herter Memorial Scholarship Program, as established in section sixteen of chapter fifteen A of the General Laws as most recently amended by chapter one hundred forty-two of the acts of nineteen hundred ninety-one, who have matriculated in a program of higher education outside the commonwealth may continue to receive the scholarship aid guaranteed by said program; provided further, that notwithstanding the provisions of any general or special law to the contrary, the state scholarship office is authorized to expend monies for senatorial honors scholarships authorized in the years nineteen hundred and eighty-eight and nineteen hundred and eighty-nine; provided further, that notwithstanding the provisions of any general or special law to the contrary, the state scholarship office is authorized to expend monies for public service awards, as established in said section sixteen of chapter fifteen A;

**SECTION 7.** Said section 2 of said chapter 138 is hereby further amended in item 7077-0023 by inserting after the words "provided to the commonwealth", the following:- ; and provided further, that prior year costs may be paid from this item.

**SECTION 8.** Notwithstanding the provisions of line item 2100-0000 of section two of Chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one, the department of environmental management shall not alter, renegotiate or otherwise affect the fees, licenses, permits, rents, leases or other aspects of the maintenance, operation, or administration of any skating rink operated by the department.

**SECTION 9.** Section 4 of chapter 560 of the acts of 1982 is hereby amended by striking out clause (e) and inserting in place thereof the following clause:-

(e) to encourage the use of said network by providing post-secondary institutions and other entities assistance in the development and production of educational and informational programming which meets the educational, cultural and economic needs of the entire population of the commonwealth.

**SECTION 10.** Paragraph (a) of section 12 of chapter 372 of the acts of 1984, as most recently amended by section 176 of chapter 150 of the acts of 1990, is hereby further amended by inserting in the fifth sentence after the word "billion" the following words:- three hundred million.

**SECTION 11.** Section 16 of said chapter 372, as most recently amended by section 177 of chapter 150 of the acts of 1990, is hereby further amended by inserting in the fourth sentence after the word "billion" the following words:- three hundred million.

**SECTION 12.** Section 2A of chapter 208 of the acts of 1988 is hereby amended by inserting after the word "equipment" in line 2 of item 1101-7893, the following:- "and for the costs associated with certain software development projects, including

the salaries and wages of commonwealth employees who are assigned to the projects”.

**SECTION 13.** For the purpose of making available for expenditure in the fiscal year nineteen hundred ninety-two the balance of the authorization which reverted on June thirtieth, nineteen hundred ninety-one, the unexpended balance of the bond-funded item 2120-8861 is hereby authorized for the fiscal year nineteen hundred ninety-two.

**SECTION 14.** (a) Notwithstanding the provisions of any general or special law to the contrary, employees who have chosen the option of continuing to work their furlough days unpaid through the temporary furlough period for receipt of a lump sum, and employees who have no option other than to continue to work their furlough days unpaid for receipt of a lump sum, shall be entitled, within thirty days of their retirement, termination or death, or by January thirty-first, nineteen hundred and ninety-two, whichever comes first, to said lump-sum payment, in an amount equal to said employee's per diem salary foregone as a result of furlough for the number of days required in subdivision (c), as that salary stood at the time of the furlough, or as it stands as of December thirty-first, nineteen hundred and ninety-one, or at the time of such retirement, termination or death prior to January thirty-first, nineteen hundred and ninety-two, whichever is greater that no such payment shall be made prior to fiscal year nineteen. The secretary of administration and finance is hereby authorized and directed to establish and implement a plan to carry out the provisions of this paragraph.

(b) Notwithstanding the provisions of section ninety of chapter six of the acts of nineteen hundred and ninety-one, or any other general or special law to the contrary, employees furloughed under the provisions of said section ninety of said chapter six, who chose the option of continuing to work their furlough days unpaid and receive a number of bonus vacation days in compensation thereof, as specified in subdivision (b) of said section ninety, and who have not used all of said bonus vacation days as of December thirty-first, nineteen hundred and ninety-one, shall be given the opportunity to decide anew whether to choose to receive a lump sum payment for their remaining uncompensated furlough days, each 1.25 unused bonus vacation days to be converted into one days compensation, or whether to receive their remaining unused bonus vacation days under the terms of subdivisions (b) and (d) of said section ninety. Each said employee shall elect finally in writing to his immediate manager by January seventeenth, nineteen hundred and ninety-two. All said employees who choose under the provisions of this section to receive a lump sum payment rather than their unused bonus vacation days, shall be entitled to said payment in a per diem amount equal to their compensation rate as it stood at the time of the furlough, or as it stands as of December thirty-first, nineteen hundred and ninety-one, whichever is greater. The determination of whether an employee has unused bonus vacation days will be based on section

ninety of chapter six and the rules and regulations made pursuant to subdivision (b) of section ninety. For those branches, offices, departments, agencies or authorities that did not make rules and regulations pursuant to subdivision (b) of section ninety the determination of whether an employee has unused bonus vacation days will be based on Administrative Bulletin, executive office for Administration and Finance, 91-3. The commissioner of administration is hereby authorized and directed to implement the provisions of this paragraph by January thirty-first, nineteen hundred and ninety-two.

**SECTION 15.** The cost of any lump-sum payments required by section fourteen, which have not been made prior to the effective date of this act, shall be funded as provided in a reserve item established for the purpose in the executive office of administration and finance; provided, that it shall be in the discretion of the secretary of administration and finance to determine whether and to what extent any such reserve funds shall be made available to the university of Massachusetts, which furloughed its employees but did not transmit to the General Fund or to the commonwealth for deposit in the General Fund the savings in personnel expenditures yielded in its non-appropriated funds from said temporary furlough program; in the absence of reserve funds, said university shall fund the payments required by section two of this act, from said university's non-appropriated funds or from funds allocated to it from the appropriation in item 7100-0200 of section two of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one.

**SECTION 16.** Chapter 32 of the General Laws is hereby amended by striking out Section 28K, as appearing in the 1990 Official Edition, and inserting in place thereto the following section:-

Section 28K. Any employee of the commonwealth or its political subdivisions who is a full-time representative of an employee organization, which has included in its membership employees of the commonwealth or its political subdivisions shall, while on leave of absence for the purpose of acting as a full-time representative of said employee organization, be considered on leave of absence, without pay, for the period of his assignment as a full-time representative of such employee organization. Such employee shall, however, be credited with creditable service, and shall contribute each month to the retirement fund in an amount which he would have contributed had he remained in the service of the commonwealth or its political subdivisions. Such employee of the commonwealth or its political subdivisions shall be entitled to all benefits and privileges, except the payment of salary as provided under this chapter and chapters thirty, thirty-one, and thirty-two during the leave of absence.

**SECTION 17.** The second paragraph of section 1B of chapter 38 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- His salary



shall be set by the governor, and shall be commensurate with that of similar positions in comparable jurisdictions.

**SECTION 18.** Paragraph (g) of section 16C of chapter 118E of the General Laws, as amended by section 342 of chapter 138 of the acts of 1991, is hereby further amended by striking out the word "January" and inserting in place thereof the word:- July.

**SECTION 19.** Chapter 175 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding after section 204 the following section:-

Section 205. Notwithstanding any provision of sections one hundred and eight, one hundred and ten, one hundred and ninety A, one hundred and ninety B and one hundred and ninety C of chapter one hundred and seventy-five to the contrary, no policy which provides supplemental coverage to medicare shall be delivered, issued for delivery or renewed unless the commissioner shall have approved the policy or certificate in writing nor unless the policy or certificate complies with standards promulgated by the commissioner for such policies and certificates provided, however, that nothing in this section shall be construed to apply to, affect or prohibit the issue of any general or blanket policy of insurance which provides supplemental coverage to medicare delivered, issued for delivery or renewed to: one or more employers or trade unions, the trustees of a fund established by one or more employers or trade unions, or a combination thereof, covering employees, former employees, or a combination thereof, or covering members or former members of the trade unions, or a combination thereof.

The commissioner shall promulgate regulations to implement this section.

**SECTION 20.** For the purposes of this act the words "public school employer" shall mean any school committee, regional school district, independent vocational school, county agricultural school or educational collaborative, unless the context clearly requires otherwise.

**SECTION 21.** Notwithstanding the provisions of chapter thirty-two of the General Laws or any general or special law to the contrary, a public school employer which accepts the provisions of this act, in cooperation with and upon the prescribed notification to the teachers' retirement board, established under the provisions of section sixteen of chapter fifteen of the General Laws, may establish and implement an early retirement incentive program for teachers, as defined in said chapter thirty-two; provided, that, in order to be deemed eligible by said board for any of the benefit options under such program, a teacher (i) is employed by a public school employer which has accepted the provisions of this act; (ii) shall have attained the age of fifty-five years on the date of his retirement requested in his written application with said board; (iii) shall have twenty-five years of creditable service as defined in section four of said chapter thirty-two upon said date of retirement; and (iv) shall have filed a written application in accordance with section fifteen of this act.

For the purposes of this act, words shall have the same meaning as in chapter thirty-two of the General Laws, unless otherwise expressly provided or unless the context clearly requires otherwise. Any teacher employed by a public school employer who retires under the provisions of this act shall be deemed to be retired for superannuation under the provisions of said chapter thirty-two and shall be subject to any and all provisions of said chapter.

**SECTION 22.** Notwithstanding so much of the provisions of section five of chapter thirty-two of the General Laws that require a retirement date within four months of the filing of an application for superannuation retirement, in order to receive the early retirement benefit provided by this act, any eligible teacher, shall file his application for retirement under the provisions of this act with the teachers' retirement board, on a form prescribed by said board, within the time period determined by such public school employer in accordance with the provisions of this act, which time period shall end no later than April first, nineteen hundred and ninety-three; provided that the retirement date requested shall be within the time period determined by such public school employer, which time period shall end not later than June thirtieth, nineteen hundred and ninety-three. The retirement date requested by any teacher under the provisions of this act shall be approved by his public school employer.

**SECTION 22A.** A) Notwithstanding the provisions of chapter thirty-two of the General Laws or of any general or special law to the contrary, and upon the acceptance of the legislative and executive authorities within the appropriate Massachusetts city, town, or county the provisions of Section 14 shall apply to those municipal or county employees who are Group one, Group two or Group four employees, as defined in section three of chapter thirty-two who are members of the appropriate municipal or county retirement system and who (i) shall be an employee of the municipality on the effective date of this subsection, (ii) shall be eligible to receive a superannuation retirement allowance in accordance with the provisions of section five of said chapter thirty-two or of section ten of said chapter thirty-two upon the date of his written application to said board, and (iii) shall have filed a written application after March fifteen, nineteen hundred and ninety-two but no later than June fifteen, nineteen hundred and ninety-two to hundred and ninety-one, (ii) shall be classified in Group one of said retirement system in accordance with the provisions of paragraph G of subdivision two of section three of said chapter thirty-two, (iii) shall be eligible to receive a superannuation retirement allowance in accordance with the provisions of subdivision one of section five of said chapter thirty-two or of subdivisions one of section ten of said chapter thirty-two upon the date of his written application to said board, and (iv) shall have filed a written application after March fifteen, nineteen hundred and ninety-two but no later than June fifteen, nineteen hundred and ninety-two to retire for superannuation as of a date which shall be specified in such application,

provided that said date for retirement shall be no earlier than July one, nineteen hundred and ninety-two and no later than August one, nineteen hundred and ninety-two.

For the purpose of this act, words shall have the same meaning as in chapter thirty-two of the general laws, unless otherwise expressly provided or unless the context clearly provides otherwise. Any employee who retires and receives an additional benefit in accordance with the provisions of subsection (A) of this section shall be deemed to be retired for superannuation under the provisions of said chapter thirty-two and shall be so subject to any and all provisions of said chapter thirty-two. The state teachers' retirement board shall promulgate regulations to implement the provisions of this section.

B) The program shall be deemed to have been accepted by a city or town upon recommendation by the school committee and approval by the legislative and executive authorities of the city or town. The program shall be deemed to have been accepted by a regional school district upon the recommendation and approval of its school committee.

C) Any employee who is eligible for the retirement incentive program in accordance with the provisions of subsection (A) of this act may request in his application for retirement that the state teachers' retirement board credit him with additional retirement benefits in accordance with the provisions of this subsection, provided that each such employee shall request and receive up to four years of additional creditable service or up to four years additional years of age, for the purposes of determining his superannuation retirement allowance pursuant to the provisions of paragraph (A) subdivisions two of section five of said chapter thirty-two.

D) The state teachers' retirement system shall certify to the treasurer of the city, town, or regional school district which has accepted all subsections of this section and to the department of revenue, the amount of the annual retirement allowance due any and all teachers retiring from that city, town, or regional school district pursuant to this program during the first three years of said teacher's retirement beginning with the first year of retirement. The department of revenue shall deduct such amounts from the payments due to said city, town, or regional school district for periodic local reimbursement or assistance programs reported by the commissioner of revenue pursuant to section twenty-five A of chapter fifty-eight and shall transfer such payments to the pension fund of the teachers' retirement system.

E) The total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section five of chapter thirty-two, of any employee who retires and receives an additional benefit under the retirement incentive program in accordance with the provisions of this act shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of three consecutive years of creditable service for which the rate of

compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive constituting his last three years of creditable service preceding retirement, whichever is greater.

**SECTION 23.** Notwithstanding any provisions of said chapter thirty-two to the contrary and subject to the provisions of this section, the normal yearly amount of the retirement allowance for an eligible teacher who is employed by a public school employer which accepts the provisions of this act and who has paid the full amount of regular deductions on the total amount of regular compensation as determined under paragraph (a) of subdivision (2) of section five of said chapter thirty-two, shall be based on the average annual rate of regular compensation as determined under said paragraph (a) and shall be computed according to the table contained in said paragraph (a) based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased by up to three years of age or by up to three years of creditable service or by a combination of additional years of age and service not exceeding three; provided however that the public school employer may limit the amount of additional credit for service or age or a combination of service or age offered and the number of such teachers for whom it will approve a retirement calculated under the provisions of this section; provided that the same amount of additional credit shall be offered to all participants during the time period determined in accordance with section fifteen of this act; and provided further that if participation is limited, the retirement of teachers with greater creditable service shall be approved before approval is given to teachers employees with lesser creditable service.

The provisions of this act shall be deemed to have been accepted by a public school employer upon notice filed with the said board, on a form prescribed by said board, that it is offering retirement under the provisions of this act, which notice shall describe the amount of additional credit being offered, any limitation in participation, the time period during which a teacher may apply, and the time period during which a teacher may request retirement.

**SECTION 24.** The actuarial present value of the additional benefits provided to any teacher retiring under the provisions of this act shall be funded by the public school employer from which the teacher retires over a period of years equal to the number of years of age, service, or combination of age and service credited to the teacher pursuant to the provisions of this act. The amount of the annual payment in each year shall be determined by the actuary for the teachers' retirement board and it shall be paid by the public school employer from which the teacher retires to the Commonwealth Pension Liability Fund.

**SECTION 25.** Notwithstanding the provisions of chapter 32 of the General Laws or of any general or special law to the contrary, the state retirement board, established under the provisions of section eighteen of chapter ten of the General

Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the RIPE program, in accordance with the provisions of this act; provided, that, in order to be deemed eligible by said board for any of the benefit options under the RIPE program, an employee (i) shall be an employee of the commonwealth on the effective date of this act, (ii) shall have been a member in active service of the state retirement system on July first, nineteen hundred and ninety-one, (iii) shall be classified in Group 1 or Group 2 of said retirement system in accordance with the provisions of paragraph (g) of subdivision (2) of section three of said chapter thirty-two, (iv) shall be eligible to receive a superannuation retirement allowance in accordance with the provisions of subdivision (1) of section five of said chapter thirty-two or of subdivision (1) of section ten of said chapter thirty-two upon the date of his written application with said board, (v) shall not be serving as a chief justice or an associate of the supreme judicial court, a chief justice or any associate justice of the appeals court, or any justice of the trial court, and (vi) shall have filed a written application on or after January 15, 1992 but no later than April fifteenth, nineteen hundred and ninety-two to retire for superannuation as of a date which shall be specified in such application, provided that said date for retirement shall be no earlier than said January fifteenth and no later than April thirtieth, nineteen hundred and ninety-two. Said retirement incentive shall be limited to six thousand eligible employees as defined by this section.

Notwithstanding the foregoing, and in addition thereto, any justice of the supreme judicial court or any justice of the appeals court or any justice of the trial court of the commonwealth appointed prior to January second, nineteen hundred and seventy-five and thereby not subject to the contributory retirement provisions of section 65D of chapter thirty-two of the General Laws shall be eligible for a pension for life at an annual rate equal to three-fourths of the annual rate of salary payable to him at the time of such retirement. Any justice of the supreme judicial court or any justice of the appeals court or any justice of the trial court of the commonwealth appointed on or after January second, nineteen hundred and seventy-five and thereby subject to the contributory retirement provisions of same section 65D who has accrued a total of twelve years of judicial service and is at least sixty-two years of age shall be eligible for a pension for life at an annual rate equal to three-fourths of the annual rate of salary payable to him at the time of such retirement.

For the purposes of this act, words shall have the same meaning as in chapter thirty-two of the General Laws, unless otherwise expressly provided or unless the context clearly requires otherwise. Any employee of the commonwealth who retires and receives an additional benefit in accordance with the provisions of section twenty-six or section twenty-seven shall be deemed to be retired for superannuation under the provisions of said chapter thirty-two and shall be so subject to any and all provisions of said chapter thirty-two.

**SECTION 26.** Any employee who is eligible for the RIPE program in accordance with the provisions of section one of this act may request in his application for retirement that the state retirement board credit him with an additional retirement benefit in accordance with the provisions of this section, provided that each such employee shall request and receive a combination of years of creditable service and years of age, the sum of which shall not be greater than five years, for the purposes of determining his superannuation retirement allowance pursuant to the provisions of paragraph (a) of subdivision (2) of section five of said chapter thirty-two; and provided, further, that any such employee who requests and receives such additional retirement benefits under the provisions of this section shall not be eligible to receive the benefit established by the provisions of section twenty-seven of this act.

**SECTION 27.** Any employee who is eligible for the RIPE program in accordance with the provisions of section twenty-five may request in his application for retirement an additional compensation benefit in an amount equal to five hundred dollars for each full year of creditable service rendered by him as of January first, nineteen hundred and ninety-two; provided that such amount shall be paid to each such employee in equal installments over a period of five years beginning with the date of such employee's retirement; and provided, further, that any such employee who requests and receives such additional compensation benefit shall not be eligible to receive the benefit established by the provisions of section twenty-six.

**SECTION 28.** Notwithstanding so much of the provisions of section five of chapter thirty-two of the General Laws that requires a retirement date within four months of the filing of an application for superannuation retirement, or so much of the provisions of section twenty-five of this act that requires a retirement date no later than April thirtieth, nineteen hundred and ninety-two, and in an effort to protect the system of higher education from unnecessary disruption during the spring semester, any employee of an institution of higher education, as defined by the provisions of section three or paragraph (a) of section five B of chapter fifteen A of the General Laws, who is otherwise eligible for the RIPE program and who requests an additional benefit in accordance with the provisions of section twenty-six or section twenty-seven shall specify in his application for retirement a date for retirement which shall be on or after May first, nineteen hundred and ninety-two but no later than June thirtieth, nineteen hundred and ninety-two; provided that such application for superannuation retirement shall be filed on or after January fifteenth, nineteen hundred and ninety-two and no later than April fifteenth, nineteen hundred and ninety-two; and provided further that the appointing authority of each such employee shall approve such retirement date prior to the filing of such application with the state retirement board; provided, that no other provision in such employee's application for retirement shall be subject to such approval by such employee's appointing authority.

**SECTION 29.** Notwithstanding so much of the provisions of section five of chapter thirty-two of the General Laws that requires the specification of a retirement date within four months of the filing of an application for superannuation retirement, or so much of the provisions of section twenty-five that requires an eligible person to be an employee of the commonwealth on the effective date of this act and the specification of a retirement date no later than April thirtieth, nineteen hundred and ninety-two, in an effort to encourage the continuity of direct care in health care institutions that are scheduled to be closed or in positions that shall be privatized and to reward those workers who choose to remain in the service of any such institution that shall be so closing or position that shall be so privatized, any employee serving in a position which has been listed by the secretary of administration and finance in a report filed in accordance with the provisions of section forty-one, who is otherwise eligible for the RIPE program and who requests an additional benefit in accordance with the provisions of section twenty-six or section twenty-seven shall specify in his application for retirement a date for retirement which shall be no later than the closing date of such institution or the effective date of such privatization; provided that such application for superannuation retirement shall be filed on or after January fifteenth, nineteen hundred and ninety-two and no later than April fifteenth, nineteen hundred and ninety-two; and provided further that the appointing authority of each such employee shall approve such retirement date prior to the filing of such application with the state retirement board; provided, that no other provision in such employee's application for retirement shall be subject to such approval by such employee's appointing authority.

Any retired employee of the commonwealth whose former position shall be listed by said secretary in a report filed in accordance with the provisions of section forty-one and who retired on or after July first, nineteen hundred and ninety-one and prior to the effective date of this act upon the closing of such institution or privatization of such service and the abolition of such position may file an application to retire for superannuation and to be eligible for one of the additional benefits under the RIPE program in accordance with the provisions of section twenty-six or section twenty-seven of this act; provided that such application shall be filed with the state retirement board on or after January fifteenth, nineteen hundred and ninety-two but no later than April fifteenth, nineteen hundred and ninety-two; and provided, further, that upon the acceptance and approval of such application by the state retirement board in accordance with the provisions of this section, the retirement allowance of such employee shall be recalculated as of the date on which such employee retired to reflect such additional benefit and such employee shall thereupon receive such increased allowance together with an amount equal to the difference between the allowance the employee actually received from the date of retirement to the date of recalculation and the amount

of the allowance which the employee would have received had such recalculated allowance been paid to such employee from the date of his retirement.

**SECTION 30.** The total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section five of chapter thirty-two, of any employee who retires and receives an additional benefit under the RIPE program in accordance with the provisions of this act shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of three consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last three years of creditable service preceding retirement, whichever is greater.

**SECTION 31.** The retirement allowance, pension, or annuity of every former employee of the commonwealth who shall have retired and received an additional benefit under the RIPE program in accordance with the provisions of this act shall not be subject to any cost of living adjustment authorized by the general court pursuant to the provisions of section one hundred and two of said chapter thirty-two of the General Laws payable on or before June thirtieth, nineteen hundred and ninety-seven.

**SECTION 32.** In accordance with the provisions of section one hundred and two of chapter thirty-two of the General Laws, the retirement allowance, pension, or annuity of every former employee of the commonwealth or any county, city, town, district, housing or redevelopment authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority, the Blue Hills Regional Vocational School System, the Greater Lawrence Sanitary District, the Minuteman Regional Vocational Technical School District or of the spouse or other beneficiary of any such former employee who is receiving a retirement allowance, pension or annuity shall, beginning July first, nineteen hundred and ninety-two, be increased by five percent; provided, however, that the reimbursement of local retirement systems for such cost of living adjustment shall be made from the RIPE reserve account established in accordance with the provisions of section thirty-four.

**SECTION 33.** The commissioner of public employee retirement administration shall analyze, study, and value the costs attributable to the additional benefits payable under the RIPE program in accordance with the provisions of section twenty-six and section twenty-seven of this act and the payment of a cost of living adjustment in accordance with the provisions of section thirty-two; provided that said commissioner shall file the report with the joint committee on public service and the house of representatives and senate committees on ways and means on or before May twenty-ninth, nineteen hundred and ninety-two.

**SECTION 34.** The secretary of administration and finance shall prepare a funding schedule to reflect the costs and liabilities attributable to the additional benefits payable under the RIPE program in accordance with the provisions of



section twenty-six and section twenty-seven and to the payment of a cost of living adjustment in accordance with the provisions of section thirty-two which shall be designed to reduce the commonwealth's additional pension liability attributable to such costs and liabilities on or before June thirtieth, nineteen hundred and ninety-seven; provided, that in preparing such schedule, said secretary shall consider the analysis of the commissioner of public employee retirement administration filed in accordance with the provisions of section thirty-three of this act; and provided further, that said secretary shall annually update such schedule until said June thirtieth, nineteen hundred and ninety-seven. Said secretary shall file such funding schedule with the joint committee on public service and the house of representatives and senate committees on ways and means on or before July first, nineteen hundred and ninety-two and shall file updates thereto annually on or before March first of each year; provided that if within forty-five days of each such filing, none of the committees shall have taken action to disapprove such schedule or update thereto, such schedule or update shall be deemed to be approved; provided further, however, if such schedule is not so approved, said secretary shall review any comments made by such committees and prepare and submit another schedule in accordance with the provisions of this section; provided, further, that such other schedule shall be filed with the joint committee on public service and the house of representatives and senate ways and means committees within thirty days of such disapproval.

The secretary of administration and finance shall establish a RIPE reserve account which shall be used to reimburse the pension reserves investment management trust fund in accordance with the funding schedule and updates thereto established pursuant to the provisions of this section; provided that an amount equal to the sum of the salaries which would have been paid from payroll accounts to employees of the commonwealth who shall have retired and received an additional benefit under the RIPE program in accordance with the provisions of section twenty-six and section twenty-seven which shall not be expended for the purposes of such salary less any amounts payable to such employees from such payroll accounts during the fiscal year ending June thirtieth, nineteen hundred and ninety-two shall be withheld by said secretary under the provisions of section nine C of chapter twenty-nine of the General Laws for the purposes of said reserve account; and provided further that for each fiscal year beginning after said June thirtieth, nineteen hundred and ninety-two until said June thirtieth, nineteen hundred and ninety-seven, said secretary shall seek an appropriation in an amount equal to the sum of the salaries which would have been paid to employees who had retired and received additional benefits under the RIPE program less the sum of salaries paid to employees who were hired in accordance with the provisions of section thirty-seven and section thirty-nine; and provided further that said secretary shall continue to annually request such appropriations until said actuarial

liability shall be reduced to zero.

**SECTION 35.** In each of five fiscal years until the actuarial liability determined under the provisions of section thirty-three shall be reduced to zero, it shall be deemed an obligation of the commonwealth to fund and there shall be appropriated to the RIPE reserve account established under the provisions of section thirty-four the amount necessary to fund such liability within said five fiscal years in accordance with the schedule established in accordance with the provisions of said section thirty-four.

**SECTION 36.** The state retirement board, established under the provisions of section eighteen of chapter ten of the General Laws, shall provide retirement counseling services to employees who choose to retire under the RIPE program. Said counseling shall include, but not be limited to, the following provisions: (i) the additional benefit options available under the RIPE program; (ii) the election of a retirement option under the provisions of section twelve of chapter thirty-two of the General Laws; (iii) restrictions on employment after retirement; (iv) the provision of health care benefits under the provisions of chapter thirty-two A of the General Laws; (v) the payment of cost of living adjustments to retirement allowances, including the provisions of section thirty-one; (vi) the effect of federal and state income taxation. Each such employee shall sign a sworn statement that he has received such counseling prior to the approval by the state retirement board of such employees application for superannuation retirement and additional benefits under said RIPE program.

**SECTION 37.** For any married employee who retires and receives an additional benefit under the RIPE program, an election of a retirement option under the provisions of section twelve of chapter thirty-two of the General Laws shall not be valid unless i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected, or ii) the spouse has received notice of such election. If any member who is married files an election which is not so accompanied the state retirement board shall within fifteen days notify the member's spouse by registered mail of the option election, and the election shall not take effect until thirty days following the date on which such notification is sent, and such election may be changed by the member at any time within said thirty days, or at any other time permitted under said chapter thirty-two. Nothing in this section shall be deemed to affect the effective date of any retirement allowance, but in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than thirty days after the sending by the retirement board of the notice required hereunder.

**SECTION 38.** Except as otherwise expressly provided by general or special law, no person shall be hired by a state agency, as defined by the provisions of section one of chapter six A of the General Laws, or office of the judiciary on a

permanent or temporary basis to fill any position made vacant by the retirement of an employee under the RIPE program and receiving an additional benefit in accordance with the provisions of section twenty-six or section twenty-seven or any position that had been vacant on January first, nineteen hundred and ninety-two and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacations, salary in lieu of vacation, payments in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation in section two, section two A or section two B of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one to any such person on or after January first, nineteen hundred and ninety-two until June thirtieth, nineteen hundred and ninety-three; provided, however that if the secretary of administration and finance shall determine that he needs to fill a seasonal position, as defined in section one of chapter thirty-one of the General Laws, excess quota position or other position that he shall have determined to be a "direct care" position, said secretary shall prepare a recommended list or lists of all such positions and shall file such list or lists with the senate and house of representatives committees on ways and means and may, subject to the approval of said list or lists by the house of representatives committee on ways and means, fill such positions prior to June thirtieth, nineteen hundred and ninety-three. No person shall be hired to fill a seasonal position, excess quota position or "direct care" position, so-called, in a state agency, as defined by the provisions of section one of chapter six A of the General Laws, or an office of the judiciary until it shall have been included on a list which shall have been approved by said committees.

If said secretary shall knowingly violate, or authorize or direct another to violate any provision of this section, he shall be punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**SECTION 39.** The secretary of administration shall list each position made vacant by the retirement of an employee under the RIPE program and receiving an additional benefit in accordance with the provisions of section twenty-six or section twenty-seven and shall file such list with the joint committee on public service on or before June first, nineteen hundred and ninety-two; provided that, for each such position, such list shall include the line-item of section two, two A or two B of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one in which such position is funded, the name of the state agency, as defined by the provisions of section one of chapter six A of the General Laws, which is funded by such line item, the classification title of such position, the salary range for such title and the salary payable to the person who so retired from such position.

If said secretary shall knowingly violate, or authorize or direct another to violate any provision of this section, he shall be punished by a fine of not more than one

thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**SECTION 40.** Except as otherwise expressly provided by general or special law, no person shall be hired by a state agency, as defined by the provisions of section one of chapter six A of the General Laws, or office of the judiciary on a permanent or temporary basis to fill any position made vacant by the retirement of an employee under the RIPE program and receiving an additional benefit in accordance with the provisions of section twenty-six or section twenty-seven or any position that had been vacant on January first, nineteen hundred and ninety-two and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacations, salary in lieu of vacation, payments in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation in section two, section two A or section two B of chapter one hundred and thirty-eight of the acts of nineteen hundred and eighty-one to any such person on or after January first, nineteen hundred and ninety-two until June thirtieth, nineteen hundred and ninety-three; provided, however that if the secretary of administration and finance determines that a position is critical and essential to the operations of the services provided by the commonwealth he may include such position in a report which shall also include the following: (i) the classified title of each such position, (ii) the number of such positions listed in such report with such title, (iii) the salary range payable to each such position and (iv) the approximate date during said fiscal period of January first, nineteen hundred and ninety-two until June thirtieth, nineteen hundred and ninety-three that said secretary shall have determined that such position shall be filled; and provided, further, that said secretary shall prepare one or more supplementary reports to such report in the same form if he shall determine that any such supplementary report shall be necessary. Such report shall be filed with the senate and house of representatives committees on ways and means and may, subject to the approval of said list by the house of representatives committee on ways and means, fill such positions prior to June thirtieth, nineteen hundred and ninety-three.

**SECTION 41.** On or after July first, nineteen hundred and ninety-two, no person shall be hired by a state agency, as defined by the provisions of section one of chapter six A of the General Laws, or office of the judiciary on a permanent or temporary basis and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacations, salary in lieu of vacation, payments in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation in section two, section two A or section two B of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one until such position shall be included on such list of positions that shall have been submitted by said secretary of administration and finance and approved

by the joint committee on public service and the house of representatives and senate ways and means committees in accordance with the provisions of section thirty-nine. If said secretary shall knowingly violate, or authorize or direct another to violate any provision of this section, he shall be punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**SECTION 42.** The secretary of administration and finance shall file a report listing any position that shall have been or shall be abolished and vacated on or after July first, nineteen hundred and ninety-one due to the scheduled closing of any institution within any state agency, as defined by the provisions of section one of chapter six A of the General Laws, or due to plans for the contracting for, or privatization of, the services performed by an employee in such position; provided that such report shall include the number of positions so vacated or abolished, the title of each such position, the agency within which such positions are funded, and the date upon which such position shall have been scheduled to be so vacated or abolished provided, further that such report shall be filed subject to the approval of the joint committee on public service and the house of representatives and senate ways and means committees on or before January fifteenth, nineteen hundred and ninety-two; provided that if none of the committees takes action to disapprove such report or supplementary report within thirty days of the date said report shall be filed with said committees, such report shall be deemed to have been approved; provided further that if such report shall not be so approved; no such position shall be so vacated or abolished until such report shall be refiled and shall be so approved in accordance with the provisions of this section.

If said secretary shall knowingly violate, or authorize or direct another to violate any provision of this section, he shall be punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**SECTION 43.** The group insurance commission, established by the provisions of section three of chapter thirty-two A of the General Laws, shall not alter, shall not implement any changes in and shall not approve the implementation of any changes in the health benefit plan established pursuant to the provisions of said chapter thirty-two A or for the employees covered by such plan until July first, nineteen hundred and ninety-two; provided that said commission shall not require any employee to pay a deductible or coinsurance amount which is greater than the deductible or coinsurance amount which said employee is required to pay under such plan in effect on July first, nineteen hundred and ninety-one; and provided, further, that such health benefit plan shall provide benefits which are no less than the benefits provided under such plan in effect on said July first, nineteen hundred and ninety-one. If any member of said commission shall knowingly violate, or authorize or direct another to violate any provision of this section, he shall be

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punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both.

**SECTION 44.** In light of the ongoing fiscal struggle of local communities and with the expectation that the fiscal year beginning July first, nineteen hundred and ninety-two shall continue to be disastrous for such communities, the commissioner of public employee retirement administration, in an effort to reduce the size of the workforce for such communities, to increase the morale of each such workforce, and to provide payroll savings to local communities, shall develop a retirement incentive for public employees who are members of the teachers' retirement system and the local retirement systems established in accordance with the provisions of sections one to twenty-eight, inclusive, of chapter thirty-two of the General Laws. Said commissioner shall analyze, study, and value the costs associated with the establishment of such a RIPE program for local systems; provided that said commissioner shall prepare and submit to the joint committee on public service and the house of representatives and senate committees on ways and means on or before March thirty-first, nineteen hundred and ninety-two the basis for such a program, a plan to implement such a program, and any necessary legislation to implement said program during the fiscal year beginning July first, nineteen hundred and ninety-two.

**SECTION 45.** Section nine shall take effect as of June thirtieth, nineteen hundred and ninety-one.

**SECTION 46.** This act shall take effect upon its passage.

*Sections 8, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 disapproved by the Governor. The remainder of bill approved December 31, 1991.*

**Chapter 500.        AN ACT VALIDATING A CERTAIN ACT OF A SPECIAL  
TOWN MEETING OF THE TOWN OF CHATHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the acceptance of sections forty-two G to forty-two I, inclusive, of chapter forty of the General Laws by the town of Chatham at a special town meeting held on September ninth, nineteen hundred and eighty-five is hereby ratified, validated and confirmed to the same extent as if the acceptance was at an annual town meeting called therefor.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 3, 1992.

**Chapter 501.      AN ACT AUTHORIZING THE TOWN OF FALMOUTH TO  
RELEASE ITS SANDING RIGHTS IN A CERTAIN PARCEL  
OF LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Falmouth is hereby authorized to release its sanding rights in a certain parcel of land in said town. Said parcel is shown as Parcel 2-A on a plan entitled "Plan of Land for Arthur Farias, East Falmouth, Barnstable County, Mass.," dated 12-12-90.

**SECTION 2.** In consideration of the release authorized by section one, Arthur Farias shall convey to the town of Falmouth all his rights, title and interest in a certain parcel of land shown as Parcel B on said plan and shall record a building restriction on Parcel A.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 3, 1992.

**Chapter 502.      AN ACT RELATIVE TO A CERTAIN SUPERIOR COURT  
OFFICER OF THE TRIAL COURT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a sick leave bank for a certain superior court officer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court of the commonwealth is hereby authorized and directed to establish a sick leave bank for superior court officer James B. Grady, Jr. Any employee of the trial court department may voluntarily contribute one or more of his personal or vacation days to said bank for use by court officer James B. Grady Jr.

Approved January 3, 1992.

**Chapter 503.      AN ACT PROVIDING FOR RECALL ELECTIONS IN THE  
TOWN OF NORTH ATTLEBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any person who holds an elected office in the Town of North Attleborough, excluding RTM members, with more than six months remaining in the term of such office on the date of filing of the affidavit, referred to in section B, may be recalled from office by the Registered Voters in said town, in the manner herein provided.

**SECTION 2.** Twenty-five or more voters from each precinct in the Town of North Attleborough may file with the Election Commissioners of said town an affidavit containing the name of the office whose recall is sought and a statement of the grounds upon which the petition is based. The Election Commission shall deliver to the said voters petition blanks demanding said recall, printed forms of which the Election Commissioners shall keep available. Said blanks may be completed by writing or typewriting; they shall be addressed to the Board of Selectmen; they shall contain the names of the persons who filed the affidavit, the name of the person sought to be recalled, and the office from which the recall is sought and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; and they shall be dated and contain the signatures of the Election Commissioners. A copy of the petition shall be kept on file in the office of the Election Commissioners in a record book maintained for that purpose. The recall petitions shall be returned and filed in the office of the Election Commissioners within fourteen days following the date the petitions were issued. The petitions shall be signed by at least ten percent of the total number of registered voters duly recorded on the registration list of the Election Commissioners as of the preceding town meeting. Said total shall consist of at least 100 voters from each precinct.

**SECTION 3.** If the petition shall be certified by the Election Commissioners to be sufficient, they shall forthwith submit the same to the Board of Selectmen. Upon its receipt of the certified petition, the Board of Selectmen shall within forty-eight hours give written notice of said petition and certificate to the person whose recall is sought. If said officer does not resign his/her office within five days following delivery of said notice, the Board of Selectmen shall order an election to be held not less than sixty nor more than seventy days after the date of the registrars' certificate of the sufficiency of the petition. If, however, another town election is to occur within ninety days after the date of the certificate, the Board of Selectmen shall hold the recall election on the date of said other town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

**SECTION 4.** An officer whose recall is sought may be a candidate to succeed himself/herself at the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of the same shall all be in accordance with the provision of laws relating to elections, unless otherwise



provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his/her office until the recall election. If he/she is not recalled in the election he/she shall continue in office for the remainder of his/her unexpired term, subject to recall as before, except as provided herein.

If the officer is recalled in the election, he/she shall be deemed removed upon the qualification of his/her successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his/her election, the incumbent shall thereupon be deemed moved and the office vacant.

**SECTION 6.** Ballots used at a recall election shall contain the following propositions in the order indicated:-

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition, there shall be a place to mark a vote. After the propositions shall appear the word "Candidates" followed by the names of candidates arranged alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question is in the negative, the ballots for the candidates need not be counted, except as provided in section C above.

**SECTION 7.** No recall petition shall be filed against an officer within three months after he/she takes office, or in the case of an officer subjected to a recall election and not recalled thereby until at least six months after the election at which his/her recall was submitted to the voters.

Approved January 3, 1992.

**Chapter 504.**

**AN ACT AUTHORIZING THE TOWN OF HINSDALE TO HOLD A SPECIAL ELECTION FOR THE PURPOSE OF APPROVING AN APPOINTED BOARD OF HEALTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section twenty-one of chapter forty-one of the General Laws to the contrary, the town of Hinsdale is hereby authorized to place the following question on a ballot at a special election to be held no later than sixty days following the effective date of this act:-

Shall the Town vote to have its Selectmen appoint  
a Board of Health?

YES	
NO	

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**SECTION 2.** If a majority of the votes cast in answer to said question is in the affirmative, the question is approved, the board of selectmen shall forthwith appoint three members to the board of health, one for a term of three years, one for a term of two years, and one for a term of one year. All subsequent appointments shall be for a term of three years.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 3, 1992.

**Chapter 505.      AN ACT ESTABLISHING A FUNDING SCHEDULE FOR  
THE CITY OF WORCESTER RETIREMENT SYSTEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Worcester is hereby deemed to have accepted the provisions of section twenty-two D of chapter thirty-two of the General Laws; provided, however, that, notwithstanding the provisions of the first sentence of subdivision (1) of said section twenty-two D, the retirement system of the city of Worcester may adopt a funding schedule established under said subdivision (1) of said section twenty-two D which would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; and provided further, that said retirement system shall not be subject to the provisions of paragraph (e) of subdivision (4) of said section twenty-two D.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of said section twenty-two of chapter thirty-two of the General Laws or any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety as the required payments into the pension fund of the retirement system of the city of Worcester for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one of this act and has been approved by said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided, however, that any such schedule shall be submitted to said actuary on or before January fifteenth, nineteen hundred and ninety-two and the resulting revised appropriation shall be issued by said actuary no later than January thirty-first, nineteen hundred and ninety-two.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 3, 1992.

**Chapter 506.      AN ACT ESTABLISHING A FUNDING SCHEDULE FOR  
THE CITY OF LAWRENCE RETIREMENT SYSTEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lawrence is hereby deemed to have accepted the provisions of section twenty-two D of chapter thirty-two of the General Laws, provided however that, notwithstanding the provisions of the first sentence of subdivision (1) of said section twenty-two D, said retirement system may adopt a funding schedule established under said subdivision (1) of said section twenty-two D which would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; and provided further, that said retirement system shall not be subject to the provisions of paragraph (e) of subdivision (4) of said section twenty-two D.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws or any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety as the required payments into the pension fund of the Lawrence Retirement System for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one of this act and has been approved by said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided however, that any such schedule shall be submitted to said actuary on or before January fifteenth, nineteen hundred and ninety-two and the resulting revised appropriation shall be issued by said actuary no later than January thirty-first, nineteen hundred and ninety-two.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 3, 1992.

**Chapter 507.      AN ACT PROVIDING FOR RECALL ELECTIONS IN THE  
TOWN OF CARVER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Any person who holds an elected office in the town of Carver, with more than six months remaining of the term of office, may be recalled from such office, by the voters, in the manner provided in this act.

**SECTION 2.** Two hundred or more registered voters in the town of Carver may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The town clerk shall deliver to the said voters petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by writing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names and addresses of the persons who file the affidavit and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office, and they shall be dated and signed by the town clerk, in a record book maintained for that purpose. The recall petitions shall be returned and filed in the office of the town clerk within twenty days following the date the petitions were issued, signed by at least fifteen percent of the total registered voters of the town in each precinct, who shall add to their signatures their address and precinct number.

The town clerk shall, within twenty-four hours following such filing, submit said petitions to the registrars of voters who shall within five working days certify thereon the number of signatures which are names of voters.

**SECTION 3.** If the petition shall be certified by registrars of voters to be sufficient, the town clerk shall forthwith submit the same to the board of selectmen. Upon its receipt of the certified petition, the board of selectmen shall forthwith give written notice of said petition and certificate to the person whose recall is sought. If said officer does not resign his office within five days following delivery of the said notice, the board of selectmen shall order an election to be held not less than sixty-five nor more than ninety days after the date of the registrars' certificate of the sufficiency of the petition. If, however, another town election is to occur within one hundred days after the date of the said certificate, the board of selectmen shall hold the recall election on the date of said other town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

**SECTION 4.** An officer whose recall is sought may not be a candidate to succeed himself at the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same shall all be in accordance with the provisions of other laws relating to elections, unless otherwise provided in this section.

**SECTION 5.** Ballots used at a recall election shall state the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition, there shall be a place to vote for either of the said propositions. After the propositions shall appear the word "candidates" and the

names of candidates arranged alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question is in the negative, the ballots for candidates need not be counted, except as provided in section three.

**SECTION 6.** The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled in the election he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section.

If the officer is recalled in the election, he shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 7.** No recall petition shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least nine months after the election at which his recall was submitted to the voters.

**SECTION 8.** This act shall be submitted for acceptance to the voters of the town of Carver at the town election to be held in the year nineteen hundred and ninety-two in the form of the following question in which shall be placed upon the official ballot to be used for the election of town officers at said election:- "Shall an act passed by the General Court in the year nineteen hundred and ninety-one, entitled 'An Act providing for recall elections in the town of Carver', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, this act shall therefore take full effect, but not otherwise.

Approved January 4, 1992.

## **Chapter 508.        AN ACT DEFINING THE TERM "WARRANTY".**

*Be it enacted, etc., as follows:*

Chapter 175 of the General Laws is hereby amended by inserting after section 149E the following seven sections:-

Section 149F. As used in this section, the following words shall have the following meanings:-

"Home warranty contract", a contract or agreement whereby a person, other than a builder, seller, or lessor, agrees for a fee and for a specified period of time, to repair or replace all or any part of any structural component, appliance, or utility system of residential property necessitated by wear and tear, malfunction, deterioration, or inherent defect. A home warranty contract shall not include any

service contract, maintenance contract, performance guarantee or warranty sold, offered for sale or issued by any manufacturer, seller, builder or installer of any structural components, appliances or utility systems for residential property.

"Home warranty company", any person who is not otherwise licensed as an insurance company who issues, or offers to issue, a home warranty contract. Except as otherwise provided herein, a home warranty company shall not be considered to be an insurance company or insurer for purposes of this chapter.

Section 149G. (a) No person shall establish or operate a home warranty company in the commonwealth, or issue home warranty contracts, or sell, offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a home warranty contract unless the person has obtained and maintains a certificate of authority pursuant to section one hundred and forty-nine H.

(b) Every home warranty company that is established and operating in the commonwealth on the effective date of this section shall, within forty-five days after such effective date, submit an application for a certificate of authority pursuant to section one hundred and forty-nine H.

(c) A home warranty company may market home warranty contracts through insurance brokers or appointed agents licensed pursuant to this chapter or through real estate brokers or salespeople duly licensed in the commonwealth.

Section 149H. (a) Any person, including but not limited to a foreign corporation licensed to transact business in this state, may apply to the commissioner of insurance for a certificate of authority to offer home warranty contracts in compliance with this section.

(b) Each application for a certificate of authority under this section shall be certified by the applicant or by an officer or authorized representative of the applicant. The application shall be accompanied by all of the following:

(1) a copy of all basic organizational documents of the applicant, if any, including but not limited to the articles of incorporation, articles of association, or other applicable documents, and all amendments to such articles and documents;

(2) a copy of all by-laws, rules, or other similar documents, if any, that regulate the conduct of the internal affairs of the applicant and all amendments to such by-laws, rules and documents;

(3) a list of the names, addresses, and official positions of persons who are responsible for the conduct of the affairs of the applicant, including all members of its governing board and principal officers;

(4) a description of the applicant, including, but not limited to, a current financial statement showing the applicant's assets, liabilities, income, other sources of financial support and expenses;

(5) a copy of each type of home warranty contract that is to be issued to prospective subscribers;

(6) a copy of the schedule of contract fees for each home warranty contract;  
(7) administrative proceedings or investigations conducted concerning the applicant by regulatory authorities in any state or by any federal authority;

(8) the name and address of a resident of this state who is an agent for service of process and upon whom notices or orders of the commissioner of insurance or process issued at his discretion may be served;

(9) an application fee as established pursuant to section fourteen.

(c) The commissioner shall examine the application and make such further investigation as he deems appropriate.

(d) A certificate of authority shall be issued if the commissioner is satisfied that the applicant meets the requirements of clauses (1) to (9), inclusive, paragraph (b). An application for a certificate of authority shall be considered approved unless disapproved within sixty days of submittal; provided, however, that the commissioner may postpone such action for such further time, not to exceed thirty days, as he may deem necessary for proper consideration.

(e) The commissioner shall not issue a certificate of authority to any home warranty company unless the commissioner finds all of the following:

(1) The company's management is competent and trustworthy and can reasonably be expected to successfully manage the affairs of the company in compliance with law;

(2) The company has a minimum net worth of fifty thousand dollars, based upon a current financial statement prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant;

(3) The company has furnished a surety bond as required under section one hundred and forty-nine I.

Section 149I. To assure the faithful performance of obligations under home warranty contracts issued and outstanding in the commonwealth, a home warranty company shall, prior to the issuance of a certificate of authority, file with the commissioner a surety bond in the amount of twenty-five thousand dollars, which bond has been issued by an authorized surety company and approved by the commissioner as to issuer, form and contents. The bond shall not be canceled or be subject to cancellation unless thirty days advance notice in writing is filed with the commissioner. Notwithstanding the foregoing, if a bond is canceled for any reason and a new bond in the required amount is not received by the commissioner on or before the effective date of cancellation, the certificate of authority of the home warranty company shall be automatically revoked as of the date the bond ceases to be in effect. A home warranty company whose certificate of authority is revoked under this section may file an application for a new home warranty pursuant to section one hundred and forty-nine H.

The bond posted by a home warranty pursuant to this section shall be for the benefit of, and subject to recovery thereon, by any home warranty contract holder

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sustaining injury due to failure of the home warranty company to faithfully perform its obligations under a home warranty contract because of insolvency of the home warranty company.

If a home warranty company ceases to do business in the commonwealth and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond shall be released.

Section 149J. (a) A home warranty company shall report to the commissioner within ten days any amendments to or changes in the documents and supplements or revisions to information submitted pursuant to section one hundred and forty-nine H.

(b) A home warranty company shall file with the commissioner within one hundred and twenty days of the close of its fiscal year the following:-

(1) a current financial statement including a balance sheet and statement of operations prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant;

(2) with respect to home warranty contracts issued by the home warranty company within the commonwealth, a report showing the number of home warranty contracts issued during the preceding fiscal year, the number canceled or expired during that year, the number in effect at year end and the amount of home warranty contract fees received during the year;

(3) any other information relating to the performance and solvency of the home warranty company required by the commissioner.

The commissioner may, upon thirty days written notice, suspend or revoke the certificate of authority of any home warranty company which fails to file the foregoing information within the time provided by this section.

Section 149K. The provisions of chapter one hundred and seventy-six D shall be applicable to all home warranty companies.

Section 149L. To the extent that any provisions of sections one hundred and forty-nine F to one hundred and forty-nine K, inclusive, conflict with any other provisions of this chapter, the provisions of said sections one hundred and forty F to one hundred and forty-nine K, inclusive, shall govern.

Approved January 6, 1992.

**Chapter 509.            AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC  
HEALTH TO REGULATE NON-REUSABLE SYRINGES.**

*Be it enacted, etc., as follows:*

Chapter 111 of the General Laws is hereby amended by inserting after section 53B the following section:-



Section 53C. Every hospital, clinic or home health care provider licensed by the department or receiving funds from the commonwealth shall comply with regulations issued by the department requiring the use of non-reusable syringes for all human injections which are intended to be for a single use. Such regulations shall be issued by the department no later than January first, nineteen hundred and ninety-four, and may contain such reasonable exceptions and enforcement provisions as the commissioner may determine.

In promulgating such regulations, the commissioner shall consider the recommendations of the non-reusable syringe regulation advisory committee. Said committee shall be appointed by the commissioner, and shall consist of one representative of an organization concerned with AIDS, one representative of a hospital organization, one representative of a nursing organization, one representative of health care professions, one representative of licensed clinics, one representative of a manufacturer of medical devices, including non-reusable syringes, one representative of a health insurer, one representative of a drug addiction and treatment program, and one representative of an organization concerned with public health.

Approved January 6, 1992.

**Chapter 510.      AN ACT PROVIDING FOR THE DISTRIBUTION OF CERTAIN SUMS RECEIVED FROM THE SALE OR USE OF AIRCRAFT FUEL.**

*Be it enacted, etc., as follows:*

Section 12 of chapter 64J of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following two paragraphs:-

Notwithstanding the provisions of this section and the provisions of section twenty-seven C of chapter twenty-nine, the sums distributed, credited, and paid to each of the towns of Bedford, Concord, Lexington, and Lincoln in which the provisions of this chapter are in effect shall be equal to the total of such sums received from the sale or use of aircraft fuel at the Lawrence G. Hanscom Field divided by the number of said towns in which the provisions of this chapter are in effect.

Upon a vote of the town meeting in each of the towns of Bedford, Concord, Lexington, and Lincoln in which the provisions of this chapter are in effect, said towns may designate all or a portion of the sums received from the sale of aircraft fuel for the purposes of funding certain planning activities of the four-town regional group known as Hanscom Area Towns II.

Approved January 6, 1992.

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**Chapter 511.        AN ACT RELATIVE TO THE TERMS OF LICENSE COMMISSIONERS IN THE CITY OF GARDNER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section five of chapter one hundred and thirty-eight of the General Laws, members of the board of license commissioners in the city of Gardner shall be appointed for three year terms commencing on the first Monday in June.

**SECTION 2.** The provisions of section one shall not affect the terms of the incumbent members of the board of license commissioners in the city of Gardner on the effective date of this act.

Approved January 6, 1992.

**Chapter 512.        AN ACT PROVIDING FOR THE NON-RENEWAL OF LICENSES AND REGISTRATION FOR THE FAILURE TO PAY CERTAIN FINES FOR VIOLATIONS COMMITTED IN THE CITY OF BOSTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The clerk of a court shall notify the registrar of motor vehicles of the failure of any person to pay a fine imposed upon the conviction in the city of Boston of a violation of section fifty-three of chapter two hundred and seventy-two of the General Laws or a city ordinance for the use or operation of a motor vehicle to disturb the peace by reason of excessive and unnecessary noise, including noise emanating from any radio, tape recorder or other amplifying device attached to or present in said motor vehicle or a violation of section sixteen of chapter ninety of the General Laws involving excessive and unnecessary noise.

Upon receipt of such notice the registrar shall not renew the license to operate of such person or the registration of the motor vehicle involved until after notice from said clerk of court that all fines so imposed have been paid or all matters have otherwise been disposed of in accordance with law.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 6, 1992.

**Chapter 513.        AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF PLYMOUTH COUNTY TO CONVEY CERTAIN LAND AND EASEMENTS IN THE TOWN OF HANSON.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of any general or special law to the contrary, the county commissioners of Plymouth county on behalf of said county, are hereby authorized to convey to Philip J. Burne and Janice A. Burne, by deed approved as to form by the attorney general, a certain parcel of land situated in the town of Hanson and shown as the "Filter Bed Lot" on a plan entitled "Plan of Land in Hanson, MA. prepared for Wampatuck Cranberry Co. 49 West Emerson Street Melrose, Mass. 02176", to be recorded in the registry of deeds, for a price equal to the fair market value of said lot; provided, however, that upon such conveyance the said grantees shall grant to said Plymouth county a right of way extending along the easterly side of an existing traveled way as shown on said plan; provided, further, that the said county commissioners are authorized to grant to said Philip J. Burne and Janice A. Burne an easement in certain land in said town shown as "Easement A" on a plan of land entitled "Plan of Land in Hanson, MA 'for a mutual exchange of easements' prepared for Wampatuck Cranberry Co. 49 West Emerson Street, Melrose, Mass. 02176" and that the said Philip J. Burne and Janice A. Burne shall grant to said Plymouth county an easement in certain land shown as "Easement B" on said plan.

Approved January 6, 1992.

## **Chapter 514.        AN ACT RELATIVE TO SPECIAL EDUCATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 71B of the General Laws is hereby amended by striking out the definition "School age child with special needs", as amended by section 136 of chapter 138 of the acts of 1991, and inserting in place thereof the following definition:-

"School age child with special needs", a school age child who, because of a disability consisting of a developmental delay or an intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services in order to successfully develop the child's individual educational potential; provided, however, that no child shall be determined to be a student with special needs solely because the child's behavior violates the school's disciplinary code; and provided, further, that use of the word disability in this section shall not be used to provide a basis for labeling or stigmatizing the child or defining the needs of the child, and shall in no way limit the services, program, and integration opportunities provided to the child.

**SECTION 2.** The department of education shall issue proposed guidelines and regulation changes to ensure clarity and consistency of application of chapter

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seventy-one B of the General Laws in local school districts no later than March thirty-first, nineteen hundred and ninety-two. Changes in guidelines and regulations shall take effect on September first, nineteen hundred and ninety-two.

**SECTION 3.** The provisions of this act shall apply to any child who is referred for evaluation or re-evaluation on or after September first, nineteen hundred and ninety-two for the purposes of determining whether such child shall receive special education.

**SECTION 4.** Section one of this act shall take effect on September first, nineteen hundred and ninety-two.

Approved January 6, 1992.

**Chapter 515.        AN ACT RELATIVE TO THE FILING OF ZONING ORDINANCES WITH THE ATTORNEY GENERAL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The seventh paragraph of section 5 of chapter 40A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following sentence:- In a municipality which is not required to submit zoning ordinances to the attorney general for approval pursuant to section thirty-two of chapter forty, the effective date of such ordinance or amendment shall be the date passed by the city council and signed by the mayor or, as otherwise provided by ordinance or charter; provided, however, that such ordinance or amendment shall subsequently be forwarded by the city clerk to the office of the attorney general.

**SECTION 2.** The eighth paragraph of said section 5 of said chapter 40A, as so appearing, is hereby amended by striking out the first sentence.

Approved January 7, 1992.

**Chapter 516.        AN ACT RELATIVE TO INSURANCE INFORMATION AND PRIVACY PROTECTION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The General Laws are hereby amended by inserting after chapter 175H the following chapter:-

**CHAPTER 175I.**

**INSURANCE INFORMATION AND PRIVACY PROTECTION.**

Section 1. (a) The obligations imposed by this chapter shall apply to an insurance institution, insurance representative or insurance-support organization

which in the case of life, health and disability insurance:

(1) collects, receives or maintains information in connection with an insurance transaction which pertains to a natural person who is a resident of the commonwealth; or

(2) engages in an insurance transaction with an applicant, individual or policyholder who is a resident of the commonwealth.

(b) In the case of life, health or disability insurance, the rights granted by this chapter shall extend to the following residents of the commonwealth:

(1) natural persons who are the subject of information collected, received or maintained in connection with insurance transactions; and

(2) applicants, individuals or policyholders who engage in or seek to engage in insurance transactions.

(c) For purposes of this section, a person shall be considered a resident of the commonwealth if such person's last known mailing address, as shown in the records of the insurance institution, insurance representative or insurance-support organization, is located in the commonwealth.

Section 2. As used in this chapter the following words shall, unless the context otherwise requires have the following meanings:-

"Adverse underwriting decision", (1) any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(i) a declination of insurance coverage;

(ii) a termination of insurance coverage;

(iii) failure of an insurance representative to apply for insurance coverage with a specific insurance institution which the insurance representative represents and which is requested by an applicant; or

(iv) in the case of a life, health or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding the provisions of clause (1), the following actions shall not be considered adverse underwriting decisions but the insurance institution or insurance representative responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(i) the termination of an individual policy form on a class or statewide basis;

(ii) a declination of insurance coverage solely because such coverage is not available on a class or statewide basis; or

(iii) the rescission of a policy.

"Affiliate" or "affiliated", a person who directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

"Applicant", any person who seeks to contract for insurance coverage other

than a person seeking group insurance that is not individually underwritten.

"Commissioner", the commissioner of insurance or his designee.

"Consumer report", a written, oral or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used in connection with an insurance transaction.

"Consumer reporting agency", any person who:

(1) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(2) obtains information primarily from sources other than insurance institutions; and

(3) furnishes consumer reports to other persons.

"Control", including the terms "controlled by" or "under common control with", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

"Declination of insurance coverage", a denial, in whole or in part, by an insurance institution or insurance representative of requested insurance coverage.

"Individual", any natural person who:

(1) in the case of life, health or disability insurance, is a past, present or proposed principal insured or certificate holder;

(2) is a past, present or proposed policy owner;

(3) is past or present applicant;

(4) is a past or present claimant; or

(5) derived, derives or is proposed to derive insurance coverage under an insurance policy or certificate subject to this chapter.

"Institutional source", any person or governmental entity that provides information about an individual to an insurance representative, insurance institution or insurance-support organization, other than:

(1) an insurance representative;

(2) the individual who is the subject of the information; or

(3) a natural person acting in a personal capacity rather than in a business or professional capacity.

"Insurance institution", any corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance, including health maintenance organizations, medical service plans and hospital service plans, preferred provider arrangements and Savings Bank Life Insurance as defined in chapters one hundred and seventy-five, one hundred and seventy-six, one hundred and seventy-six A, one

hundred and seventy-six B, one hundred and seventy-six C, one hundred and seventy-six G, one hundred and seventy-six I, one hundred and seventy-eight and one hundred and seventy-eight A. "Insurance institution" shall not include insurance representatives or insurance-support organizations.

"Insurance-support organization":

(1) any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or insurance representative for insurance transactions, including:

(i) the furnishing of consumer reports or investigative consumer reports to an insurance institution or insurance representative for use in connection with an insurance transaction; or

(ii) the collection of personal information from insurance institutions, insurance representatives or other insurance-support organizations for the purpose of detecting or preventing fraud or material misrepresentation in connection with insurance underwriting or insurance claim activity.

(2) Notwithstanding the provisions of subparagraph (1), the following persons shall not be considered "insurance-support organizations" for purposes of this chapter: insurance representatives, government institutions, insurance institutions, medical care institutions and medical professionals.

"Insurance representative", an agent, broker, advisor, adjuster or other person engaged in activities described in sections one hundred and sixty-two to one hundred and seventy-seven D, inclusive, of chapter one hundred and seventy-five.

"Insurance transaction", any transaction involving life, health or disability insurance which entails:

(1) the determination of an individual's eligibility for an insurance coverage, benefit or payment; or

(2) the servicing of an insurance application, policy, contract or certificate.

"Investigative consumer report", a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information, provided; however, that it shall be unlawful for any such report to contain any information designed to determine the sexual orientation of an applicant, proposed insured, policyholder, beneficiary or any other person, or for such persons, information relating to counseling for Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related Complex (ARC) as defined by the Centers for Disease Control of the United States Public Health Service. For purposes of this subsection, "counseling" shall not mean diagnosis of or treatment for AIDS or ARC.

"Medical-care institution", any facility or institution that is licensed to provide

health care services to natural persons, including but not limited to health-maintenance organizations, home-health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies and skilled nursing facilities.

"Medical professional", any person licensed or certified to provide health care services to natural persons, including, but not limited to, a chiropractor, clinical dietician, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker or speech therapist.

"Medical-record information", personal information which:

(1) relates to an individual's physical or mental condition, medical history or medical treatment; and

(2) is obtained from a medical professional or medical-care institution, from the individual, or from such individual's spouse, parent or legal guardian;

Medical-record information shall not include information relating to counseling for Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related Complex (ARC) as defined by the Centers for Disease Control of the United States Public Health Service. For purposes of this definition, "counseling" shall not mean diagnosis of or treatment for AIDS or ARC.

"Person", any natural person, corporation, association, partnership or other legal entity.

"Personal information", any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health or any other personal characteristics. "Personal information" shall include an individual's name and address and "medical-record information" but shall not include "privileged information".

"Policyholder", any person who:

(1) in the case of individual life, health or disability insurance, is a present policyholder; or

(2) in the case of group life, health or disability insurance which is individually underwritten, is a present group certificate holder.

"Pretext interview", an interview by a person who attempts to obtain information about a natural person and who commits one or more of the following acts:

(1) pretends to be someone he is not;

(2) pretends to represent a person he is not in fact representing;

(3) misrepresents the true purpose of the interview; or

(4) refuses to identify himself upon request.

"Privileged information", any individually identifiable information that:

(1) relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual; and

(2) is collected in connection with or in reasonable anticipation of a claim for



insurance benefits or civil or criminal proceeding involving an individual; provided, however, that information otherwise meeting the requirements of this definition shall nevertheless be considered "personal information" under this chapter if it is disclosed in violation of section thirteen.

"Termination of insurance coverage" or "termination of an insurance policy", either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

"Unauthorized insurer", an insurer not lawfully admitted to issue policies of insurance or an annuity or pure endowment contract, except as provided in section one hundred and sixty of chapter one hundred and seventy-five.

Section 3. No insurance institution, insurance representative, or insurance-support organization shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction; provided, however, that a pretext interview may be undertaken to obtain information from a person or institution that does not have a generally or statutorily recognized privileged relationship with the person about whom the information relates for the purpose of investigating a claim where, based upon specific information available for review by the commissioner, there is a reasonable basis for suspecting criminal activity, fraud or material misrepresentation in connection with the claim.

Section 4. (a) An insurance institution or insurance representative shall provide a notice of information practices to all applicants or policyholders in connection with insurance transactions as follows:

(1) in the case of an application for insurance, a notice shall be provided no later than at the time the application for insurance is made;

(2) in the case of a policy renewal, a notice shall be provided no later than the policy renewal date, except that no notice shall be required in connection with a policy renewal if:

(i) personal information is collected only from the policyholder or from public records; or

(ii) a notice meeting the requirements of this section has been given within the previous twenty-four months;

(3) in the case of a policy reinstatement or change in insurance benefits, a notice shall be provided no later than the time a request for a policy reinstatement or change in insurance benefits is received by the insurance institution, except that no notice shall be required if personal information is collected only from the policyholder or from public records.

(b) A notice required by subsection (a) shall be in writing and shall state:

(1) whether personal information may be collected from persons other than the individual proposed for coverage;

(2) the type of personal information that may be collected and the type of source and investigative technique that may be used to collect such information;

(3) the type of disclosure permitted by this chapter and the circumstances under which such disclosure may be made without prior authorization; provided, however, that only such circumstances need be described which occur with such frequency as to indicate a general business practice;

(4) a description of the rights established under sections eight, nine and ten and the manner in which such rights may be exercised; and

(5) that information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons.

(c) In lieu of the notice prescribed in subsection (b), the insurance institution or insurance representative may provide an abbreviated notice informing the applicant or policyholder that:

(1) personal information may be collected from a person other than the individual proposed for coverage;

(2) such information as well as other personal or privileged information subsequently collected by the insurance institution or insurance representative may in certain circumstances be disclosed to a third party without authorization;

(3) a right of access and correction exists with respect to all personal information collected; and

(4) the notice prescribed in subsection (b) shall be furnished to the applicant or policyholder upon request.

(d) The obligations imposed by this section upon an insurance institution or insurance representative may be satisfied by another insurance institution or insurance representative authorized to act on its behalf.

(e) Information collection and disclosure authorized pursuant to this chapter is limited to the practices described in the notice issued or available pursuant to this section.

Section 5. An insurance institution or insurance representative shall clearly specify questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction.

Section 6. Notwithstanding any general or special law to the contrary, no insurance institution, insurance representative or insurance-support organization may utilize as its disclosure authorization form in connection with insurance transactions a form or statement which authorizes the disclosure of personal or privileged information about an individual to the insurance institution, insurance representative or insurance-support organization unless the form or statement:

(1) is written in plain language;

(2) is dated;

(3) specifies the types of persons authorized to disclose information about the individual;

(4) specifies the nature of the information authorized to be disclosed;

(5) names the insurance institution or insurance representative and identifies by generic reference the representative of the insurance institution to whom the individual is authorizing information to be disclosed;

(6) specifies the purposes for which the information is collected;

(7) specifies the length of time such authorization shall remain valid, which shall be no longer than:

(A) in the case of authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement or a request for change in policy benefits, thirty months from the date the authorization is signed; or

(B) in the case of authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy:

(i) the term of coverage of the policy if the claim is for a health insurance benefit; or

(ii) the duration of the claim if the claim is not for a health insurance benefit; and

(8) advises the individual or a person authorized to act on behalf of such individual that such individual or the individual's authorized representative is entitled to receive a copy of the authorization form.

Section 7. (a) No insurance institution, insurance representative or insurance-support organization may prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement or a change in insurance benefits unless the insurance institution or insurance representative informs the individual:

(1) that each individual may request to be interviewed in connection with the preparation of the investigative consumer report; and

(2) that upon a request pursuant to section eight, such individual is entitled to receive a copy of the investigative consumer report.

(b) If an investigative consumer report is to be prepared by an insurance institution or insurance representative, such insurance institution or insurance representative shall institute reasonable procedures to conduct a personal interview requested by an individual.

(c) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or insurance representative desiring such report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct such reviews, if requested.

(d) No investigative consumer report shall contain any information designed to determine the sexual orientation of an applicant, proposed insured, policy-

holder, beneficiary or any other person, or for such persons, information relating to counseling for Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related Complex (ARC) as defined by the Centers for Disease Control of the United States Public Health Service. For purposes of this subsection, "counseling" shall not mean diagnosis of or treatment for AIDS or ARC.

Section 8. (a) An insurance institution, insurance representative or insurance-support organization shall make any personal information collected or maintained in connection with an insurance transaction in its possession or control available to the individual to whom it refers, or to the authorized representative of such individual, as provided in this section.

(b) If any individual, after identification, submits a written request to an insurance institution, insurance representative or insurance-support organization for access to recorded personal information about such individual which is reasonably described by such individual and reasonably locateable and retrievable by the insurance institution, insurance representative or insurance-support organization, the insurance institution, insurance representative or insurance-support organization shall within thirty business days from the date such request is received:

(1) either provide such individual with a copy of such recorded personal information or inform such individual of the nature and substance of such recorded personal information in writing;

(2) permit such individual to see and copy, in person, such recorded personal information or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) disclose to such individual the identity, if recorded, of any person to whom the insurance institution, insurance representative or insurance-support organization has disclosed such personal information within two years prior to such request, and if such identity is not recorded, the names of insurance institutions, insurance representatives, insurance-support organizations or other persons to whom such information is normally disclosed; and

(4) provide such individual with a summary of the procedures by which such individual may request correction, amendment or deletion of recorded personal information.

(c) Any personal information provided pursuant to subsection (b) shall contain the name or identify the source, except that a source that is a natural person acting in a personal capacity need not be revealed if such confidentiality was specifically promised.

(d) Medical record information supplied by a medical care institution or medical professional and requested under subsection (b), together with the identity of the

medical professional or medical care institution which provided such information, shall be supplied either directly to the individual or to a medical professional designated by such individual and licensed to provide medical care with respect to the condition to which the information relates, whichever such individual prefers. Mental health record information shall be supplied directly to such individual, pursuant to this section, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates or another equally qualified mental health professional. Upon release of any medical or mental health record information to a medical professional designated by such individual, the insurance institution, insurance representative or insurance-support organization shall notify such individual, at the time of the disclosure, that it has provided the information to the medical professional.

(e) Except for personal information provided under section ten, an insurance institution, insurance representative or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to an individual but no other fee may be charged.

(f) The obligations imposed by this section upon an insurance institution or insurance representative may be satisfied by another insurance institution or insurance representative authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subsection (b), an insurance institution, insurance representative or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf so long as the insurance-support organization or consumer reporting agency has established and maintains procedures for maintenance of records to assure confidentiality.

(g) The rights granted to an individual in this section shall extend to a natural person to the extent information about such person is collected and maintained by an insurance institution, insurance representative or insurance-support organization in connection with an insurance transaction. The rights granted to a natural person by this subsection shall not extend to information about such person that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving such person.

(h) For the purpose of this section, the term "insurance support organization" shall not include "consumer reporting agency".

Section 9. (a) An individual to whom personal information refers has a right to have any factual error corrected and any misrepresentation or misleading entry amended or deleted as provided in this section.

(b) Within thirty business days from the date of receipt of a written request from an individual to correct, amend or delete any recorded personal information about

such individual within its possession, an insurance institution, insurance representative or insurance-support organization shall either:

(1) correct, amend or delete the portion of the recorded personal information in dispute; or

(2) reinvestigate the disputed information and upon completion of such reinvestigation the insurance institution, insurance representative or insurance-support organization shall correct, amend or delete the portion of the recorded personal information in dispute or notify the individual of:

(i) its refusal to make such correction, amendment or deletion;

(ii) the reason for such refusal;

(iii) the individual's right to file a statement as provided in subsection (d); and

(iv) the individual's right to request review by the commissioner of insurance as provided by section fourteen.

(c) If the insurance institution, insurance representative or insurance-support organization corrects, amends or deletes recorded personal information in accordance with paragraph (1) of subsection (b), the insurance institution, insurance representative or insurance-support organization shall so notify the individual in writing and furnish the correction, amendment or fact of deletion to:

(1) any person who, according to the records of the insurance institution, insurance representative or insurance-support organization, has, within the preceding two years received such recorded personal information from the insurance institution, insurance representative or insurance-support organization, and any person specifically designated by the individual who may have, within the preceding two years, received such recorded personal information; provided, however, that this subsection shall apply only to personal information which is medical record information or which relates to the individual's character, general reputation, personal characteristics or mode of living;

(2) any insurance-support organization whose primary source of personal information is insurance institutions if the insurance-support organization has systematically received such recorded personal information from the insurance institution within the preceding seven years; provided, however, that the correction, amendment or fact of deletion need not be furnished if the insurance-support organization no longer maintains recorded personal information about the individual; and

(3) any insurance-support organization that furnished the personal information that has been corrected, amended or deleted.

(d) Whenever an individual disagrees with an insurance institution's, insurance representative's or insurance-support organization's refusal to correct, amend or delete recorded personal information, such individual shall be permitted to file with the insurance institution, insurance representative or insurance-support organization:

(1) a concise statement setting forth what such individual thinks is the correct, relevant or fair information; and

(2) a concise statement of the reasons why such individual disagrees with the insurance institution's, insurance representative's or insurance-support organization's refusal to correct, amend or delete recorded personal information.

(e) In the event an individual files a statement as described in subsection (d), the insurance institution, insurance representative or insurance-support organization shall:

(1) file the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it;

(2) in any subsequent disclosure by the insurance institution, insurance representative or insurance-support organization of the recorded personal information that is the subject of disagreement, clearly identify the matter in dispute and provide the individual's statement along with the recorded personal information being disclosed; and

(3) furnish the statement to the persons and in the manner specified in subsection (c).

(f) The rights granted to an individual in this section shall extend to a natural person to the extent information about such person is collected and maintained by an insurance institution, insurance representative or insurance-support organization in connection with an insurance transaction. The rights granted to a natural person by this subsection shall not extend to information about such person that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving such person.

(g) For purposes of this section, the term "insurance-support organization" shall not include "consumer reporting agency".

Section 10. (a) In the event of an adverse underwriting decision, the insurance institution or insurance representative responsible for the decision shall:

(1) either provide the applicant, policyholder or individual proposed for coverage with the specific reason for the adverse underwriting decision in writing or advise such person that upon written request such person may receive the specific reason in writing; and

(2) provide the applicant, policyholder or individual proposed for coverage with a summary of the rights established under subsection (b) and sections eight and nine.

(b) Upon receipt of a written request within ninety business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or insurance representative shall furnish to such person within twenty-one business days from the date of receipt of such written request:

(1) the specific reason for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to paragraph (1) of subsection (a); and

(2) the specific items of personal and privileged information that support such reason; provided, however, that:

(i) the insurance institution or insurance representative shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the commissioner, that the applicant, policyholder or individual proposed for coverage has engaged in criminal activity, fraud, or material misrepresentation; and

(ii) specific items of medical record information supplied by a medical care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by such individual and licensed to provide medical care with respect to the condition to which the information relates, whichever such individual prefers. Mental health record information shall be supplied directly to such individual, pursuant to this subsection, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates or of another equally qualified mental health professional. Upon release of any medical or mental health record information to a medical professional designated by such individual, the insurance institution, insurance representative or insurance-support organization shall notify such individual, at the time of the disclosure, that it has provided the information to the medical professional; and

(3) the name and address of the source that supplied the specific items of information pursuant to paragraph (2) of subsection (b); except that a source that is a natural person acting in a personal capacity need not be revealed if confidentiality was specifically promised; provided, however, that the identity of any medical professional or medical-care institution shall be disclosed either directly to the individual or to the designated medical professional other than the one who initially supplied the information, whichever such individual prefers.

(c) The obligations imposed by this section upon an insurance institution or insurance representative may be satisfied by another insurance institution or insurance representative authorized to act on its behalf.

(d) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by subsection (a) may be given orally.

Section 11. No insurance institution, insurance representative or insurance-support organization may seek information in connection with an insurance transaction concerning any previous adverse underwriting decision experienced by an individual unless such inquiry also requests the reasons for any previous adverse underwriting decision.



Section 12. No insurance institution or insurance representative may base an adverse underwriting decision in whole or in part:

(1) on the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism; provided, however, that an insurance institution or insurance representative may base an adverse underwriting decision on further information obtained from an insurance institution or insurance representative responsible for a previous adverse underwriting decision;

(2) on personal information received from an insurance-support organization whose primary source of information is insurance institutions; provided, however, that an insurance institution or insurance representative may base an adverse underwriting decision on further personal information obtained as the result of information received from such insurance-support organization; or

(3) on the basis of sexual orientation; provided, however, that neither the national origin, marital status, lifestyle or living arrangements, occupation, gender, medical history, beneficiary designation, nor zip code or other territorial classification of the applicant may be used to establish, or aid in establishing, the applicant's sexual orientation.

Section 13. An insurance institution, insurance representative or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(1) with the written authorization of the individual, provided that:

(i) if such authorization is submitted by another insurance institution, insurance representative or insurance-support organization, the authorization meets the requirement of section six; or

(ii) if such authorization is submitted by a person other than an insurance institution, insurance representative or insurance-support organization, the authorization is:

(A) dated;

(B) signed by the individual; and

(C) obtained one year or less prior to the date a disclosure is sought pursuant to this subsection; or

(2) to a person other than an insurance institution, insurance representative or insurance-support organization; provided, however, that such disclosure is reasonably necessary:

(i) to enable such person to perform a specific business, professional or insurance function for the disclosing insurance institution, insurance representative or insurance-support organization and such person agrees not to disclose the information further without such individual's written authorization unless the further disclosure:

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(A) would otherwise be permitted by this section if made by an insurance institution, insurance representative or insurance-support organization; or

(B) is reasonably necessary for such person to perform its specific business, professional or insurance function for the disclosing insurance institution, insurance representative or insurance-support organization; or

(ii) to enable such person to provide information to the disclosing insurance institution, insurance representative or insurance-support organization for the purpose of:

(A) determining an individual's eligibility for an insurance benefit or payment; or

(B) detecting or preventing criminal activity, fraud or material misrepresentation in connection with an insurance transaction; or

(3) to an insurance institution, insurance representative, or insurance-support organization; provided, however, that the information disclosed is limited to that which is reasonably necessary:

(i) to detect or prevent criminal activity, fraud or material misrepresentation in connection with insurance transactions; or

(ii) for the receiving or disclosing insurance institution, insurance representative or insurance-support organization to perform its function in connection with an insurance transaction involving an individual; provided, however, that the recipient of the information is prohibited from redisclosing the information without explicit written authorization according to the requirements of paragraph (1) or that the individual is notified, either concurrently with the application or otherwise prior to disclosure of the information, that the disclosure of the information may be made and can find if the disclosure has been made; or

(4) to a medical-care institution or medical professional for the purpose of:

(i) verifying insurance coverage or benefits; or

(ii) informing an individual of a medical problem of which the individual may not be aware; or

(iii) conducting an operations or services audit to verify the individuals treated by the medical professional or at the medical-care institution, provided only such information is disclosed as is reasonably necessary to accomplish the foregoing purposes; or

(5) to an insurance regulatory authority; or

(6) to a law enforcement or other governmental authority:

(i) to protect the interests of the insurance institution, insurance representative or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it; or

(ii) if the insurance institution, insurance representative or insurance-support organization reasonably believes that illegal activities have been conducted by the individual; or

(7) otherwise permitted or required by law; or

(8) in response to a facially valid administrative or judicial order, including a search warrant or subpoena; or

(9) made for the purpose of conducting actuarial or research studies, provided that:

(i) no individual may be identified in any actuarial or research report;

(ii) information allowing the individual to be identified is removed to the extent practicable and where such removal is not practicable, is returned or destroyed as soon as it is no longer needed; and

(iii) the actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, insurance representative or insurance-support organization and the disclosure is made in connection with such actuarial or research studies; or

(10) to a party or representative of a party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurance of the insurance institution, insurance representative or insurance-support organization, provided that:

(i) prior to the consummation of the sale, transfer, merger or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger or consolidation; and

(ii) the recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, insurance representative or insurance-support organization and the disclosure is made in connection with such sale, transfer, merger or consolidation; or

(11) to a person whose only use of such information will be in connection with the marketing of a product or service, provided that:

(1) no medical-record information, privileged information, or personal information relating to an individual's health, character, personal habits, mode of living or general reputation is disclosed, and no classification derived from such information is disclosed;

(2) the individual has been given an opportunity to indicate that he does not want personal information disclosed for marketing purposes and has given no indication that he does not want the information disclosed; and

(3) the person receiving such information agrees not to use it except in connection with the marketing of a product or service; or

(12) to an affiliate whose only use of the information will be in connection with an audit of the insurance institution or insurance representative or the marketing of an insurance product or service; provided, however, that the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons; or

(13) by a consumer reporting agency; provided, however, that the disclosure

is to a person other than an insurance institution or insurance representative; or

(14) to a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or insurance representative's operations or services; provided, however, that the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit; or

(15) to a professional peer review organization for the purpose of reviewing the service or conduct of a medical-care institution or medical professional; or

(16) to a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable; or

(17) to a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction; or

(18) to a lienholder, mortgagee, assignee, lessor or other person shown on the records of an insurance institution or insurance representative as having a legal or beneficial interest in a policy of insurance; provided, however, that:

(i) no medical-record information is disclosed unless the disclosure would otherwise be permitted by this section; and

(ii) the information disclosed is limited to that which is reasonably necessary to permit such person to protect its interests in such policy.

Section 14. (a) The commissioner shall have power to examine and investigate into the affairs of every insurance institution or insurance representative doing business in the commonwealth to determine whether such insurance institution or insurance representative has been or is engaged in any conduct in violation of this chapter.

(b) The commissioner shall have the power to examine and investigate into the affairs of every insurance-support organization acting on behalf of an insurance institution or insurance representative which either transacts business in the commonwealth or transacts business outside the commonwealth that has an effect on a person residing in the commonwealth in order to determine whether such insurance-support organization has been or is engaged in any conduct in violation of this chapter.

Section 15. (a) Whenever the commissioner has reason to believe that an insurance institution, insurance representative or insurance-support organization has been or is engaged in conduct in the commonwealth which violates this chapter, or if the commissioner believes that an insurance-support organization has been or is engaged in conduct outside the commonwealth which has an effect on a person residing in the commonwealth and which violates this chapter, the commissioner shall issue and serve upon such insurance institution, insurance representative or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice, the date of such hearing

shall be not less than twenty-one business days after the date of service.

(b) At the time and place fixed for such hearing the insurance institution, insurance representative or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

(c) At any hearing conducted pursuant to this section the commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the commissioner. If no stenographic record is made and if judicial review is sought, the commissioner shall prepare a statement of the evidence for use on the review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted under the laws of the commonwealth.

(d) Statements of charges, notices, orders and other processes of the commissioner under this chapter may be served by anyone duly authorized to act on behalf of the commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this chapter have been allegedly violated. A verified return setting forth the manner of service, or return postcard receipt in the case of registered mail, shall be sufficient proof of service.

Section 16. For the purpose of this chapter, an insurance-support organization transacting business outside the commonwealth which has an effect on a person residing in the commonwealth shall be deemed to have appointed the commissioner to accept service of process on its behalf; provided, however, that the commissioner causes a copy of such service to be mailed forthwith by registered mail to the insurance-support organization at its last known principal place of business. The return postcard receipt for such mailing shall be sufficient proof that the same was properly mailed by the commissioner.

Section 17. (a) If, after a hearing pursuant to section fifteen, the commissioner finds that the insurance institution, insurance representative or insurance-support organization charged has engaged in conduct or practices in violation of this chapter, the commissioner shall put such findings in writing and shall issue and cause to be served upon such insurance institution, insurance representative or insurance-support organization a copy of such findings and an order requiring such insurance institution, insurance representative or insurance-support organization to cease and desist from the conduct or practices constituting a violation of this

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chapter.

(b) If, after a hearing pursuant to section fifteen, the commissioner determines that the insurance institution, insurance representative or insurance-support organization charged has not engaged in conduct or practices in violation of this chapter, the commissioner shall prepare a written report which sets forth findings of fact and conclusions of law. Such report shall be served upon the insurance institution, insurance representative or insurance-support organization charged and upon the person or persons, if any, whose rights under this chapter were allegedly violated.

(c) Until the expiration of the time allowed under section nineteen for filing a petition for review or until such petition is actually filed, whichever occurs first, the commissioner may modify or set aside any order or report issued under this section. After the expiration of the time allowed under section nineteen for filing a petition for review, if no such petition has been duly filed, the commissioner may, after notice and opportunity for hearing, alter modify or set aside, in whole or in part, any order or report issued under this section whenever conditions of fact or law warrant such action or if the public interest so requires.

Section 18. (a) In any case where a hearing pursuant to section fifteen results in the findings of a knowing violation of this chapter, the commissioner may, in addition to the issuance of a cease and desist order as prescribed in section seventeen, order payment of a monetary penalty of not more than one thousand dollars for each such violation; provided, however, that:

(1) in a hearing to which an insurance representative is a party, the monetary penalty imposed against such insurance representative shall not exceed ten thousand dollars in the aggregate for multiple violations; and

(2) in a hearing to which an insurance institution or insurance-support organization is a party, the monetary penalty imposed against such insurance institution or insurance-support organization shall not exceed fifty thousand dollars in the aggregate for multiple violations.

(b) Any person who violates a cease and desist order of the commissioner under section seventeen may, after notice and hearing and upon order of commissioner, be subject to one or more of the following penalties, at the discretion of the commissioner:

(1) a monetary fine of not more than ten thousand dollars for each such violation;

(2) a monetary fine of not more than fifty thousand dollars if the commissioner finds that such violation has occurred with such frequency as to constitute a general business practice; or

(3) suspension or revocation of an insurance institution's or insurance representative's license.

Section 19. (a) Any person subject to an order of the commissioner under

section seventeen or section eighteen or any person whose rights under this chapter were allegedly violated may obtain a review of any order or report of the commissioner by filing in the supreme judicial court, within twenty days from the date of the service of such order or report, a written petition requesting that the order or report of the commissioner be set aside. A copy of such petition shall be simultaneously served upon the commissioner, who shall forthwith certify and file in such court a transcript of the entire record of the proceeding giving rise to the order or report which is the subject of the petition. Upon filing of the petition and transcript, the supreme judicial court shall have jurisdiction to make and enter a decree modifying, affirming or reversing any order or report of the commissioner, in whole or in part. The findings of the commissioner as to the facts supporting any order or report, if supported by clear and convincing evidence, shall be conclusive.

(b) To the extent an order or report of the commissioner is affirmed, the court shall issue its own order commanding obedience to the terms of the order or report of the commissioner. If any party affected by an order or report of the commissioner shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there are reasonable grounds for the failure to produce such evidence in prior proceedings, the court may order such additional evidence to be taken before the commissioner in such manner and upon such terms and conditions as the court may deem proper. The commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken and shall file such modified or new findings along with any recommendation, if any, for the modification or revocation of a previous order or report. If supported by clear and convincing evidence, the modified or new findings shall be conclusive as to the matters contained therein.

(c) An order or report issued by the commissioner under sections seventeen or eighteen shall become final:

(1) upon the expiration of the time allowed for the filing of a petition for review, if no such petition has been duly filed; except that the commissioner may modify or set aside an order or report to the extent provided in subsection (c) of section seventeen; or

(2) upon a final decision of the supreme judicial court if the court directs that the order or report of the commissioner be affirmed or the petition for review dismissed.

(d) No order or report of the commissioner under this chapter or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order or report from any liability under any law of the commonwealth.

Section 20. (a) If any insurance institution, insurance representative or insurance-support organization fails to comply with sections eight, nine or ten with

respect to the rights granted under said sections, any person whose rights are violated may apply to the superior court, or any other court of competent jurisdiction, for appropriate equitable relief.

(b) An insurance institution, insurance representative or insurance-support organization which discloses information in violation of section thirteen shall be liable for special and compensatory damages sustained by the individual to whom the information relates.

(c) In any action brought pursuant to this section, the court may award the cost of the action and reasonable attorney's fees to the prevailing party.

(d) An action under this section must be brought within two years from the date the alleged violation is or should have been discovered.

(e) Except as specifically provided in this section, there shall be no remedy or recovery available to an individual, in law or in equity, for an occurrence constituting a violation of any provisions of this chapter.

Section 21. No cause of action in the nature of defamation, invasion of privacy or negligence shall arise against any person for disclosing personal or privileged information in accordance with this chapter; provided, however, this section shall provide no immunity:

(1) for any person who discloses false information with malice or willful intent to injure any person; or

(2) for any person who misidentifies an individual as the subject of information and who discloses such misidentified information to others.

Section 22. Any person who knowingly and willfully obtains information about an individual from an insurance institution, insurance representative or insurance-support organization under false pretenses shall be fined not more than ten thousand dollars or imprisoned for not more than one year, or both such fine and imprisonment.

**SECTION 2.** The provisions of sections eight, nine and thirteen of chapter one hundred and seventy-five H of the General Laws, inserted by section one of this act, shall apply to rights granted therein regardless of the date of collection or receipt of the information which is the subject of such sections.

**SECTION 3.** This act shall take effect on July first, nineteen hundred and ninety-two.

**SECTION 4.** The provisions and scope of this act shall not extend to property casualty insurers or property casualty insurance representatives.

Approved January 7, 1992.



**Chapter 517. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF FRAMINGHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized subject to the provisions of sections forty E to forty J, inclusive of chapter seven of the General Laws, to sell and convey by deed approved as to form by the attorney general, a certain parcel of land located in the town of Framingham, to the town of Framingham, subject to the requirements of sections two to four, inclusive, and to such additional terms and conditions as the commissioner may prescribe in consultation with the department of correction. Said parcel is bounded and described as follows:-

Beginning at a stone bound on the easterly sideline of Loring Drive being a point of curvature, thence; along a curve to the right having a radius of twenty-five and zero hundredths (25.00) feet a distance of sixty-one and twenty-seven hundredths (61.27) feet to a point of tangency on the westerly location line of Irving Street, thence; along the westerly sideline of Irving Street, S 24 11' 30" E a distance of three hundred seventy-eight and eight hundredths (378.08) feet to a point on the northerly sideline of land now or formerly of the Old Colony Railroad, thence; on a curve to the right of radius three hundred seventy-nine and seventy-eight hundredths (379.78) feet a distance of three hundred sixty-two and forty-four hundredths (362.44) feet across land of the Commonwealth of Massachusetts which is common to the northerly location of land now or formerly of the Old Colony Railroad, to a point on the easterly sideline of Loring Drive, thence; N 15 23' 40" E, along the easterly sideline of Loring Drive a distance of four hundred seventy-six and thirty-two hundredths (476.32) feet to a stone bound, being the point and place of the beginning. Said parcel contains 1.99, more or less, acres and is more fully shown on a plan entitled "PLAN OF LAND IN FRAMINGHAM, MASS.; Showing Land To Be Acquired From the Commonwealth of Massachusetts; Scale: 1" = 50'; October 11, 1991; Prepared by the Town of Framingham Engineering Department, Fred W. Sergeant, Town Engineer.

**SECTION 2.** No deed conveying by or on behalf of the commonwealth the property described in section one shall be valid unless such deed provides that said property shall be used for the construction and use as a municipal fire department facility.

**SECTION 3.** The town of Framingham shall assume the costs of appraisals, surveys, and other expenses as deemed necessary by the commissioner for the conveyance of this property.

**SECTION 4.** In the event that the parcel described in section one is not used

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for a municipal fire department facility within five years of the effective date of this act, or if the town of Framingham ceases to use the parcel for such purpose at any time thereafter, said parcel shall revert to the commonwealth upon such terms and conditions as the commissioner may determine.

Approved January 7, 1992.

**Chapter 518.      AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLAN-  
NING AND OPERATIONS TO LEASE CERTAIN PREMISES  
IN NICKERSON STATE PARK IN THE TOWN OF  
BREWSTER, TO THE CAPE COD REPERTORY THEATRE  
COMPANY, INC.**

*Be it enacted, etc., as follows:*

The commissioner of the division of capital planning and operations, in consultation with the commissioner of the department of environmental management, is hereby authorized to lease certain structures and adjacent lands within Nickerson state park in the town of Brewster, to the Cape Cod Repertory Theatre Company, Incorporated, a nonprofit corporation, for an initial term of twenty-five years together with an option for renewal for an additional term of thirty years.

The structures and land to be leased are known as "The Cape House", "The Livery Building", and adjacent grounds which shall not exceed five acres. In addition, at the option of the lessee, the commissioner shall include in said lease the structures in Nickerson state park known as "The Amphitheatre" and "The Meetinghouse". The lessee shall use the property solely for the purposes of a regional theatre of the visual and performing arts, to provide plays, exhibits, and instructional and other programs of music and fine arts, and for such other purposes not inconsistent with the provisions of this section. The department of environmental management may retain some use of the structures and land so long as such use does not prevent the lessee from enjoying the benefits of the lease. The Livery Building, The Cape House, and surrounding grounds may be known as "The Isaac F. and Sarah E. Crosby Historical Site" and are delineated on a plan to be filed with the department of environmental management entitled "Land and buildings in Nickerson state park to be leased to the Cape Cod Repertory Theatre Company, Incorporated".

In consideration therefor, the lessee shall be responsible for the restoration, rehabilitation, and maintenance of the structures and adjacent grounds, and shall cooperate with the department of environmental management in providing joint programs, develop and implement a program of historical interpretation for the site, and comply with such other reasonable terms and conditions as the

commissioner of the division of capital planning and operations and the commissioner of the department of environmental management may require.

Approved January 7, 1992.

## **Chapter 519. AN ACT RELATIVE TO JUVENILE DETENTION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for alternative detention for juveniles who have been arrested when a court is not in session, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 39H of chapter 119 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first paragraph the following three paragraphs:-

Whenever such child is arrested and the court with jurisdiction over the case is not in session, the law enforcement officer in charge of the police station or town lockup to which the child has been taken, or his designee, shall immediately notify (1) the probation officer of the district court, or the juvenile court within whose district such child was arrested or resides, or such other probation officer who may have knowledge of the child and (2) a representative of the department of social services, if the law enforcement officer has reason to believe that the child is or has been in the care or custody of such department, and shall inquire into the case.

The law enforcement officer, in consultation with the probation officer, shall then immediately make all reasonable diversion efforts so that such child is delivered to the following types of placements, and in the following order of preference:

(i) to one of the child's parents, or to the child's guardian or other responsible person known to the child, or to the child's legal custodian including the department of social services or the child's foster home;

(ii) to a temporary shelter facility licensed or approved by the office for children, a shelter home approved by a temporary shelter facility licensed or approved by said office for children, or a family foster care home approved by a placement agency licensed or approved by said office for children; provided, however, that such a placement is available and, in the view of the probation officer, appropriate for the child; provided, further, that such a placement furnish said law enforcement officer with a written statement that it will make reasonable efforts to secure the child's appearance at the next available court session and that such placement will

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furnish the necessary transportation to such placement and to the court, unless the law enforcement officer chooses to furnish said transportation, provided, further, that such child may not be securely detained in a police station or town lockup.

Notwithstanding the foregoing requirements for placement, any such child who is arrested shall, if necessary, be taken to a medical facility for treatment or observation.

**SECTION 2.** Section 67 of said chapter 119, as so appearing, is hereby amended by striking out, in line 1, the word "Whenever" and inserting in place thereof the words:- Except for children in need of service arrested pursuant to section thirty-nine H, whenever.

Approved January 7, 1992.

**Chapter 520.            AN ACT RELATIVE TO THE FUEL EFFICIENCY OF MOTOR VEHICLES PURCHASED BY THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

Chapter 25A of the General Laws is hereby amended by inserting after section 11A the following section:-

Section 11B. Motor vehicles owned and operated by the commonwealth, as they are removed from service, shall only be replaced with vehicles that have above-average fuel efficiency for new vehicles within their size class as determined by the federal government. The provisions of this section shall not apply in cases where the purchase of an above-average fuel efficiency vehicle within their size class as determined by the federal government would result in an inability of the new vehicle to perform its intended duties.

Approved January 7, 1992.

**Chapter 521.            AN ACT AUTHORIZING THE TOWN OF FALMOUTH TO CONVEY AN EASEMENT OVER CERTAIN PARK LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Falmouth is hereby authorized to convey an easement over a certain parcel of park land located in said town to B.L. Ricci Design, Inc. and the Sandwich Monthly Meeting of Friends.

Said easement is shown on a plan of land entitled "Definitive Plan 'Friend Way' West Falmouth, Ma." dated August 22, 1991 drawn by ARO Engineering, Inc., which is on file with the planning board of the town of Falmouth.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 8, 1992.

**Chapter 522.        AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN EASEMENTS FROM THE TOWN OF HINGHAM.**

*Be it enacted, etc., as follows:*

The commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to acquire by eminent domain, or otherwise certain hereinafter described easements in land located in and owned by the Town of Hingham presently dedicated for conservation purposes, and to transfer the care, custody and control of said easements to the department of public works for highway purposes.

Said easements are shown on a plan entitled: "The Commonwealth of Massachusetts, Plan of Parcels in the Town of Hingham, Plymouth County, To be taken for highway purposes by the Department of Public Works, August 27, 1991", which plan shall be kept on file by the chief engineer of the department of public works.

Approved January 8, 1992.

**Chapter 523.        AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO SELL CERTAIN PARCELS OF LAND IN THE CITY OF CHELSEA.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the sale of certain land by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws to sell and convey by deed, approved as to form by the attorney general, five parcels of land and the buildings thereon, located in the city of Chelsea, to individuals or entities, subject to the

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requirements of section two and to such additional terms and conditions as the commissioner may prescribe, in consultation with the Soldiers Home in Massachusetts.

Said parcels are identified as parcel 66-57, parcel 66-58, parcel 66-61, parcel 66-62 and parcel 66-73 on the maps of the assessors of the city of Chelsea. Said parcels shall be further described by appropriate surveys conducted by the division of capital planning and operations.

**SECTION 2.** No deed or instrument conveying the properties described in section one shall be valid unless said deed or instrument shall provide that such property shall be owner occupied for a period of three years from the date of purchase. In the event said property shall cease to be so occupied at any time prior to the expiration of said parcel it shall revert to the commonwealth upon such terms and conditions as determined by the commissioner of the division of capital planning and operations.

Approved January 8, 1992.

**Chapter 524.****AN ACT AUTHORIZING THE BOARD OF COMMISSIONERS OF THE DALTON FIRE DISTRICT TO CONVEY CERTAIN LAND IN THE TOWN OF WINDSOR TO THE COMMONWEALTH THROUGH ITS DIVISION OF CAPITAL PLANNING AND OPERATIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The board of commissioners of the Dalton fire district is hereby authorized to convey to the commonwealth through its division of capital planning and operations in consultation with the division of fisheries and wildlife, for conservation purposes a certain parcel of land in the town of Windsor containing fifteen acres, more or less being the third parcel as described in a deed of Alden B. Cady to said district. Said premises to be conveyed are bounded and described as follows: A certain lot of land beginning at the Southeast corner of said land at a willow tree; thence westerly in the line of land of Mrs. Miner to a willow tree on the bank of the brook; thence northerly on said brook to land of Daniel Bucklin; thence easterly on line of said Bucklin's land of E.M. Spring; thence southerly on land of said Spring's land to the first mentioned bound.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 8, 1992.

**Chapter 525.      ANACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN EASEMENTS IN THE TOWNS OF GROTON AND PEPPERELL.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately effect the conveyance of permanent and temporary easements in two certain parcels of land owned by the commonwealth in the towns of Groton and Pepperell by the division of capital planning and operations to the town of Groton for the purpose of laying out and constructing a sewer line, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Chapter 213 of the acts of 1988 is hereby amended by striking out section 1, as amended by section 1 of chapter 620 of the acts of 1989, and inserting in place thereof the following section:-

*Section 1.* The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey by deed approved as to form by the attorney general, certain permanent sewer easements, or any interest therein, located in the towns of Groton and Pepperell, to the town of Groton subject to the requirements of sections two, three and four and to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management, said property being three easements, described as Easement I, II, and Easement III, shall be located within the boundaries of two sections of an abandoned railroad right of way, formerly known as the Hollis Branch of the Boston and Maine Railroad.

EASEMENT I is shown on a plan entitled: "Easement Plan of Land in Groton & Pepperell, MA;" Scale: 1" = 100'; dated May 13, 1988; revised November 30, 1988, prepared for the Town of Groton; prepared by David D. Lanata & Associates, Inc., Woburn, MA.

EASEMENT II is shown on a plan entitled: "Easement Plan of Land in Groton & Pepperell, MA;" Scale: 1" = 100'; dated May 5, 1988, revised November 30, 1988, prepared for the Town of Groton, by David D. Lanata & Associates, Inc., Woburn, MA. Said plans are on file in the office of the town clerk of the town of Groton.

EASEMENT III is shown on a plan entitled: "Easement Plan of Land in Groton, MA;" Scale: 1" = 40'; dated September 17, 1990; revised April 8, 1991, prepared for the Town of Groton; prepared by David D. Lanata & Associates, Inc., Woburn, MA.

The aforementioned plans describing Easement I and Easement II delineate temporary sewer construction easements consisting of two ten-foot wide parcels

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of land abutting and paralleling the permanent easements, one ten-foot wide parcel situated on each side thereof, and located as aforesaid. The aforementioned plan describing Easement III delineates a temporary sewer construction easement ten feet in width on one side of the permanent easement. Said temporary easements shall only exist for the duration of this sewer interception construction project. Upon receipt of an engineer's certified as-built plan by the department of environmental management and the division of capital planning and operations, said temporary construction easements for the town of Groton will expire.

Approved January 8, 1992.

**Chapter 526.****AN ACT AUTHORIZING AND DIRECTING THE COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT TO THE DEDHAM-WESTWOOD WATER DISTRICT AND A CONSERVATION RESTRICTION OVER CERTAIN PARCELS OF LAND IN THE TOWN OF DEDHAM.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the granting of certain easements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to grant a permanent easement over a certain parcel of land in the town of Dedham under the care, custody and control of the metropolitan district commission to the Dedham-Westwood Water District, a body politic and corporate for the purposes of access to the operation of a public water supply well subject to such additional terms and conditions as said commissioner may prescribe in consultation with the metropolitan district commission. Said easement is shown on a plan entitled "Easement Plan, Dedham, Mass. dated January 17, 1991 revised March 6, 1991" by Harry R. Feldman, Inc., Surveyors.

**SECTION 2.** The commissioner of the division of capital planning and operations is hereby authorized and directed to create a conservation restriction over two certain parcels of land located in the town of Dedham for the purpose of protecting the public water supply; subject to such additional conditions as said deputy commissioner may prescribe in consultation with the metropolitan district



commission. Said parcels are shown on a plan entitled, "Conservation Restriction Plan, Dedham, Mass. dated January 9, 1991 revised March 6, 1991," by Harry R. Feldman, Inc., Surveyors.

**SECTION 3.** The Dedham-Westwood Water District shall assume the costs of any appropriate appraisals, surveys and other expenses as deemed necessary by the commissioner of the division of capital planning and operations in connection with granting of the easement authorized and directed in section one and the creation of the conservation restriction authorized and directed in section two.

**SECTION 4.** In the event that the purposes described in section one are not complied with, the easement authorized in section one shall revert to the commonwealth under terms and conditions as the commissioner of capital planning and operations shall prescribe.

**SECTION 5.** The conservation restriction authorized and directed in section two shall remain in full force and affect only as long as the Dedham-Westwood Water District or its duly authorized successor uses the two parcels described in said section two for the purpose of protecting the water supply.

Approved January 8, 1992.

**Chapter 527.**

**AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER CERTAIN PARCELS OF LAND IN THE CITY OF LOWELL FROM THE DEPARTMENT OF PUBLIC WORKS TO THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately effect the transfer of certain parcels of land from the department of public works to the department of environmental management, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey by deed approved as to form by the attorney general, certain parcels of land located in the city of Lowell, to an individual or entity, subject to such terms and conditions as the commissioner may prescribe, in consultation with the department of public works said land being described as follows:

Parcel A was taken by the commonwealth, department of public works, on

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November 11, 1970 by an Order of Taking recorded in the northern district registrar of deeds for Middlesex county at Lowell in Book 1942, page 144.

Parcel B was taken by the commonwealth, department of public works, on August 23, 1973 by an Order of Taking recorded in the northern district registry of deeds for Middlesex county at Lowell in Book 2082, Page 107.

Parcel C was taken by the commonwealth, department of public works, on February 28, 1979 by an Order of Taking recorded in northern district registry of deeds for Middlesex county at Lowell in Book 2101, Page 542.

Approved January 8, 1992.

**Chapter 528.      AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER A CERTAIN PARCEL OF LAND ON THE GROUNDS OF THE TAUNTON STATE HOSPITAL TO THE DEPARTMENT OF FISHERIES, WILDLIFE & ENVIRONMENTAL LAW ENFORCEMENT.**

*Be it enacted, etc., as follows:*

The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E through forty J, inclusive, of chapter seven of the General Laws, to transfer to the department of fisheries, wildlife and environmental law enforcement the use of a certain parcel of land of the commonwealth under the control of the department of mental health situated in the city of Taunton and described as follows: A corridor of land bounded easterly by the centerline of the Mill River; westerly by a line three hundred and fifty feet from the centerline of the Mill River; northerly by Danforth Street; and southerly by a stone and cement wall running in a northeasterly direction Hodges along Avenue to the Mill River; but excluding therefrom a fifty foot curtilage surrounding the buildings currently existing thereon.

Approved January 8, 1992.

**Chapter 529.      AN ACT REMOVING THE REQUIREMENT OF TAX PAYMENT CERTIFICATES BEFORE THE VOLUNTARY DISSOLUTION OF A CORPORATION.**

*Be it enacted, etc., as follows:*

Paragraph (d) of section 100 of chapter 156B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the last sentence.

*This Bill, returned by the Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate December 19, 1991, and in concurrence, by the House of Representatives, December 20, 1991, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and thereby has the "force of law".*

**Chapter 530.**

**AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ENTER INTO A LONG TERM LEASE WITH THE CITY OF FALL RIVER, FOR LAND LOCATED WITHIN THE FALL RIVER STATE HERITAGE PARK.**

*Whereas, The deferred operation would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations to enter into a long term lease with the city of Fall River, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted, etc., as follows:*

**SECTION 1.** The division of capital planning and operations, in consultation with the department of environmental management, is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to execute and deliver in the name of and on behalf of the commonwealth, and subject to such terms and conditions as determined by said division in consultation with said department, one or more instruments to lease to the city of Fall River acting through the Fall River office of economic development, or such other entity as the city, with the approval of the division, may from time to time designate, a certain parcel of land located within the Fall River State Heritage Park for the purposes of locating a carousel pavilion on said land.

The original lease or leases of such land to said city shall be for a period not to exceed thirty years. Said division, in consultation with said department, may provide renewals to extend said original lease or leases for two consecutive terms of ten years each; provided, however, that all additional renewals of said lease or leases for any further terms of years shall require the approval of the general court.

If the original term or a renewal term expires during the time that the city of Fall River and the division, or their successors in interest, are negotiating a renewal of the lease or leases or during the time that the general court is considering approval of a renewal of the lease or leases, the term expiring shall be deemed to

be automatically extended for a period not to exceed one year in duration from the date of expiration of the original lease or leases or any renewal thereof, and for the same lease conditions as are in effect during the last year of said lease prior to any renewal thereof, and shall remain in effect while waiting favorable general court action thereof or until the renewal lease document requiring such favorable action is executed by the division or its successor. Said renewal shall expire at the end of said year if the general court has not acted, or acts unfavorably on said renewal, whichever occurs sooner.

Said lease or leases shall be in return for compensation as described in section two of this act and in accordance with the purposes and program described in the 512 Agreement between the City of Fall River and the department of environmental management dated May 23, 1990.

Said parcel is described as follows:

**DESCRIPTION OF LAND**

**LOT 1-A**

**"CAROUSEL PARCEL"**

That certain parcel of land with all improvements located thereon, situated in the City of Fall River, County of Bristol and Commonwealth of Massachusetts, said parcel, currently being used as Heritage State Park, being further bounded and described as follows:

Beginning at a point in the northeasterly line of interstate Route 195 at the intersection of said northeasterly line with the southeasterly mean high water line of the Taunton River;

Thence running easterly, northeasterly, northerly, northeasterly, easterly, southeasterly, and southerly along the mean high water line of said Taunton River, a distance of two hundred seventy-seven feet, more or less (277'+) to a point;

Thence running S 16° 25' 39" W, bounded easterly by other land now or formerly of these Grantors, a distance of seventy feet, more or less (70'+) to a point;

Thence running S 9° 11' 04" W, bounded easterly by other land now or formerly of these Grantors, a distance of sixty and twenty-four hundredths feet (60.24') to a point in the northeasterly line of said interstate Route 195;

Thence running N 53° 15' 20" W along the northeasterly line of said interstate Route 195, a distance of one hundred seventy-five and three-tenths feet, more or less (175.3'+) to the point and place of beginning, or as ultimately depicted on a plan to be recorded at the time of conveyance.

The above described parcel contains seventeen thousand two hundred sixty-eight square feet, more or less (17,268 S.F.+) of land.

**SECTION 2.** Said lease or leases shall be subject to such conditions and restrictions as may be deemed necessary and appropriate, and consistent with this act, by the commissioner of the division of capital planning and operations in consultation with the department of environmental management, and shall provide

for compensation from the city of Fall River which shall include provisions regarding services for maintenance and repair of the adjacent parking area, including landscape maintenance, snow and trash removal, and shall further provide security for the entire Fall River State Heritage Park.

**SECTION 3.** In the event that the carousel pavilion, as described in the 512 Agreement between the department of environmental management and the city of Fall River dated May twenty-third, nineteen hundred and ninety is not constructed on or before January first, nineteen hundred and ninety-three, or the parcel ceases to be used for the purpose described in section one of this act at any time thereafter the lease or leases authorized by said section one hereunder shall be null and void and all interests thereon shall revert to the commonwealth, or if said lease or leases are not in accordance with the purposes and program described in said 512 Agreement.

Approved January 8, 1992.

**Chapter 531.           AN ACT AUTHORIZING THE DEVELOPMENT AND USE,  
BY THE CITY OF FITCHBURG AND THE TOWN OF  
WESTMINSTER, OF CERTAIN LAND LOCATED IN SAID  
TOWN, FOR SOLID WASTE MANAGEMENT PURPOSES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 323 of the acts of 1970 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

*Section 1.* The city of Fitchburg is hereby authorized to purchase and develop land located in the town of Westminster, for any solid waste management purpose which is approved by the department of environmental protection, including landfilling, recycling and composting, said land being bound and described as follows:- Northwesterly and westerly by land now or late of one Benjamin Wyman; southerly by land now or formerly of Thomas Harris; southeasterly by land now or formerly of one Hale and land now or late of one Cutler; easterly by land now or late of one Palmer; and northeasterly by land now or late of Daniel Mills and Edwin Upton, to the place of beginning. Said city is hereby further authorized to acquire, by option or otherwise, own or lease and develop certain additional land, consisting of approximately forty acres, which is located adjacent to, and south and east of the landfill and which is contiguous to the land described above.

**SECTION 2.** Said chapter 323 is hereby further amended by striking out section 2 and inserting in place thereof the following section:-

*Section 2.* Notwithstanding the provisions of any general or special law to the contrary, the city of Fitchburg and the town of Westminster may enter into a

contract or contracts with any party to provide for the long-term management of solid waste, including landfilling, the recycling of materials suitable for reuse, and the composting of yard waste, leaves and other materials, at facilities constructed, financed, operated and owned by a private party. Said facilities or a portion thereof may be located on land owned by the private party. Said contract or contracts may be for a period of years, not to exceed twenty-five years, and shall be binding and enforceable in accordance with its terms notwithstanding any limitation or contrary provision contained in, or any failure to comply with the requirements of, any general or special law relating thereto. The obligations represented by payments by said city under said contract or contracts shall not be included in any determination of the borrowing capacity of said city under any limitation of its indebtedness. The contract or contracts authorized hereunder may be entered into by the mayor of said city and by the board of selectmen of said town with the advice of the town board of health, whose approval shall be endorsed thereon. The inhabitants of said town shall have the right, without cost to them, to dispose of their solid waste at any solid waste management facility constructed or developed under and pursuant to the authority of this act, after the same has opened for operations, in accordance with the rules and regulations as to disposing established by the health director of said city and approved by the boards of health of said city and said town. Notwithstanding the foregoing, upon execution by said town of the contracts authorized hereunder, the right of the inhabitants to dispose at such solid waste management facilities shall be subject to the terms of said contracts. The private party operating the solid waste management facilities pursuant to the contract or contracts with said city and said town under and pursuant to section two of this act shall pay to the town of Westminster the amounts required under section twenty-four A of chapter sixteen of the General Laws, as such section may be amended from time to time. The contracts authorized hereunder shall be for any solid waste management facility and the provision of solid waste management services and shall not be subject to, and shall be exempt from, the provisions of section thirty-eight K of chapter seven, section thirty-nine M of chapter thirty, chapter thirty B, section four of chapter forty and section forty-four A to forty-four J, inclusive of chapter one hundred and forty-nine of the General Laws.

**SECTION 3.** Said chapter 323 is hereby further amended by striking out section 3 and inserting in place thereof the following section:-

**Section 3.** If the city of Fitchburg ceases to use such land for any solid waste management activity the town of Westminster shall have the right to exercise the option of taking title to such land and, if said town exercises such option, title to all parcels then owned by said city as described in section one of this act shall vest in the inhabitants of the town of Westminster. The town of Westminster shall exercise this option in writing within six months following the date of final certification of closure of the landfill by the department of environmental

protection but in any event within five years after the city of Fitchburg shall notify the town of Westminster that the city of Fitchburg has ceased to use such land for such purposes. Upon exercise of this option, title to said parcels shall, without consideration being paid therefor, vest in the inhabitants of the town of Westminster. This option shall terminate if not exercised within the aforesaid period.

**SECTION 4.** This act shall take effect upon its passage.

Approved January 8, 1992.

**Chapter 532.        AN ACT RELATIVE TO REVOLVING FUNDS ESTABLISHED  
                         BY THE CITY OF FALL RIVER.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of the second paragraph of section fifty-three E 1/2 of chapter forty-four of the General Laws, expenditures may be made from a revolving fund established by the city of Fall River, under authority of said section fifty-three E 1/2 during fiscal years nineteen hundred and ninety-two and nineteen hundred and ninety-three, for the purpose of paying any wages or salaries of city paramedics.

Approved January 8, 1992.

**Chapter 533.        AN ACT ESTABLISHING THE GROTON COUNTRY CLUB  
                         AUTHORITY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby created a public body politic and corporate to be known as the Groton Country Club Authority hereinafter called the Authority which is constituted as a public instrumentality and the exercise by the Authority of the powers conferred by this act shall be deemed and held to be the performance of essential governmental functions.

**SECTION 2.** The Authority created herein is authorized to manage and operate directly or through contracts with third parties for the benefit of the inhabitants of the town of Groton the recreational facilities of the Groton Country Club owned by said town.

**SECTION 3.** The Authority shall consist of five members. One member shall be designated by a joint appointment of the recreation commission and the parks department of the town of Groton. Four members shall be appointed by the board of selectmen of said town. Of the members first appointed to the Authority by the board of selectmen two shall have three year terms, one shall have a two year term,

one shall have a one year term, and the Recreation/Parks appointee shall have a two year term. Upon the expiration of the term of any member, his or her successor shall be appointed for a term of three years. Every member shall be a resident of said town of Groton. Any member may be removed by the board of selectmen for misfeasance, malfeasance, or willful neglect of duty but only after reasonable notice and a public hearing unless the member expressly waives the same in writing.

**SECTION 4.** The members of the Authority shall annually elect a chairman, and vice chairman. The Authority shall annually appoint a clerk and a treasurer who may or may not be a member of the Authority. Three members of the Authority shall constitute a quorum and an affirmative vote of three members shall be necessary for any action taken by the Authority, except that a smaller number may adjourn any meeting to a specified time and place. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. No member or officer of the Authority shall be liable out of his or her own personal assets for any obligation or liability of the Authority. No member or officer of the Authority shall be liable to the Authority except for his own negligent or wrongful act or omission in bad faith.

**SECTION 5.** The Authority is hereby authorized and empowered:

(a) to adopt bylaws and rules, after a duly called public hearing, for the regulations of its affairs and the conduct of its business;

(b) to adopt an official seal;

(c) to sue and be sued, and to plead and be impleaded in its own name;

(d) to mandate, operate, maintain, repair, improve and expand the recreational facilities for the use of the public;

(e) to establish rules and regulations and fix policies, after a duly called public hearing, for the use of such recreational facilities;

(f) to fix from time to time, after a duly called public hearing, and charge and collect fees for admission to or membership in such recreational facilities or any part thereof. The Authority shall fix such fees as in its best judgment insure sufficient income to meet the expenses of the Authority;

(g) to provide through its employees, by contract, or by the grant of concessions, or by any combination thereof for the furnishing of services and things for the accommodation of persons admitted to and using the recreational facilities or any part thereof;

(h) to make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, to employ a general manager and such other employees and agents as may be necessary in its judgment, and to fix their compensation, and to do all acts and things necessary



or convenient to carry out the powers expressly granted in this act; provided that the provisions of chapter thirty-one of the General Laws shall not apply to any such employees.

**SECTION 6.** The Authority and all its personal property shall be exempt from taxation and from betterments and special assessments; and the Authority shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions. Notwithstanding the foregoing the Authority shall make payment in lieu of taxes to the town of Groton pursuant to section eight.

**SECTION 7.** The town of Groton may appropriate money for the capital or operating needs of the Authority by vote duly adopted at any annual or special town meeting and may authorize and issue its general obligation bonds or notes for any capital needs of the Authority in the manner set forth in chapter forty-four of the General Laws. Said town may contribute to the Authority any money or other property owned by it or acquired for such purpose pursuant to any authorization as aforesaid and in connection therewith may enter into any agreement with the Authority providing for payment or repayment by the Authority or establishing terms and conditions regarding the use of such money or property. The Authority shall not be authorized to issue bonds or notes for any purpose and shall not enter into any financing lease or other contractual arrangement which obligates it to make any payments other than from funds appropriated by said town or otherwise available to the Authority.

**SECTION 8.** The fiscal year for the Authority shall be the municipal fiscal year. An annual examination of the financial records of the Authority shall be conducted by an auditor selected by the board of selectmen or their designee.

Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other provision of law to the contrary, the Authority shall establish a separate operating account, a separate emergency reserve fund account, and a separate capital fund account. Such accounts shall be maintained by the treasurer. To meet the obligations set by the Authority, the treasurer shall invest the funds in such separate accounts in the manner authorized by sections fifty-five and fifty-five A of said chapter forty-four. Any interest earned thereon shall be credited to and become part of each such separate account. Except for inter-line or inter-account transfers, the Authority shall not expend funds except pursuant to an annual budget. Funds contributed by the town of Groton shall be expended only for the purposes for which such contribution was made.

At least thirty days prior to annual town meeting, after a public hearing thereon, the Authority shall adopt for submission to said town for approval at annual town meeting an annual budget including an estimate of income and interaccount transfers for the next ensuing fiscal year. If the budget shall include any request of income for operating expenses from said town, the budget shall, prior to town meeting, be presented to the finance committee of said town for review and

recommendation. If the budget shall include any capital expenditures to be contributed from said town from authorized bonds or notes or otherwise, the budget shall, prior to town meeting, be presented to the capital planning committee of said town as well as the finance committee for review and recommendation. No annual budget, or amendment or supplement thereto shall be effective until town meeting approval. If any required town meeting action is defeated the Authority shall forthwith prepare an amended budget for submission to a special town meeting called for the purpose. In the interim period without an approved budget the Authority may authorize expenditures for no more than the amount spent during the same month the year preceding except by consent of a majority vote of the board of selectmen.

Estimated income or revenue for the operating account shall include usage fees, membership fees, payments from lessees, deposits, interest, transfers from the emergency reserve account, and the surplus, if any, in the operating account for the current fiscal year. Estimated expenditures from the operating account shall include operating expenses, including the cost of maintenance and repair, payments to the town of Groton on account of capital or operating expense contributions, including bond principal and interest, payments in lieu of taxes, the loss, if any, from the operation of the facilities during the current year, and any proposed transfers from the operating account to the emergency reserve fund account or to the capital fund account.

In the case in which the expenditures from the operating account for a year exceed the revenue for the operating account for such year, the Authority shall take immediate steps to resolve the deficit, which steps may include, but are not limited to, reducing costs, increasing usage and membership fees, transferring interest income from the emergency reserve fund account and the capital fund account, transferring funds other than interest income from the emergency reserve fund account with the approval of the board of selectmen, and borrowing funds from said town following a majority vote of a special or an annual town meeting. No transfers shall be made from the operating account into the emergency reserve fund account or into the capital fund account in any subsequent year until such deficit has been resolved. In the case of funds borrowed from said town, the Authority shall pay interest to said town at the prevailing investment rate earned by said town. Said town may, by majority vote at annual town meeting, add a deficit of the Authority to the tax levy for the next fiscal year with or without a stipulation that the amount be repaid from future Authority income.

Estimated income for the emergency reserve fund account shall include transfers from the operating account, and all interest earned by the account. Estimated expenditures from the emergency reserve fund account shall be limited to transfers to the operating account to provide for extraordinary or unforeseen obligations incurred by the Authority in response to an emergency.

Estimated income for the capital fund account shall include transfers from the operating account, all interest earned by the account, and the proceeds of any notes or bonds issued by said town on behalf of the Authority. Expenditures from the capital fund account may be made only for capital improvements to, or renewals of, the physical facilities, with the exception of a transfer of interest income to help offset a deficit in the operating account.

In addition to the public hearings required with respect to the annual and any amended or supplemental budget, the Authority shall hold a public hearing at least thirty days prior to the establishment of any new, or modification of any existing, usage fees or membership fees that are assessed individual or corporate users of the recreational facilities. All public hearings required by this act shall be held in the town of Groton and notice for any such hearing shall be published in a newspaper of general circulation in said town and posted on the town clerk's bulletin board at least fourteen days prior to the date of the hearing.

At least by the third full year of operations, the Authority shall include in its annual estimate of expenditures from the operating account an amount to be paid to said town in lieu of taxes. Such amount shall be negotiated between the Authority and board of selectmen.

**SECTION 9.** Any provision of this act may be amended, as is not inconsistent with the General Laws, by majority vote at any annual or special town meeting.

**SECTION 10.** The provisions of this act shall expire three years from the effective date of this act unless such provisions are reaccepted by a majority vote at a special or annual town meeting. Reacceptance by the town of Groton as, aforesaid, must, therefore, occur every five years for the Authority to continue to be in existence. If said town does not reaccept the provisions of this act, the Authority shall dissolve and all assets of the Authority shall be transferred to said town.

**SECTION 11.** Upon the effective date of this act, all monies deposited to the credit of the Groton Country Club special revenue fund of the town of Groton shall forthwith be transferred to the Authority for deposit in accounts of the Authority.

**SECTION 12.** This act shall take effect upon its passage.

Approved January 8, 1992.

**Chapter 534.      AN ACT RELATIVE TO THE HEALTH INSURANCE OF  
EMPLOYEES OF THE TOWN OF COHASSET.**

*Be it enacted, etc., as follows:*

The town of Cohasset is hereby authorized to pay the employee's portion of health insurance premiums from prior fiscal years to an amount not to exceed

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twenty-five thousand dollars.

Approved January 8, 1992.

**Chapter 535.        AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLAN-  
NING AND OPERATIONS TO LEASE CERTAIN LAND IN  
THE TOWN OF SOUTHWICK.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to lease for a term of ten years by an instrument approved as to form by the attorney general, a certain parcel of land located in the town of Southwick, to an individual or entity, subject to the requirements of section two and to such additional terms and conditions as the commissioner may prescribe, in consultation with the public access board. Said parcel is shown as Lot A on a plan entitled "Plan of Land in Southwick, MA. Owned by Commonwealth of Massachusetts, Public Access Board, Department of Fisheries, Wildlife and Environmental Law Enforcement Showing Parcel to Be Leased, by Wylie C. Hubbard, PE RLS, Woodlake, Inc., Agawam, Mass., scale 1"=20', dated August twenty-sixth, nineteen hundred and ninety-one".

**SECTION 2.** The recipient of said lease shall assume the costs of any appraisals, surveys and other expenses as deemed necessary by the commissioner of the division of capital planning and operations for the granting of the lease.

Approved January 8, 1992.

**Chapter 536.        AN ACT RELATIVE TO THE GRANTING OF CERTAIN  
EASEMENTS IN THE CITY OF QUINCY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed approved as to form by the attorney general a permanent easement over two parcels of land in the city of Quincy, to the United States of America, subject to the conditions set forth in sections two, three, four, five and five A and to such terms and conditions as the commissioner may prescribe, in consultation with the metropolitan district commission, said easements being described as follows:

## Parcel-1

Beginning at a point at an iron pipe at a corner common to the lands of the United States of America and the lands of the Commonwealth of Massachusetts; thence, along the line of the lands of the Commonwealth of Massachusetts (Deed Book 900, Page 461) the following (7) Courses:

Thence; Westerly and Southwesterly along a curve to the left with a radius of 483.01 feet, an arc distance of 273.42 feet;

Thence; South 63° 04' 17" West, 40.96 feet;

Thence; Southwesterly and Westerly along a curve to the right with a radius of 299.17 feet, an arc distance of 193.01 feet;

Thence; North 79° 57' 49" West, 58.36 feet;

Thence; Westerly along a curve to the left with a radius of 854.46 feet, an arc of 244.67 feet;

Thence; South 83° 37' 47" West, 43.10 feet;

Thence; North 20° 37' 04" West, 49.73 feet to a stake; thence leaving the line described in Deed Book 900, Page 641 along a line through the lands of the Commonwealth of Massachusetts, continuing North 20° 37' 04" West 55.09 feet to the southerly right-of-way line of Furnace Brook Parkway;

Thence; along said right-of-way, North 61° 36' 28" East, 29.90 feet;

Thence; Northwesterly along a curve to the right with a radius of 664.17 feet, an arc distance of 312.67 feet;

Thence Easterly along a curve to the right with a radius of 2056.62 feet, an arc distance of 312.24 feet;

Thence; along a new line by the top of the southerly bank of Furnace Brook, South 80° 26' East, 197 feet, more or less (computed), to the west line of the lands of said U.S.A. (Tract 01-103), Southeasterly 90 feet, more or less, to the point of beginning.

Said easement, identified as parcel 1, contains 83,635 square feet of land, more or less, and lies entirely on land of the Commonwealth.

The above described easement, parcel 1, is derived in part from a plat titled "Furnace Brook Parkway, Quincy" dated April 10, 1964 designated number 42226-VT.

## Parcel-2

The easement is also to include all that portion of the right-of-way of the Furnace Brook Parkway lying between the southerly right-of-way of said Furnace Brook Parkway and the actual edge of pavement or curb line of said Parkway beginning at the western limit of the above description and extending Easterly to the western edge or curb line of Newport Avenue.

Said easement, parcel-2, contains 43,560 square feet of land, more or less, and lies entirely on land of the Commonwealth.

The above described easement, parcel-2, designated as Tract P-1, Adams

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National Historic Site is a portion of the same land acquired by the board of metropolitan park commissioners by a taking dated June 13, 1901 and recorded July 11, 1901 in Deed Book 900, Page 461 in the registry of deeds of Norfolk county.

**SECTION 2.** Said easement is to be given in order to preserve and protect in perpetuity the open space and scenic features of the Adams National Historic Site.

**SECTION 3.** Said easement grants to the United States of America a perpetual, exclusive and assignable easement and right-of-way to locate, construct, operate, maintain, and repair, benches, picnic tables, fences, temporary structures, street furniture, trails or walkways and utilities in, over, and across the land described herein, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the land described herein, together with the right to permit members of the public to traverse the area, and for other purposes as may be required in connection with the construction, management, development, use and maintenance of the land as part of the Adams National Historic Site.

**SECTION 4.** It is conclusively presumed that any and all rights and uses to the land described herein are vested in the United States, excepting from the operation of said easement and reserving to the commonwealth all such rights and privileges in said land as may be used and enjoyed without interfering or abridging the rights and easement granted to the United States of America.

**SECTION 5.** The commonwealth reserves the right to use the property for flood control purposes. The United States shall submit plans to the commonwealth for review of any landscaping or the construction of any improvements or structures.

**SECTION 5A.** In the event that the terms and conditions described in sections one, two, three, four and five are not complied with, said easement shall revert to the commonwealth under terms and conditions as said commissioner may prescribe.

**SECTION 6.** This act shall take effect upon its passage.

Approved January 8, 1992.

**Chapter 537.**

**AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO EXTEND THE LEASE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF WESTON TO THE FRANCIS OUMET CADDIE SCHOLARSHIP FUND, INC.**

*Be it enacted, etc., as follows:*

Notwithstanding the provisions of chapter nine hundred and three of the acts of nineteen hundred and seventy-three or any other general or special law to the

contrary, the commissioner of the division of capital planning and operations, in consultation with the metropolitan district commission, is hereby authorized, subject to the provisions of section forty F 1/2 and sections forty H to forty J, inclusive, of chapter seven of the General Laws, to execute and deliver in the name and on behalf of the commonwealth, subject to the terms and conditions as determined by said commissioner in consultation with said metropolitan district commission, one or more instruments to extend the lease between the metropolitan district commission and the Francis Ouimet Caddie Scholarship Fund, Inc., dated February 19, 1975, for an additional period of twenty-five years, of that certain parcel of land, situated in the town of Weston being a portion of the Leo J. Martin Memorial Golf Course, consisting of seven thousand square feet, more or less, all as appearing more precisely on Metropolitan District Commission, Park Engineering Division, Accession Plan Number 42003, updated through February 14, 1975, on file with said commission.

Any and all renewals for said lease shall be subject to the approval of the general court.

The commissioner shall provide to the clerk of the house of representatives, copies of said lease and said clerk shall forward copies to the joint committee on state administration and the inspector general of the commonwealth, at least thirty business days prior to the execution of said lease by said division. The inspector general shall review and comment within fifteen business days of this receipt of said lease. A copy of said review and comment, and any recommendations thereon by the inspector general, shall thereupon be forwarded to said clerk who shall forward copies to said joint committee on state administration. Said lease, when executed by the commissioner, shall be deemed conclusively authorized hereby; provided, however, that all provisions therein are consistent with the provisions of this act. Said commissioner from time to time is hereby authorized to execute and deliver, in the name and on behalf of the commonwealth, a notice of said lease for recording and any and all other agreements and instruments related to said lease authorized hereby which the commissioner may determine appropriate. Any such notice of lease or lease instrument, when executed by said commissioner shall be deemed conclusively authorized hereby; provided, however, that all provisions therein are consistent with this act.

No sublease of such land and buildings or any portion thereof, for any purpose other than for the promotion of the Francis Ouimet Caddie Scholarship Fund, Inc., shall be executed without the prior approval of the general court.

No privately owned, occupied or financed building of any kind may be erected upon said land without the prior written approval of the commissioner, and a written notification to the clerk of the house of representatives who shall forward copies thereof to the joint committee on state administration; provided, however, that any privately owned, occupied or financed building shall revert to the

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commonwealth upon the expiration of said lease or leases. Plans for any such building shall be submitted to said commissioner for approval prior to any construction thereon. In a like manner any alteration, addition, destruction or demolition thereof shall also require the prior written approval of said commissioner and written notification to the joint committee on state administration. Copies of any and all such plans, together with all such written approvals by said commissioner, shall be sent by said commissioner to the joint committee on state administration to be kept on file.

The lease authorized hereby shall provide that the commonwealth may repossess the leased premises together with any buildings erected thereon if payment of the rent or any other sum is not timely paid, or if the lessee otherwise defaults and, notwithstanding such default, the lessee shall continue to owe the rent and any other sums due the commonwealth under the provisions of said lease. The lessee shall carry, in an amount approved in writing by the commissioner, comprehensive general liability insurance protecting said lessee and the commonwealth against personal injury and property damage occurring on said leased premises or within any structure or building erected thereon, and such fire and extended risk insurance, as said commissioner deems appropriate.

Approved January 9, 1992.

**Chapter 538.      AN ACT AUTHORIZING THE TOWN OF WESTON TO  
ENTER INTO AN AGREEMENT FOR AN ENERGY CON-  
SERVATION RETROFIT PROGRAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Weston is hereby authorized to enter into an agreement for an energy conservation retrofit program containing a provision requiring the town to refund a prorated portion of the amounts paid for installation of electrical energy conservation measures in the event the town takes any action after installation which affects a specified pay-back period established in the agreement for such electrical energy conservation measures.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 9, 1992.

**Chapter 539.      AN ACT RELATIVE TO THE HEALTH BENEFITS OF CER-  
TAIN EMPLOYEES OF THE CITY OF BROCKTON.**

*Be it enacted, etc., as follows:*



Notwithstanding the provisions of chapter thirty-two B of the General Laws, the city of Brockton is hereby authorized and directed to continue to include Paul Mulligan and Robert Florio, both of whom are laid off employees who are currently receiving workers' compensation payments, under its group policies providing hospital and medical benefits to active employees until their respective retirements with Paul Mulligan and Robert Florio each contributing toward the premium the same cost that each would have paid had he been an active employee.

Approved January 9, 1992.

**Chapter 540.        AN ACT RELATIVE TO THE BENEFITS TO BE PAID BY  
THE MELROSE POLICE RELIEF CORPORATION.**

*Be it enacted, etc., as follows:*

The Melrose Police Relief Corporation, a corporation duly established under the laws of the commonwealth, is hereby authorized upon retirement of any member in good standing from the police department of the city of Melrose, to pay such member such sum, not exceeding five thousand dollars, as may be determined by vote of the board of directors of said corporation.

Approved January 9, 1992.

**Chapter 541.        AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL  
PLANNING AND OPERATIONS TO CONVEY A PAR-  
CEL OF LAND IN THE CITY OF LOWELL TO XENEPHON  
SPERONIS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter seven hundred and seventeen of the acts of nineteen hundred and eighty-five is hereby repealed.

**SECTION 2.** The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey by deed approved as to form by the attorney general, a certain parcel of land located in the city of Lowell, to an individual or entity, subject to such terms and conditions as the commissioner may prescribe, in consultation with the department of public works said land being described as follows:

Said land is shown on a plan of land, entitled "Plan of Land In the City of Lowell, Middlesex County, March 8, 1991", to be recorded in the northern district Middlesex

registry of deeds, and being bounded and described as follows:-

Beginning at a point marking the southeastern corner of the parcel herein being conveyed, which point is S 06° 20' 50" W and running easterly along the northern line of Pawtucket Boulevard a distance of one hundred fifty-nine and ten-hundredths (159.10) feet from the intersection of Bedford Avenue and Pawtucket Boulevard thence at a radius of five thousand seven hundred twenty-nine and sixty-five one-hundredths (5729.65) feet in an easterly direction, a distance of one and eighty-five one-hundredths (1.85) feet and in a line running northerly along the easterly line of Xenophon Speronis's easterly boundary a distance of one hundred fifty (150.00) feet to said point marking the said southeast corner of the parcel herein being conveyed;

thence running S 86° 20' 51" W in a westerly direction a distance of eighty and ninety-five hundredths (80.95) feet to a point marking the southwesterly corner of the parcel herein being conveyed;

thence running northerly N 03° 09' 16" W a distance of seventy-nine and ninety-five hundredths (79.95) feet, in a line running parallel with Bedford Avenue to a point marking the intersection of parcel B and parcel C in said Speronis's easterly boundary. Said parcel C was taken by the commonwealth February 13, 1974. Said parcel B was taken by the commonwealth August 8, 1973;

thence running northerly N 04° 15' 25" W a distance of ninety and seven one-hundredths (90.07) feet to a point marking the northwesterly corner of the parcel herein being conveyed;

thence running in an easterly direction N 86° 20' 50" E a distance of eighty-one and twenty one-hundredths (81.20) feet to a point marking the northeasterly corner of the parcel herein being conveyed;

thence in a southerly direction S 03° 39' 16" E a distance of one hundred seventy and one one-hundredths (170.01) feet to a point marking the southeasterly corner of the parcel herein being conveyed and the place of beginning.

Said parcel of land is designated "SR-2" on said plan and contains thirteen thousand seven hundred thirteen square feet of land, more or less, as shown on said plan.

Consideration to be paid for said conveyance shall be the average of two independent appraisals. The appraisers shall be selected by the division of capital planning and operations in consultation with the department of public works. All expenses of preparing said appraisals shall be paid by the grantee.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 9, 1992.

**Chapter 542. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF WILMINGTON.**

*Be it enacted, etc., as follows:*

The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell or convey by deed approved as to form by the attorney general a certain parcel of land, presently under the care and control of the department of mental health, located in the town of Wilmington to the town of Wilmington to be under the care and control of the water and sewer commissioners of said town to be used for water and sewer purposes, said parcel being shown as parcel E on "plan of land in Wilmington - June 12, 1914" shown in registration book 5 page 333 and certificate of title no. 543 all recorded in the Middlesex north district registry of deeds.

Approved January 9, 1992.

**Chapter 543. AN ACT RELATIVE TO THE LICENSING OF FIRE WARNING AND SECURITY SYSTEMS CONTRACTORS AND TECHNICIANS.**

*Be it enacted, etc., as follows:*

Chapter 764 of the acts of 1987 is hereby amended by striking out sections 12 and 13, as amended by chapter 725 of the acts of 1989, and inserting in place thereof the following two sections:-

*Section 12.* Any person, firm or corporation providing evidence satisfactory to the state examiners of electricians, on or before January first, nineteen hundred and ninety-two, that such person, firm or corporation has at least thirty-six months experience working as, or for, a systems contractor shall be exempt from the examination requirements of paragraph (3) of section three of chapter one hundred and forty-one of the General Laws. The experience description above shall have been obtained by December thirty-first, nineteen hundred and ninety.

*Section 13.* Any person providing evidence satisfactory to the state examiners of electricians, on or before January first, nineteen hundred and ninety-two, that such person has at least twelve months experience working as a systems technician shall be exempt from the examination requirements of paragraph (4) of section three of chapter one hundred and forty-one of the General Laws. The experience description above shall have been obtained by December thirty-first, nineteen

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hundred and ninety.

*Emergency Letter: January 9, 1992 @ 1:25 P.M.*

Approved January 9, 1992.

**Chapter 544.**

**AN ACT RELATIVE TO THE PAYMENT OF COURT JUDGMENTS AND THE ISSUANCE OF NOTES BY MUNICIPALITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 44 of the General Laws is hereby amended by striking out sections 23 to 27A, inclusive, as appearing in the 1990 Official Edition, and inserting in place thereof the following seven sections:-

Section 23. The director shall furnish to the treasurer of every city, town and district, forms for the issue of notes for money borrowed by the city, town or district. Every such note shall contain blanks for insertion of the amount thereof, the date of issue, which shall be construed as the date from which interest is payable, the interest which it bears, the date when it will become due, and such other matters as the director may deem necessary; and a record of every such note shall be kept by said treasurer in such form as the director may designate. The director may place upon notes submitted to him for certification such denominations as will show the purpose for which they are issued and as may be required by law to appear thereon.

Section 24. When a city, town or district votes to borrow money otherwise than by the issue of bonds, the treasurer thereof may make notes for the amount of the proposed loan, and may use one or more, in serial order, of the forms provided for in section twenty-three, with the blank spaces properly filled in. Notes issued hereunder shall be signed and countersigned as provided in section sixteen or other applicable provisions of law in the presence of the clerk of the city, town or district, who shall certify to the fact on the face thereof. The treasurer of the city, town or district, after making a record of the transaction in accordance with section twenty-three, shall forward, with the fee required by section twenty-six, every such note to the director, with a copy of said record and a copy of the order or vote authorizing the loan, certified by the clerk of the city, town or district, and a certification by said clerk that the person whose signature appears upon the note as treasurer was the duly authorized treasurer of the city, town or district when such signature was made, and that the persons whose countersignatures appear upon the note were duly qualified as such when such countersignatures were made; and the treasurer of such city, town or district shall furnish such other information as the director may require to enable the director properly to certify the note. If upon examination the note appears to the director to have been duly issued in accordance with law and the vote of the city, town, or district authorizing it, or in accordance with an act of the general court, and to have been signed by the duly

qualified officials of such city, town or district, he shall so certify and shall thereupon return the note by registered mail to the treasurer of such city, town or district or shall deliver it in hand to such treasurer or to his duly authorized agent; but, under such regulations as he may prescribe, if so authorized by the signers of the note, the director may deliver a certified note to the payee thereof or deliver it to a bank or trust company to be credited to the account of such city, town or district. He may certify to the issue of a note on any date not earlier than five days prior to the date of issue appearing on the note, if the other conditions of this chapter have been complied with. He shall not certify a note payable on demand, nor shall he certify any note unless the laws relating to municipal indebtedness have been complied with, or if it appears that the proceeds of the note are not to be used for the purpose specified in the vote authorizing the loan for which the note is issued. The director may use a facsimile signature machine or stamp for the purpose of certifying notes under this section and such facsimile shall have the same legal effect as the director's manual signature.

Section 24A. City, town and district notes may be made payable to "bearer", and when so issued section twenty-four may be construed by the director as being properly complied with in so far as it relates to the proper filling in of any space provided for the name of the purchaser or registered holder of the loan, and the director may certify such notes; provided that before certification there shall be filed with the director by the city, town or district treasurer, as the case may be, the name of the purchaser of such loan.

Section 25. Whenever a note issued by a city, town or district is paid, the treasurer thereof shall immediately notify the director of such payment, stating the source from which such payment was made.

Section 26. The director shall establish a reasonable fee for every note certified, to be turned over monthly to the commonwealth; and the state treasurer may refund the amount of any fee deposited with him by said director for the certification of any note which may be cancelled before money is obtained thereon; provided, however, that application for such refund shall be made to the director within twenty days after the certification of the notes for which the fee was paid.

Section 27. The certification of city, town or district notes by the director shall be prima facie evidence of the liability of such city, town or district therefor.

Section 27A. The provisions of sections twenty-three to twenty-seven, inclusive, shall be deemed to provide an additional and alternative means of carrying out the purposes thereof and shall not effect the power of cities, towns and districts to issue notes under and subject to other provisions of law.

**SECTION 2.** Section 31 of said chapter 44, as so appearing, is hereby amended by inserting after the word "accounts", in line 27, the words:- if the amount of the judgment or award is over ten thousand dollars.

Approved January 9, 1992.

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**Chapter 545. AN ACT RELATIVE TO THE DISPENSING OF SAMPLE CONTROLLED SUBSTANCES.**

*Be it enacted, etc., as follows:*

Subsection (b) of section 9 of chapter 94C of the General Laws, as appearing in section 2 of chapter 515 of the acts of 1990, is hereby further amended by adding the following two paragraphs:-

This section shall not prohibit or limit the dispensing of any prescription medication that is classified by the department of public health as schedule VI and is provided free of charge by the manufacturer for use as samples if such samples are: (1) furnished to the patient by a professional authorized to dispense controlled substances pursuant to this subsection; (2) dispensed in the package provided by the manufacturer; (3) provided at no charge to the patient.

The department shall establish rules and regulations controlling the dispensing of said medications, including but not limited to the types and amounts of medications dispensed and appropriate safeguards for dispensing.

Approved January 9, 1992.

**Chapter 546. AN ACT RELEASING A CERTAIN AGRICULTURAL RESTRICTION ON LAND LOCATED IN THE TOWN OF WEST BROOKFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section thirty-two of chapter one hundred and eighty-four of the General Laws or any other general or special law to the contrary, the commissioner of food and agriculture is hereby authorized to release a portion of the agricultural preservation restriction now held by the commonwealth on land now owned by Herman G. Patt of the town of West Brookfield, containing 10.636 acres and bounded and described as follows:-

A certain parcel of land situated southerly of North Brookfield Road, Route 67, in West Brookfield, MA and being shown on a plan of land surveyed for Herman G. Patt dated January 25, 1990 by Donald A. Para, R.L.S. and being recorded in the Worcester County Registry of Deeds in Plan Book , Page . (not recorded to date);

Beginning at a point at the northeasterly corner of the parcel to be described at an iron pin at the corner of land owned by George F. Hibbard, Jr., recorded in Book 9374 Page 381, on the southerly side of North Brookfield Road, Route 67;

Thence S. 23° 32' 09" E., 200.00 feet to an iron pin;

Thence N. 64° 37' 31" E., 294.40 feet to an iron pin;

Thence S. 29° 02' 42" E., 526.21 feet to an iron pin;

Thence S. 7° 37' 03" E., 228.96 feet to an iron pin;

Thence S. 35° 20' 24" W., 447.79 feet to an iron pin;

Thence N. 72° 54' 00" W., 285.14 feet to a concrete bound;

Thence N. 40° 07' 32" E., 501.97 feet to a concrete bound;

Thence N. 72° 32' 28" W., 712.70 feet to an iron pin;

Thence N. 43° 52' 33" E., 57.30 feet to an iron pin;

Thence N. 2° 34' 28" W., 216.39 feet to an iron pin on the southerly side of North Brookfield Road, Route 67;

Thence N. 44° 27' 11" E., 66.82 feet easterly along the southerly side of North Brookfield Road to a Worcester County Highway bound;

Thence 215.83 feet along a 561.88 degree radius to an iron pin on the southerly side of North Brookfield Road;

Thence N. 66° 27' 41" E., 3.02 feet to the point of beginning.

The above described land may only be used by the town of West Brookfield for the expansion of the West Brookfield elementary school. In the event that the above described land is sold to any entity for purposes other than the expansion of the West Brookfield elementary school, an agricultural preservation restriction held by the commonwealth shall be reimposed on said parcel of land.

**SECTION 2.** As consideration for the removal of the agricultural preservation restriction held by the commonwealth pursuant to section one, Herman G. Patt shall convey an agricultural preservation restriction to the commonwealth on two parcels of land, totaling 23.712 acres, bounded and described as follows:

A certain parcel of land situated northerly of North Brookfield Road, Route 67, in West Brookfield, MA and being shown on a plan of land surveyed for Herman G. Patt dated April 6, 1990 by Donald A. Para, R.L.S. and being recorded in the Worcester County Registry of Deeds in Plan Book , Plan , (not recorded);

Beginning at a point at the southeasterly corner of parcel to be described in a stone wall at a corner of other land of Herman G. Patt recorded in Book 8537, Page 241.

Thence S. 82° 14' 28" W., partly along a stone wall, 212.00 feet to a point;

Thence N. 2° 13' 36" E., 622.48 feet to an iron pipe on the westerly side of a barway;

Thence N. 2° 34' 05" W., 263.80 feet to an iron pipe in the approximate center of an easement to now or formerly of the New England Power Service Co.;

Thence N. 24° 44' 37" E., 387.77 feet to an iron pipe;

Thence N. 3° 03' 00" W., 385.80 feet to an iron pipe;

Thence N. 19° 59' 26" E., 415.56 feet to a plastic stake;

Thence N. 33° 02' 29" E., 212.74 feet to an iron pipe;

Thence S. 72° 27' 37" E., 310.33 feet to an iron pipe in a stone wall;

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Thence S. 6° 20' 03" W., along the remains of a stone wall, 235.00 feet to an iron pipe in a corner of stone wall;

Thence S. 1° 06' 26" E., along a stone wall, 213.06 feet to a point;

Thence S. 26° 44' 00" W., along the remains of a stone wall, 56.94 feet to a point;

Thence N. 86° 04' 21" W., 106.50 feet to a point;

Thence S. 17° 33' 38" W, 204.15 feet to an iron pipe set at the former location of a rock as shown on Land Court Plan 2683C, Sheet 2;

Thence S. 9° 48' 57" E., 160.55 feet to an iron pipe in the end of a stone wall;

Thence S. 20° 25' 39" W., along a stone wall, 202.98 feet to a drill hole;

Thence S. 6° 05' 54" W., along a stone wall, 123.66 feet to an iron pipe;

Thence S. 9° 26' 04" W., along a stone wall, 82.21 feet to a drill hole;

Thence S. 0° 38' 05" E., along a stone wall, 63.06 feet to a drill hole;

Thence S. 9° 55' 00" W., along a stone wall, 143.88 feet to an iron pipe;

Thence S. 27° 47' 53" W., along a stone wall, 69.10 feet to a drill hole;

Thence S. 15° 20' 30" W., along a stone wall, 249.41 feet to an iron pipe;

Thence S. 4° 52' 09" W., along a stone wall, 82.28 feet to an iron pipe;

Thence S. 13° 27' 33" W., along a stone wall, 112.17 feet to an iron pipe;

Thence S. 23° 00' 51" W., along a stone wall, 146.58 feet to the point of beginning. All previous courses are along land of Herman G. Patt.

Containing an area of 17.742 acres.

Subject to a 60 foot easement to now or formerly the New England Power Service Company as shown on plan.

A certain parcel of land located on the southerly side of North Brookfield Road, Route 67, in West Brookfield, MA, shown in Worcester County Registry of Deeds Plan 2683C, Sheet 2 as Lot B1 and recorded as Land Registration Document #10122, Cert. #3019, 12/6/43.

Containing an area of 5.97 acres.

The above described land is to be made an inseparable part of the existing adjoining Patt agricultural preservation restriction through the recording of an updated agricultural preservation restriction, including a "right of first refusal", in such a form as the attorney general shall prescribe.

Approved January 9, 1992.

**Chapter 547.****AN ACT ESTABLISHING A TRUST FUND FOR THE BENEFIT OF PERSONS WITH MENTAL RETARDATION IN WESTERN MASSACHUSETTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Belchertown State School



Carousel Trust Fund, consisting of all monies received by the commonwealth from the sale or conveyance as a whole entity of the carousel or merry-go-round located on the grounds of the Belchertown State School. The sale or conveyance as a whole entity of the carousel or merry-go-round, shall be conducted in the manner prescribed by section twenty-two of chapter seven of the General Laws and the regulations promulgated thereunder, which govern the disposition of surplus property; provided, however, that preference in such sale or conveyance shall be given to persons or entities residing or located within the so-called community service center west of the department of mental retardation, hereinafter referred to as the department. The commissioner of the department of mental retardation, hereinafter referred to as the commissioner, shall serve as the trustee of the trust fund which shall be administered for the benefit of persons with mental retardation in said community service center west of the department.

**SECTION 2.** There shall be an advisory board for the trust fund established pursuant to section one which shall consist of seven persons to be appointed by the commissioner for a term of three years. No person shall be appointed to serve more than two consecutive three year terms. Prior service on said advisory board for a term of less than three years, resulting from an initial appointment or an appointment for the remainder of an unexpired term shall not be considered as a full term.

Said advisory board shall consist of one member of the board of trustees of the Belchertown State School; the superintendent of the Belchertown State School; the community service director of the community service center west of the department; one member from a local service center advisory board within said community service center west of the department; one person who is a member of the so-called advocacy network incorporated; one person with mental retardation; one person who is a family member or guardian of a person with mental retardation.

The advisory board, by a majority vote, shall elect annually its own chairman and such other officers as it deems necessary from among the members.

The members of the advisory board shall serve without compensation, although the commonwealth may reimburse them for any necessary expenses incurred in the performance of their duties.

The purpose of the advisory board for the trust fund shall be to recommend to the commissioner, for his consideration, expenditures which it has determined to be beneficial to persons with mental retardation in the community service center west of the department.

**SECTION 3.** The state treasurer shall receive all funds resulting from the sale or conveyance as a whole entity of the carousel on the grounds of the Belchertown State School. Upon the request of the commissioner in his capacity as trustee, the state treasurer shall pay out the income of said trust fund and such part of the

principal as may be subject to the control of the trustee in such manner as the trustee may direct, subject to any condition affecting the administration of said trust fund. The trust fund shall be invested safely by the state treasurer and he shall be held responsible for the faithful management of the same in the same manner as for other funds held by him in his official capacity.

**SECTION 4.** Expenditures from the trust fund shall not be employed for any purpose for which the department has been appropriated funds in the prior fiscal year, nor shall funds appropriated or allocated to the department be reduced on account of the trust.

The commissioner shall submit annually a report on the activities of the trust to the clerk of the house of representatives and the clerk of the senate, who shall forward copies of said report to the house and senate committees on ways and means, and to the joint committee on state administration.

**SECTION 5.** The department upon the establishment of said trust fund shall provide the following information to the state treasurer and commissioner of administration: (a) the specific purpose for which the fund has been established; (b) the project, activity, or other specific source from which the revenue has been derived; (c) the identity of the trustees; (d) the identity of the beneficiaries; (e) the projected revenues and expenditures of the fund for the first five years.

The income, including but not limited to interest from deposit or investment, from money in said trust fund shall be added to the principal and shall, for the purposes of this act, be deemed money from the trust fund.

The department, having charge of said trust fund, shall maintain the accounts of any said trust fund in accordance with the accounting system prescribed by the comptroller.

The department having charge of said trust fund shall, not later than the thirtieth day of September of each year, file with the commissioner of administration a report containing the following information for said trust fund: the name of the fund; the depository; the statutory authority for the existence of the fund; the name of the trustees; the identity of the beneficiaries; the total revenues and total expenditures for the prior fiscal year; and the projected revenues and expenditures for the current fiscal year and the ensuing fiscal year. The commissioner of administration shall, no later than the thirtieth day of November of each year, file a consolidated report containing the information required by this section to be provided by the department with the state auditor, the house and senate committees on ways and means, the clerk of the house of representatives, the clerk of the senate, the inspector general, and the joint committee on state administration.

No person shall withdraw or cause to be withdrawn, or expend or cause to be expended, any money from said trust fund except in accordance with the purpose of the trust fund as has been authorized pursuant to the provisions of this act. No person shall transfer or cause to be transferred any money from said trust fund to

any other trust fund or trust deposit without prior legislation unless the transfer is authorized by the General Court.

The department shall not enter into any contract, incur any other obligation, or cause to be performed any service payable wholly or in part from said trust fund, nor expend any money from said trust fund unless the agency has complied with any general or special law regarding the award of contracts by such agency.

No person shall expend or cause to be expended any money from said trust fund to provide for or supplement the compensation of any state employee unless such expenditure has been expressly authorized by general or special law. No expenditure shall be made pursuant to such authorization prior to the date upon which the following information has been filed with the personnel administration on a form prescribed by the commissioner of administration and a copy of the same has been filed with the house and senate committees on ways and means; the employee's name, job title, and classification; the source and amount of the employee's annual salary payable from monies other than from said trust fund and the forms and amounts of compensation payable from said trust fund.

Approved January 9, 1992.

**Chapter 548.      AN ACT EXEMPTING BUILDING CUSTODIANS OF THE  
SCHOOL DEPARTMENT OF THE TOWN OF AUBURN  
FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule to the contrary, the position of building custodian in the school department of the town of Auburn shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 9, 1992.

**Chapter 549.      AN ACT RELATIVE TO THE MANAGEMENT OF SOLID  
WASTE AND THE ABATEMENT OF POLLUTION RESULT-  
ING THEREFROM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 21H of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out paragraph (k) and inserting

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in place thereof the following paragraph:-

(k) For the purposes of this section, the terms "regional" and "regional basis" shall be deemed to include facilities servicing a county, a municipality which has a population in excess of three hundred thousand or two or more municipalities.

**SECTION 2.** Chapter 584 of the acts of 1987 is hereby amended by striking out section 24, as most recently amended by section 402 of chapter 177 of the acts of 1990, and inserting in place thereof the following section:-

*Section 24.* The department of environmental protection is hereby authorized and directed to expend a sum, not to exceed seven million dollars, for the purpose of establishing a yard, leaf or other organic composting projects and of awarding grants to municipalities for such projects as authorized by subsection (a) of section seven of chapter twenty-one H of the General Laws.

Approved January 9, 1992.

**Chapter 550.      AN ACT RELATIVE TO THE CONTRACT DEBARMENT  
PROCEDURES OF THE COMMONWEALTH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 29 of the General Laws is hereby amended by inserting after section 29E the following section:-

Section 29F. (a) As used in this section the following words shall, unless the context requires otherwise, have the following meanings:-

"Affiliates", entities which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

"Commissioner", the commissioner of the division of capital planning and operations or his designee within such division.

"Contractor", any person that has furnished or seeks to furnish supplies or services under a contract with a public agency or with a person under a contract with a public agency.

"Debarment", an exclusion from public contracting or subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense.

"Public agency", a department, agency, board, commission, authority, activity or instrumentality of the commonwealth, or of any political subdivision of the commonwealth, or of two or more subdivisions thereof.

"Person", any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

"Public contract", a contract for the furnishing of supplies or services to any

public agency.

"Secretary", the head of an executive office established under chapter six A or his designee within such executive office, or the secretary of administration appointed pursuant to section four of chapter seven or his designee within the executive office.

"Suspension", the temporary disqualification of a contractor who is suspected upon adequate evidence of engaging or having engaged in conduct which constitutes grounds for debarment.

(b) The secretary of administration shall establish and maintain a consolidated list of contractors to whom public contracts shall not be awarded and from whom offers, bids, or proposals shall not be solicited.

The list shall show at a minimum the following information: (1) the names of those persons debarred or suspended in alphabetical order with appropriate cross reference where more than one name is involved in a single debarment or suspension; (2) the basis of authority for each debarment or suspension, including the secretary or other official who imposed the debarment or suspension; (3) the extent of restrictions imposed; (4) the termination date of each debarment or suspension; and (5) in the case of a suspension, the hearing date, if and when set, for debarment proceedings.

The secretary of administration shall cause the list to be kept current by the issuance of notices of additions and deletions. The list shall be published on a periodic basis, together with notices of additions and deletions therefrom, in the goods and services bulletin and the central register published by the state secretary and in such other publications as the secretary of administration shall designate. The secretary of administration shall also forward said list to the inspector general, the attorney general, and the state auditor. A secretary or the commissioner, as the case may be, upon imposing a debarment or suspension or removing a suspension shall forthwith notify the secretary of administration of all information required for inclusion on such list.

(c) Debarment may be imposed for the following causes:

(1) conviction or final adjudication by a court or administrative agency of competent jurisdiction of any of the following offenses: (i) a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; (ii) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the contractor's present responsibility as a public contractor; (iii) a violation of state or federal antitrust laws arising out of the submission of bids or proposals; (iv) a violation of state or federal laws regulating campaign contributions; (v) a violation of chapter two hundred and sixty-eight A; (vi) a violation of any state or federal

law regulating hours of labor, prevailing wages, minimum wages, overtime pay, equal pay, child labor, or worker's compensation; (vii) a violation of any state or federal law prohibiting discrimination in employment; or (viii) repeated or aggravated violation of any state or federal law regulating labor relations or occupational health or safety; or

(2) substantial evidence, as determined by a secretary or the commissioner, of any of the following acts: (i) willfully supplying materially false information incident to obtaining or attempting to obtain or performing any public contract or subcontract; (ii) willful failure to comply with record-keeping and accounting requirements prescribed by law or regulation; (iii) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more public contracts, provided that such failure to perform or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar and provided further that such failure to perform or unsatisfactory performance was not caused by factors beyond the contractor's control; (iv) a record of health and safety violations of a sufficient frequency and severity so as to evidence a pattern of noncompliance with existing state and federal laws, or any rules and regulations applicable thereto; (v) any other cause affecting the responsibility of a contractor which the secretary or the commissioner determines to be of such serious and compelling nature as to warrant debarment. Notwithstanding any other provision of this section, any contractor debarred or suspended by any agency of the United States shall by reason of such debarment or suspension be simultaneously debarred or suspended under this section, with respect to non-federally aided contracts; the secretary or the commissioner may determine in writing that special circumstances exist which justify contracting with the affected contractor. The secretary or the commissioner shall give written notice to the secretary of administration of any such determination.

(d) No contractor may be suspended unless a secretary or the commissioner has first informed the contractor by written notice of the proposed suspension mailed by registered or certified mail to the contractor's last known address, except when the secretary or the commissioner determines that immediate suspension is necessary to prevent serious harm to the commonwealth, in which case the suspension shall take effect immediately upon signing by the secretary or the commissioner of an order of suspension, and notice shall be mailed to the contractor at the earliest opportunity. The notice shall inform the contractor of the reasons for the proposed suspension and shall state that the contractor may within fourteen days respond in writing and may in such response request a hearing. The secretary or the commissioner may extend the period for response at the request of the contractor. The secretary or the commissioner shall determine whether to impose the suspension or, in the case of an emergency suspension imposed prior to notice to the contractor, whether to continue the suspension after reviewing the

contractor's response, if any, and making such investigation as the secretary or the commissioner determines is necessary and appropriate. An indictment, or any information or other filing by a public agency charging a criminal offense, for any of the offenses listed in paragraph (1) of subsection (c) shall constitute adequate evidence to support a suspension.

If the contractor requests a hearing, and the suspension is not based on an indictment, the secretary or the commissioner shall conduct a hearing according to the rules for the conduct of adjudicatory hearings established by the secretary of administration pursuant to chapter thirty A. Such hearing shall be initiated within thirty days of the imposition of the suspension, unless the contractor requests that the hearing be delayed. Officers and employees of the office of the inspector general and records of said office shall not be subject to subpoena for such hearing, if in the opinion of the inspector general production of records or testimony would prejudice any pending investigation by said office.

A suspension shall not exceed twelve months unless a pending administrative or judicial proceeding in which the contractor is a party may result in a conviction or final adjudication of an offense listed in paragraph (1) of subsection (c).

(e) No contractor may be debarred under this section unless a secretary or the commissioner proposing the debarment has first informed the contractor by written notice of the proposed debarment mailed by registered or certified mail to the contractor's last known address. The notice shall inform the contractor of the reasons for the debarment and shall state that the contractor will be accorded an opportunity for a hearing if the contractor so requests within fourteen days of receipt of the notice. A hearing requested under this paragraph shall be conducted by the secretary or the commissioner within sixty days of receipt of the request, unless the secretary or the commissioner grants additional time therefor at the request of the contractor. The hearing shall be conducted according to the rules for the conduct of adjudicatory hearings established by the commissioner of administration pursuant to chapter thirty A. A debarment shall not be imposed until (i) fourteen days after receipt by the contractor of notice of the proposed debarment if no hearing is requested, or (ii) the issuance of a written decision by the secretary or the commissioner which makes specific findings that there is sufficient evidence to support the debarment and that debarment for the period specified in the decision is required to protect the integrity of the public contracting process. A contractor shall be notified forthwith of the decision by registered or certified mail, and of the contractor's right to judicial review in the event that the decision is adverse to the contractor. If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(f) A debarment or suspension may include all known affiliates of a contractor. The decision to include a known affiliate within the scope of a debarment or suspension shall be made on a case-by-case basis, after giving due regard to all

relevant facts and circumstances. The offense or act of an individual justifying suspension, or the evidence justifying a suspension, may be imputed to the entity with which the individual is connected when such offense or act occurred in connection with the individual's performance of duties for or on behalf of the entity or with the knowledge, approval, or acquiescence of the entity or one or more of its principals. The entity's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence. The offense or act of an entity justifying debarment, or the evidence justifying a suspension, may be imputed to any officer, director, shareholder, partner, employee or other individual associated with the entity who participated in, knew of, or had reason to know of the entity's act. An entity or individual may not be suspended or debarred except in accordance with the procedures set forth in this section, provided that a public agency may reject a bid or proposal from any contractor when the public agency reasonably determines that such contractor is not responsible or eligible.

(g) In determining whether to debar a contractor, or the period of a debarment, all mitigating facts and circumstances shall be taken into consideration. Except as precluded by statute, a debarment may be removed or the period thereof may be reduced by the secretary or the commissioner who imposed the debarment or suspension upon the submission of an application supported by documentary evidence setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a judgment or conviction, bona fide change of ownership or management, or the elimination of the cause for which the debarment was imposed.

(h) During the period for which a person has been debarred or suspended, that person shall not submit or cause to be submitted offers, bids, or proposals to any public agency, nor shall any public agency solicit or consider offers, bids, or proposals from, nor execute, renew, or extend any contract with, a debarred or suspended contractor, and a contractor shall not contract for supplies or services from a debarred or suspended subcontractor on any public contract.

(i) The secretary of administration shall by regulation drawn up in consultation with each secretary and the commissioner provide for, upon the request of any secretary or the commissioner the timely commencement by, the removal to, or consolidation at the executive office of administration and finance of debarment or suspension proceedings. Such regulations also shall provide that the contractor against whom debarment or suspension proceedings have been initiated may apply to the secretary of administration for consolidation of such proceedings at the executive office of administration. Such proceedings shall be conducted by the secretary of administration or his designee in accordance with the provision of this section.

**SECTION 2.** Chapter 149 of the General Laws is hereby amended by striking out section 44C, as appearing in the 1990 Official Edition, and inserting in place



thereof the following section:-

Section 44C. The commissioner may suspend or debar contractors in accordance with the provisions of section twenty-nine F of chapter twenty-three.

**SECTION 3.** Subsection (2) of section 44E of said chapter 149, as so appearing, is hereby amended by inserting after the word "entity.", in line 80, the following sentence:- The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

**SECTION 4.** Subsection (4) of said section 44F of said chapter 149, as so appearing, is hereby amended by inserting after the word "entity.", in line 153, the following sentence:- The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

**SECTION 5.** The provisions of this act shall apply only to contracts solicited or entered into after the effective date of this act. Any renewal, extension, modification, or exercise of any option under any contract after the effective date of this act shall be subject to the provisions of this act. Any debarment imposed prior to the effective date of this act shall continue in effect.

Approved January 9, 1992.

**Chapter 551.      AN ACT RELATIVE TO THE LICENSING OF CERTAIN  
ALCOHOLIC BEVERAGES ESTABLISHMENTS IN THE CITY  
OF CAMBRIDGE.**

*Be it enacted, etc., as follows:*

The board of license commissioners of the city of Cambridge is hereby authorized to impose a condition on a license issued under the provisions of chapter one hundred and thirty-eight of the General Laws limiting the occupancy of a licensed premise to a number less than that certified by any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules and regulations if said board finds that a higher number would not serve the public need or would not protect the common good.

In making such findings the board may consider the area where said premises are located and that a higher occupancy would unreasonably increase disruption, criminal activity, noise, pedestrian traffic, vehicular traffic or parking problems in

said area.

Said board may deny an application to increase the occupancy level of a licensed premise or to change the description of a licensed premise on the same basis as above.

Nothing in this section shall authorize said board to invalidate in any way a certificate of occupancy, a certificate of inspection, or other certificate setting an occupancy level for licensed premises pursuant to the Commonwealth of Massachusetts State Building Code or any of its rules or regulations; provided, however, said board under the provisions of this section may deny liquor license applications citing the occupancy level, in whole or in part, as the basis for such denial, and may condition a liquor license on an occupancy level lower than the occupancy level set pursuant to the said Building Code or any of its rules and regulations.

Approved January 9, 1992.

**Chapter 552.            AN ACT CHANGING THE NAME OF THE DEPARTMENT  
OF PUBLIC WORKS TO THE HIGHWAY DEPARTMENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The first paragraph of section 3 of chapter 1 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 7, the words "public Works" and inserting in place thereof the word:- highways.

**SECTION 2.** Section 4 of chapter 1 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 3.** Section 91 of chapter 6 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 18 the words "public Works" and inserting in place thereof the word:- highways.

**SECTION 4.** Section 183A of chapter 6 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 7 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 5.** The first paragraph of section 9 of chapter 6A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 3, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 6.** Chapter 16 of the General Laws is hereby amended by striking out section 1, as appearing in the 1990 Official Edition, and inserting in place thereof the following:-

Section 1. There shall be a department of highways, in sections one through five, inclusive, and sections thirteen and fourteen of this chapter called the department, which shall be under the supervision and control of a highways

commission, in sections one through five, inclusive, and sections thirteen and fourteen of this chapter called the commission. Said commission shall consist of five members, not more than three of whom shall be of the same political party, who shall be appointed by the governor, with the advice and consent of the council. Upon the expiration of the term of each member, his successor shall be appointed by the governor for a term coterminous with that of the governor. One member shall be a person with expert knowledge of and skill in the field of business management, one shall be a person with expert knowledge of and skill in the field of finance, one shall be a person with expert knowledge of and skill in engineering. The governor shall from time to time designate a member of the commission as the commissioner of highways, in sections one through five, inclusive, and in sections thirteen and fourteen of this chapter called the commissioner, and the four other members shall be associate commissioners. The commissioner shall be the chairman of the commission. The positions of commissioner and associate commissioner shall be classified in accordance with section forty-five of chapter thirty and the salaries shall be determined in accordance with section forty-six C of said chapter thirty and each shall devote his full time during business hours to the duties of his office. Each shall give the state treasurer a bond for the faithful performance of his official duties in such penal sum and with such sureties as may be approved by the governor. The commissioner shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of this chapter relative to the department and to each division thereof under his control and supervision.

**SECTION 7.** The department of public works shall hereafter be known as the department of highways, and all powers, duties, and authorities of said department of public works, conferred by any special or general law, shall hereafter be exercised by the department of highways established by section one of chapter sixteen of the General Laws, as appearing in section one of this act. All books, papers, records, documents, plans and property in the custody of the department of public works immediately prior to the effective date of this act shall continue in the custody and control of the department of highways established hereunder. All orders, rules and regulations duly promulgated by the department of public works prior to the effective date of this act shall remain in full force and effect until superseded, revised or rescinded in accordance with law. All contracts, obligations, licenses, permits or other actions or obligations of the department of public works of any kind which are in effect immediately prior to the effective date of this act shall continue in full force and effect notwithstanding any other provision of law. All petitions, hearing, actions at law or in equity, or other proceedings pending immediately prior to the effective date of this act before any court of law or any administrative tribunal, including the department of public works or any part thereof, shall not abate by reason of the passage of this act. All officers, deputies

and employees of any board, agency, division, bureau, section or other administrative unit under the department of public works immediately prior to the effective date of this act are hereby transferred to the services of the divisions, bureaus, sections and other administrative units within the department of highways established by this act. As to all employees so transferred and who, immediately prior to the effective date of this act, either hold permanent appointment in positions classified under chapter thirty-one of the General Laws or have tenure in their positions by reason of section nine A of chapter thirty of the General Laws, every such transfer is to be without impairment of civil service status, seniority, retirement or other rights of the employee and without interruption of service within the meaning of said chapter thirty-one or said section nine A and without reduction in compensation or salary grade, subject to the provisions of said chapter thirty-one and the rules and regulations adopted thereunder. As to all employees who, immediately prior to said effective date of this act, hold positions related to the exercise of powers or the performance of duties in the department of public works, but neither hold permanent appointment in such positions, nor have tenure in their positions by reason of section nine A of chapter thirty of the General Laws, every such transfer is to be without impairment of seniority, retirement and other rights of the employee, and without interruption of service within the meaning of sections nine A of chapter thirty and without reduction in compensation or salary grade. Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction in salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited prior to the effective date of this act. The commissioner and associate commissioners of the department of public works immediately prior to the effective date of this act shall continue in tenure as commissioner and associate commissioners of the department of highways, established by section six of this act, until his or her successor shall be appointed in accordance with the provisions of section one of chapter sixteen.

**SECTION 8.** The first paragraph of section 4 of chapter 16 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works".

**SECTION 9.** Section 4A of chapter 16 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 2, 3, 11, 12 42 and 43 the words "of public works".

**SECTION 10.** Section 4B of said chapter 16 as so appearing is hereby amended by striking out, in line 1, the words "of public works".

**SECTION 11.** Section 14 of said chapter 16, as so appearing, is hereby amended by striking out, in lines 5, 6, 8, 9, 12 and 31, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 12.** The sixth paragraph of section 1 of chapter 19 of the General

Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 53, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 13.** The fifth paragraph of section 1 of chapter 19B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 46, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 14.** The seventh paragraph of section 17B of chapter 21 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 65, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 15.** The second paragraph of section 54 of chapter 21 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 37, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 16.** Section 11A of chapter 21A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 5 and 16, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 17.** Section 8B of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 1, 5, 6, 43, 66, 67, 86 and 102, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 18.** Section 8C of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 19.** Subsection (d) of section 39M of chapter 30 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 87, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 20.** Section 1 of chapter 30B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 15, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 21.** The first paragraph of section 48 of chapter 31 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 11, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 22.** The first paragraph of section 66 of chapter 31 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the words:- highways.

**SECTION 23.** The third paragraph of section 67 of said chapter 31, as so appearing, is hereby amended by striking out, in line 16, the words "public works"

and inserting in place thereof the words:- highways.

**SECTION 24.** The fifth paragraph of section 89 of chapter 32 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 87, 97 and 98, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 25.** The fourth paragraph of section 89A of chapter 32 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 107 and 119, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 26.** The first paragraph of section 94 of said chapter 32, as so appearing, is hereby amended by striking out, in line 11, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 27.** Section 26 of chapter 35 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 17, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 28.** Section 8 of chapter 38 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, line 13 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 29.** Section 22B of chapter 40 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 25, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 30.** Section 39C of chapter 40 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 22, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 31.** Section 24 of chapter 40B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 18, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 32.** Section 21 of chapter 40D of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 39 and 42, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 33.** Section 67 of chapter 41 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 34.** The fourth paragraph of section 99I of chapter 41 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 22, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 35.** Section 7 of chapter 42 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 4 and 15, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 36.** Section 6 of chapter 44 of the General Laws, as appearing in the

1990 Official Edition, is hereby amended by striking out, in lines 8 and 10 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 37.** Section 7 of chapter 44 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 54, 58, 85 and 93, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 38.** Section 16 of chapter 48 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 8, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 39.** Section 18B of chapter 58 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 9, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 40.** The first paragraph of section 3 of chapter 79 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 41.** Section 7 of chapter 79A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 21, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 42.** The caption preceding section 1 of chapter 81 of the General Laws, in the 1990 Official Edition, is hereby amended by striking out the words "PUBLIC WORKS" and inserting in place thereof the word:- HIGHWAYS.

**SECTION 43.** Section 1 of chapter 81 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 44.** Section 7I of chapter 81 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works".

**SECTION 45.** Section 7J of said chapter 81, as so appearing, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 46.** Section 26 of said chapter 81, as so appearing, is hereby amended by striking out, in lines 34 and 45, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 47.** Sections 31 of said chapter 81, as so appearing, is hereby amended by striking out, in lines 20, 28, 35, 43 and 46, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 48.** Section 32 of said chapter 81, as so appearing, is hereby amended by striking out, in lines 11, 32 36 and 37 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 49.** The second paragraph of section 1 of chapter 82 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 29, the words "public works" and inserting in place thereof the word:-

highways.

**SECTION 50.** Section 8 of chapter 82 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 51.** Section 4 of chapter 83 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 52.** Section 1 of chapter 84 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 7, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 53.** Section 11 of chapter 84 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 54.** Section 2 of chapter 85 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 55.** Section 7A of chapter 85 of the General Laws, as amended by section 86 of chapter 33 of the Acts of 1991 is hereby amended by striking out, in lines 12 and 35, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 56.** Section 30 of said chapter 85, as so appearing, is hereby amended by striking out, in lines 10, 11 and 29, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 57.** Section 30A of said chapter 85, as so appearing, is hereby amended by striking out, in lines 4, 7, 11, 19, 36, 38, 40, 57, 70, 78, 79, 93 and 97, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 58.** Section 8 of chapter 87 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 59.** Section 12 of chapter 88 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 11, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 60.** Section 14 of chapter 88 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 21 and 22, the words "director of the division of waterways in the department of public works" and inserting in place thereof the words:- department of environmental management.

**SECTION 61.** The first paragraph of section 1 of chapter 89 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 62.** Section 4 of chapter 89 of the General Laws, as appearing in the



1990 Official Edition, is hereby amended by striking out, in line 5, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 63.** Section 4B of said chapter 89, as so appearing, is hereby amended by striking out, in line 9, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 64.** The first paragraph of section 8 of said chapter 89 as so appearing, is hereby amended by striking out, in line 15, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 65.** The second paragraph of said section 8 of said chapter 89, as so appearing, is hereby amended by striking out, in line 26, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 66.** The first paragraph of section 9 of said chapter 89, as so appearing, is hereby amended by striking out, in lines 1 and 7, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 67.** The first paragraph of section 11 of said chapter 89, as so appearing, is hereby amended by striking out, in line 5, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 68.** Section 1 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 45, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 69.** Section 9 of chapter 90 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 49 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 70.** The first sentence of section 19 of said chapter 90 as most recently amended by Section 8B of Chapter 129 of the acts of 1991, is hereby amended by striking out the words "public works" and inserting in place thereof the word:- highways.

**SECTION 71.** Said section 19 of said chapter 90, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 76 and 101, the words "of public works".

**SECTION 72.** Section 19A of said chapter 90, as so appearing, is hereby amended by striking out in line 48, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 73.** Section 19D of said chapter 90, as so appearing, is hereby amended by striking out in lines 12, 13, 29, 35, 55, 56, 64 and 82 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 74.** The first paragraph of section 34 of said chapter 90 as so appearing, is hereby amended by striking out, in lines 5 and 12, the words "of public works".

**SECTION 75.** Section 1 of chapter 90A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 5, the words

"public works" and inserting in place thereof the word:- highways.

**SECTION 76.** Section 1 of chapter 90E of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 17, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 77.** Section 72 of chapter 92 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 78.** Section 73 of chapter 92 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 79.** Section 30A of chapter 93 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 80.** Section 1 of chapter 93D of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 30 and 31, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 81.** Section 27 of chapter 102 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the words:- environmental management.

**SECTION 82.** The second paragraph of section 31A of chapter 111 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 24, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 83.** Section 84 of chapter 127 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 6, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 84.** The first paragraph of section 29 of chapter 130 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 10, the words "of public works".

**SECTION 85.** Section 105 of chapter 130 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 16 and 66, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 86.** Section 4 of chapter 131 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 108 the words "public works" and inserting in place thereof the word:- highways.

**SECTION 87.** Section 4 of chapter 131A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 94, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 88.** Section 2C of chapter 132A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 5, the words

"public works" and inserting in place thereof the word:- highways.

**SECTION 89.** Section 54A of chapter 140 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 22 and 26, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 90.** Section 59A of chapter 140 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 21 and 24, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 91.** Section 1 of chapter 140B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 19, 23, 25 and 27, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 92.** The third paragraph of section 3A of chapter 143 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 28, the words "of public works" and inserting in place thereof the word:- highways.

**SECTION 93.** Section 94 of chapter 143 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 94.** Section 26 of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 49, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 95.** Section 27E of chapter 149 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 96.** Section 30 of said chapter 149, as so appearing, is hereby amended by striking out, in line 19, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 97.** Section 34 of said chapter 149, as so appearing, is hereby amended by striking out, in line 14, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 98.** Section 1 of chapter 152 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 67, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 99.** The first paragraph of section 69 of chapter 152 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 53, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 100.** Section 59 of chapter 159 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 3, 17, 24, 28, 37 and 38, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 101.** Section 62 of chapter 159 of the General Laws, as appearing in

the 1990 Official Edition, is hereby amended by striking out, in line 3, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 102.** Section 65 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 1, 8, 12, 19, 20, 23, 29 and 39, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 103.** Section 70 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 1, 26, 29, 55, 59, 67 and 71, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 104.** Section 72 of said chapter 159, as so appearing, is hereby amended by striking out, in line 8, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 105.** Section 74 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 6, 20, 32, 34 and 43, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 106.** Section 75 of said chapter 159, as so appearing, is hereby amended by striking out, in line 14, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 107.** Section 77 of said chapter 159, as so appearing, is hereby amended by striking out, in line 15, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 108.** Section 78 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 3 and 22, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 109.** Section 79 of said chapter 159, as so appearing, is hereby amended by striking out, in line 5, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 110.** Section 80 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 23, 27, 40 and 55, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 111.** Section 13 of chapter 159A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 112.** Section 3 of chapter 159B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 41, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 113.** Section 20 of chapter 159B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 114.** Section 96 of chapter 160 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 115.** Section 102 of chapter 160 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 116.** Section 104 of said chapter 160, as so appearing, is hereby amended by striking out, in lines 3, 12, 18, 23 and 24, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 117.** The second paragraph of section 134A of said chapter 160, as so appearing, is hereby amended by striking out, in line 28, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 118.** Section 142 of said chapter 160, as so appearing, is hereby amended by striking out, in lines 2 and 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 119.** Section 143 of said chapter 160, as so appearing, is hereby amended by striking out, in line 3, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 120.** Section 146 of said chapter 160 as so appearing, is hereby amended by striking out, in line 5, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 121.** Section 245 of said chapter 160, as so appearing, is hereby amended by striking out, in lines 7, 8 and 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 122.** Section 50 of chapter 161 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 10, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 123.** Section 81 of chapter 161 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 124.** Section 82 of said chapter 161, as so appearing, is hereby amended by striking out, in lines 3, 4, 10, and 14, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 125.** Section 85 of said chapter 161, as so appearing, is hereby amended by striking out, in lines 1, 12, 13, 16 and 24, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 126.** Section 131 of chapter 161 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 2, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 127.** The first paragraph of section 4 of chapter 161C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 128.** The first paragraph of section 5 of chapter 161C of the General

Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 129.** Section 6 of chapter 161C of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 46 and 61, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 130.** Section 75C of chapter 164 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 48, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 131.** Section 39 of chapter 253 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 7, the words "public works" and inserting in place thereof the words:- environmental management.

**SECTION 132.** Section 6 of chapter 268 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 4, the words "public works" and inserting in place thereof the word:- highways.

**SECTION 133.** In addition to the foregoing, wherever, in any general or special law existing prior to the effective date of this act, there are used the following words or phrases, such words and phrases shall, unless the context otherwise requires, have the following meanings ascribed to them after the effective date of this act; (1) "state department of public works", "department of public works" or "department", intending to mean the state department of public works, shall mean the "department of highways" created by section six of this act; (2) "commission of public works", "public works commission" or the "commission", intending to mean the state commission of public works, shall mean the "highways commission" created by section six of this act; (3) "commissioner of public works", "public works commissioner" or "commissioner", intending to mean the state commissioner of public works, shall mean the "commissioner of highways" created by section six of this act.

In particular, without limitation, the foregoing meanings shall be applicable to the following special acts, as amended: chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven, chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two, chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, chapter fifteen of the acts of nineteen hundred and eighty-eight, chapter thirty-three

of the acts of nineteen hundred and ninety-one, chapter six hundred and thirty-four of the acts of nineteen hundred and seventy-one, and chapter four hundred and twenty-seven of the acts of nineteen hundred and sixty-six.

Approved January 9, 1992.

**Chapter 553.      AN ACT PERTAINING TO THE ESTABLISHMENT AND  
REGULATIONS OF AN UNEMPLOYMENT COMPENSA-  
TION FUND BY THE SHAWSHEEN VALLEY REGIONAL  
VOCATIONAL TECHNICAL SCHOOL DISTRICT.**

*Be it enacted, etc., as follows:*

To provide for the anticipated costs of funding reimbursements to the Commonwealth for unemployment compensation benefits under the provisions of Chapter 151A of the General Laws, the Shawsheen Valley Regional Vocational Technical School District may include in its annual budget for maintenance and operations an amount not exceeding one-twentieth of one percent of the combined equalized valuations of its member towns, to establish and maintain a special fund to be known as the unemployment compensation fund; provided, however, that no such amounts may be included in the district's annual budget for maintenance and operations at any time when the aggregate amount in such fund equals or exceeds one-tenth of one percent of the combined equalized valuations of the member towns of the district. Any interest shall be added to and become a part of such special fund. Any moneys or funds deposited in such a fund, including any interest earned on such moneys or funds, shall be excluded from the calculation of the unencumbered amount in the district's excess and deficiency funds, so-called, under Section 16B 1/2 of Chapter 71 of the General Laws.

Approved January 9, 1992.

**Chapter 554.      AN ACT TO PROTECT CONDOMINIUM RESIDENTS AND  
TENANTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 6 of chapter 183A of the General Laws is hereby amended by striking out paragraph (c), as appearing in the 1990 Official Edition, and inserting in place thereof the following paragraph:-

(c) A unit owner's share of the common expenses, which shall include without limitation all costs of collection, including all reasonable attorneys' fees, plus interest, late fees, and fines lawfully assessed by the organization of unit owners,

shall constitute a lien upon the unit, which shall be enforced in the manner provided in sections five and five A of chapter two hundred and fifty-four. Such lien shall have priority over all other liens, except municipal liens in the event of a tax taking or a foreclosure or a first mortgage of record in the event of a foreclosure.

If a unit owner fails to pay his share of the common expenses to the organization of unit owners for at least twenty-five days from the date it was due, the organization of unit owners may, as a separate and additional remedy, subject to the existing rights of a holder of a first mortgage of record, collect from any tenant renting the unit any rent then or thereafter due to the owner of such unit. Such organization shall apply such rent collected against the amount owed to it by the unit owner. Prior to taking any action hereunder, the organization of unit owners shall give to the delinquent unit owner written notice of its intent to collect the rent owed. Such notice shall be sent by any form of mail or other delivery requiring or providing a signed receipt, shall set forth the exact amount the organization of unit owners claims is due and owing by the unit owner and shall indicate the intent of the organization to collect such amount from rent, along with any other amounts which become due within the current fiscal year and which remain unpaid for twenty-five days after they become due. Further, a copy of such notice shall also be provided to any first mortgagee of record on such unit who has previously requested in writing that the organization of unit owners notify it of any delinquency in the payment amounts due to the organization by the owner of such unit.

The unit owner shall have ten days after receipt of such notice to file a written response with the organization of unit owners. Such response shall be signed under the pains and penalties of perjury; shall, in the case of monthly installments of common expenses, include proof, in the form of a cancelled check, receipt or other document, that the installment was paid or shall, in the case of any other charge, state in short and plain terms all grounds upon which said unit owner maintains that the amount claimed to be owed to the organization was incorrectly calculated or charged and shall state exactly what amount, if any, the unit owner admits he owes to the organization of unit owners.

If the unit owner fails to timely file a response in compliance with the foregoing requirements or admits in such response that he owes any amount to the organization of unit owners, the organization shall be entitled to immediately notify and direct each tenant renting such unit from such owner to thereafter pay all or a portion of the rent otherwise due by such unit owner to the organization, such rent or portion thereof to be limited to the lesser of: (i) the amount the organization claimed is due on its notice to the unit owner, if the unit owner failed to timely file a response in compliance with the requirements set forth above; or (ii) the amount such unit owner admitted was due in his timely filed response. The organization



shall have a continuing right to collect any rent otherwise payable by the tenant to such unit owner, until such amount, plus any charges thereafter becoming due, are satisfied in full; provided, however, that nothing herein shall preclude the unit owner from seeking equitable relief from a court of competent jurisdiction or seeking a judicial determination of the amount owed; and, provided further, that nothing herein shall prevent the organization of unit owners from bringing an action under section five of chapter two hundred and fifty-four or to otherwise establish the amount owed to it by the unit owner or otherwise to seek and obtain an order requiring the tenant in such unit or tenants in other units owned by the unit owner in the condominium to pay to the organization rent otherwise due to the unit owner. If in any action brought to establish the amount owed by a unit owner to the organization, it is established that such unit owner knowingly misrepresented any material fact on any response filed pursuant to the provisions of this section, the organization shall be entitled to recover from such unit owner three times the amount determined to be owed by said unit owner at the time of his response. Further, the organization of unit owners shall be entitled to collect any charges thereafter becoming due and all of the organization's costs, including reasonable attorneys' fees, incurred in such action.

In no event shall a unit owner take any retaliatory action against any tenant who pays rent, or any portion thereof, to the organization of unit owners as provided in this section. The provisions of section eighteen of chapter one hundred and eighty-six and section two A of chapter two hundred and thirty-nine shall apply to any reprisal taken by a unit owner against a tenant who made or expressed an intention to make a payment to the organization pursuant to this section. Any waiver of the provisions of this section in any lease or rental agreement shall be void and unenforceable as against public policy.

Nothing herein shall be construed to prevent an organization of unit owners from adopting or amending its master deed, trust, by-laws or rules and regulations to provide additional protections, remedies, or rights for said organization.

To the extent that any first mortgagee of record is entitled to an assignment of rents and to the extent that it exercises its rights by written notice recorded at the registry of deeds or the registry district of the land court in which the property lies and by written notice sent by certified or registered mail to the presiding officer of the governing board of the condominium, then commencing with the next rental period, but not for any prior period, the first mortgagee may collect such rents. If the first mortgagee commences collection of such rents, it shall be obligated to pay all prospective expenses lawfully assessed by the organization of unit owners, including late fees, interest, late charges, collection costs, reasonable attorneys' fees, assessments and special assessments and shall be subject to all other provisions of this chapter, the master deed, trust, by-laws and rules and regulations. Further, the first mortgagee shall be obligated to pay any such expenses or other

charges which were, prior to the commencement of the collection of rents by the first mortgagee, due and payable to the organization, to the extent that the rent collected monthly by the first mortgagee exceeds the installment of principal and interest which was due monthly to the first mortgagee prior to default, the monthly installments of real estate taxes and mortgage insurance, the monthly share of common expenses, and the customary and ordinary unit repair, operation and maintenance costs, until such time as all arrearages due to the organization by the prior unit owner are paid in full. The organization shall have priority to receive funds collected from the tenant of a delinquent unit owner as to any junior lien holder.

**SECTION 1A.** Paragraph (a) of section 21 of said chapter 183A, as so appearing, is hereby amended by inserting after the word "chapter", in line 7, the following words:- , and such condominium shall be considered a commercial condominium.

**SECTION 1B.** Said paragraph (a) of said section 21 of said chapter 183A, as so appearing, is hereby further amended by striking out clause (6) and inserting in place thereof the following clause:-

(6) Terms and conditions differing from those set forth in clause (c) of section six or in sections seventeen, eighteen and nineteen, or any of them, regarding payment of outstanding common expenses by tenants, rebuilding made necessary by fire or other casualty loss, the making of improvements and allocations of the costs of such rebuilding or improvements, and the removal of the condominium or portion thereof from the provisions of this chapter; and in such case such terms and conditions so provided in the by-laws shall take precedence over the provisions of said clause (c) of section six and sections seventeen, eighteen and nineteen to the extent inconsistent therewith.

**SECTION 2.** Section 18 of chapter 186 of the General Laws, as so appearing, is hereby amended by inserting after the word "organization", in line 17, the following words:- , or for making or expressing an intention to make, a payment of rent to an organization of unit owners pursuant to paragraph (c) of section six of chapter one hundred and eighty-three A.

**SECTION 3.** Section 2A of chapter 239 of the General Laws, as so appearing, is hereby amended by inserting after the word "organization", in line 12, the following words:- or making, or expressing an intention to make, a payment of rent to an organization of unit owners pursuant to paragraph (c) of section six of chapter one hundred and eighty-three A.

**SECTION 4.** Said section 2A of said chapter 239, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The commencement of such action against a tenant, or the sending of a notice to quit upon which the summary process action is based, or the sending of a notice, or performing any act, the purpose of which is to materially alter the terms of the tenancy, within six months after the tenant has commenced,

proceeded with or obtained relief in such action, exercised such rights, made such report, organized or joined such tenants' union, or made or expressed an intention to make a payment of rent to an organization of unit owners, or within six months after any other person has taken such action or actions on behalf of the tenant or relating to the building in which such tenant resides, shall create a rebuttable presumption that such summary process action is a reprisal against the tenant for engaging in such activities or was taken in the belief that the tenant had engaged in such activities.

**SECTION 5.** Nothing in this act shall be construed to create additional rights of a holder of a first mortgage of record.

**SECTION 6.** Notwithstanding the provisions of any general or special law to the contrary, a first mortgage on a "unit" as defined in section one of chapter one hundred and eighty-three A of the General Laws executed after the effective date of this act shall not contain a condition which affects the right of the "organization of unit owners", as so defined, to the right to collect rent as provided by this chapter.

**SECTION 7.** This act shall take effect on March first, nineteen hundred and ninety-two.

*Emergency Letter: January 15, 1992 @ 4:12 P.M.*      Approved January 9, 1992.

**Chapter 555.            AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF NORTH ANDOVER TO THE NORTH EAST SOLID WASTE COMMITTEE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section nineteen of chapter sixteen of the General Laws, the commissioner of the division of capital planning and operations is hereby authorized, but subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, and subject to the requirements of section four and to such additional terms and conditions as said commissioner may prescribe, to convey by deed, approved as to form by the attorney general, to the north east solid waste committee, a body politic and corporate and a public instrumentality established pursuant to chapter three hundred and twenty-eight of the acts of nineteen hundred and eighty-eight a certain parcel of land in the town of North Andover acquired by the commonwealth pursuant to an order of taking dated June 16, 1981, and recorded with the Essex north district registry of deeds in Essex county, in Book 1513, page 158, on June twenty-fourth, nineteen hundred and eighty-one, for the purpose of constructing, operating and maintaining a solid waste processing disposal facility or related

facility, including facilities related to the processing, marketing or manufacture of materials recovered from solid waste and said use, on a continuing basis, being subject to the review and recommendations of the department of environmental protection on any facility planned; established or operated to achieve this purpose operated pursuant to the provisions of sections eighteen through twenty-four of chapter sixteen of the General Laws.

**SECTION 2.** The north east solid waste committee shall assume the costs of any appraisals, surveys and other expenses as deemed necessary by the commissioner of capital planning and operations for the conveyance of this property in accordance with section one.

**SECTION 3.** In consideration for the conveyance authorized in section one, the north east solid waste committee shall pay to the commonwealth a fair market value price, to be determined by one or more independent appraisals, or convey, in fee simple, a parcel or parcels of land determined by the commissioner.

**SECTION 4.** In the event that the parcel described in section one of this act is not used for the purpose of leasing said parcel for solid waste disposal to any person, firm or corporation or any public municipality, authority, district or entity, or is not directly used by the north east solid waste committee, for the purpose of constructing, operating and maintaining a solid waste processing disposal facility or related facility, including facilities related to the processing, marketing or manufacture of materials recovered from solid waste within five years of the effective date of this act or these uses cease at any time thereafter, said parcel shall revert to the commonwealth upon terms and conditions as the commissioner may determine.

Approved January 9, 1992.

**Chapter 556.      AN ACT TO ESTABLISH A FUNDING SCHEDULE FOR THE  
CITY OF REVERE RETIREMENT SYSTEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the acceptance of the provisions of section 22D of chapter 32 of the General Laws by the city of Revere retirement system, said Revere retirement system may adopt a funding schedule established under subdivision (1) of said section 22D of said chapter 32 which, notwithstanding the provisions of the first sentence of said subdivision (1) of said section 22D, would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; provided further however, that notwithstanding such acceptance of said section 22D, said Revere retirement system shall not be subject to the provisions of paragraph (e) of subdivision (4) of said section 22D.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of said section 22 of chapter 32 of the General Laws or of any other general or special law to the contrary, the amounts determined by the actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety as the required payments into the pension fund of the Revere Retirement System for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one of this act and has been approved by said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided however, that any such schedule shall be submitted to said actuary on or before January fifteenth, nineteen hundred and ninety-two and the resulting revised appropriation shall be issued by said actuary no later than January thirty-first, nineteen hundred and ninety-two.

**SECTION 3.** This act shall take effect upon its passage.

*This bill was returned by the Governor to the House the branch in which it originated, with his objections thereto, was passed by the House on December 30, 1991 and in concurrence by the Senate on December 30, 1991; the objections of the Governor notwithstanding in the manner prescribed by the Constitution and thereby has the "force of law"*

**Chapter 557.      AN ACT ESTABLISHING A FUNDING SCHEDULE FOR  
THE RETIREMENT SYSTEM OF THE CITY OF CHICOPEE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The retirement system of the city of Chicopee is hereby deemed to have accepted the provisions of section twenty-two D of chapter thirty-two of the General Laws; provided, however, that notwithstanding the provisions of the first sentence of subdivision (1) of said section twenty-two D, said retirement system may adopt a funding schedule established under said subdivision (1) of said section twenty-two D which would set forth total annual payments in any of its first six fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; and provided, further, that said retirement system shall not be subject to the provisions of paragraph (e) of subdivision (4) of said section twenty-two D.

**SECTION 2.** Notwithstanding the provisions of clause (i) of paragraph (c) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws or any other general or special law to the contrary, the amounts determined by the

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actuary of the public employee retirement administration on or before December fifteenth, nineteen hundred and ninety as the required payments into the pension fund of the retirement system of the city of Chicopee for the fiscal year commencing July first, nineteen hundred and ninety-one, in accordance with said clause (i), shall be revised in accordance with the amount required in an actuarial funding schedule which fulfills the requirement of section one and has been approved by said actuary. Such revised amount shall be in accordance with an approved actuarial funding schedule; provided however, that any such schedule shall be submitted to said actuary on or before November first, nineteen hundred and ninety-one and the resulting revised appropriation shall be issued by said actuary no later than December fifteenth, nineteen hundred and ninety-one.

**SECTION 3.** This act shall take effect upon its passage.

*This bill was returned by the Governor to the Senate the branch in which it originated, with his objections thereto, was passed by the Senate December 30, 1991, and in concurrence by the House of Representatives, December 30, 1991; the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and thereby has the "force of law".*

**Chapter 558.            AN ACT RELATIVE TO THE POWERS AND DUTIES OF  
THE COMMISSIONER OF PUBLIC EMPLOYEE RETIRE-  
MENT.**

*Be it enacted, etc., as follows:*

Section 50 of chapter 7 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the word "senate", in line 12, the words:- , the general court not having prorogued within said forty-five days.

*The engrossed bill had been laid before His Excellency the Governor on the third day of July, 1991, and after ten days had the force of a law, as prescribed by the Constitution, as the Governor returned the same with no objections stated therein (see House document numbered 6435).*

**Chapter 1. RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY RELATIVE TO ESTABLISHING A SUITABLE MEMORIAL TO PRESIDENT JOHN F. KENNEDY.**

*RESOLVED*, That the special commission established under the provisions of chapter six of the resolves of nineteen hundred and eighty-three, and most recently revived and continued and the membership increased by chapter two of the resolves of nineteen hundred and eighty-nine, is hereby revived and continued until the last Wednesday in September, nineteen hundred and ninety-two.

Approved October 18, 1991.

**Chapter 2. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO HEALTH SERVICES TO MINORITIES.**

*RESOLVED*, That a special commission to consist of three members of the senate, three members of the house of representatives, and six persons to be appointed by the governor, one of whom shall be a physician licensed in the commonwealth, one of whom shall be a registered nurse, and four of whom shall be executive directors of community health centers, is hereby established for the purpose of making an investigation and study of the resources available to agencies and institutions which provide services primarily to neighborhoods where people of color live. Said commission shall include in its investigation and study methods for increasing such resources, the development of implementation strategies for all recommendations developed by the commission, and other issues related to the health field. Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the senate on or before December thirty-first, nineteen hundred and ninety-two.

Approved December 29, 1991.

**Chapter 3. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO REVISING THE VEHICLE EMISSIONS INSPECTIONS AND MAINTENANCE PROGRAM AND OTHER MATTERS RELATED THERETO.**

*RESOLVED*, That a special commission, to consist of three members of the

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senate, five members of the house of representatives, the secretary of environmental affairs or his designee, the secretary of public safety or his designee, the secretary of consumer affairs and business regulation or his designee, the regional administrator for the United States Environmental Protection Agency or his designee, and seven persons to be appointed by the governor, one of whom shall be an officer in the Bay State Gasoline Retailers Association, one of whom shall be a licensed operator of a motor vehicle inspection facility, one of whom shall be an officer in the Associated Industries of Massachusetts, one of whom shall be a member of a health advocacy organization, one of whom shall be a member of an environmental advocacy organization, one of whom shall be a designee of the Massachusetts Petroleum Council, and one of whom shall be a member of a consumer advocacy organization, is hereby established for the purpose of making an investigation and study relative to revising the current vehicle emissions inspection and maintenance program subject to the requirements of the federal clean air act.

Said commission shall investigate and study, but not be limited to, the following: examine and assess the comparative air quality benefits and costs of a centralized and a decentralized program structure, including the analytical equipment necessary to perform inspections, the cost to the commonwealth to develop and implement each program option, and the cost to the affected industries in the commonwealth for each program option; examine and assess the impacts each initiative will have on the regulated community and the general public in terms of health economics, equipment warranty; convenience, and any other relevant factors related to an inspection and maintenance program; examine and assess the benefits, incentives, and costs of mandating a formal certification program for emissions inspectors, as well as for those technicians involved in the proper maintenance and repair of vehicles failing emissions inspections; examine and assess the range of specific elements of the inspection procedure, including visual checks and functional testing for tampering of emissions related components and training; examine and assess the types and benefits of various data collection and management systems for quality assurance control, data integrity, program management, and compliance and enforcement purposes; examine and assess appropriate compliance and enforcement requirements and outcomes, such as administrative and criminal penalties, as appropriate for each state agency authorized to carry out the recommendations of the commission; and any other matter related to the inspection and maintenance program the special commission deems necessary to implement an effective program.

Said commission shall be authorized to expend for the purposes herein, not more than one hundred thousand dollars, from funds provided by the federal government to the department of environmental protection within the executive office of environmental affairs. Said commission shall report to the house of



representatives the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with clerk of the house of representatives, who shall forward the same to the joint committee on public safety and the house and senate committees on ways and means on or before the first day of April, nineteen hundred and ninety-two; and be it further

*RESOLVED*, That a special commission, to consist of three members of the senate, five members of the house of representatives, the secretary of environmental affairs or her designee, the secretary of public safety or his designee, the secretary of economic affairs or his designee, the secretary of labor or his designee, the secretary of transportation or his designee and six persons to be appointed by the governor, one of whom shall be an officer in the Bay State Gasoline Retailers Association, one of whom shall be an officer of the United Auto Workers, one of whom shall be a member of an environmental advocacy organization, one of whom shall be a member of the Massachusetts Automobile Dealers Association, one of whom shall be a member of a health advocacy organization, and one of whom shall be a member of the Massachusetts Petroleum Council is hereby established for the purpose of making an investigation and study relative to the implementation of California emissions standards in the commonwealth.

Said commission shall investigate and study, but not be limited to, the following: examine and assess the comparative air quality benefits and costs of implementing the California Emissions Standards in Massachusetts up to the year two thousand, and two thousand and fifteen, the cost to the Commonwealth of implementing this program if Connecticut and New Hampshire do not require California Emissions Standards, and the cost of requiring federally reformulated gasoline and alternative fuels and gasolines required by the California Air Resources Board.

The commission shall complete its investigation and study by June first, nineteen hundred and ninety-two and shall submit its final report to the Governor and the Legislature by July first, nineteen hundred and ninety-two.

Approved January 8, 1992.

#### Chapter 4.

#### **RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO VETERANS' AFFAIRS IN THE COMMONWEALTH.**

*RESOLVED*, That a special commission, to consist of two members of the senate, three members of the house of representatives, and two persons to be appointed by the governor one of whom shall be the president of the Massachusetts Veterans Service Agents Association, Inc., is hereby established for the purpose of making

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an investigation and study relative to veterans' affairs in the commonwealth. The study shall include but not be limited to: (1) a review of existing veterans' benefit programs and necessary changes; (2) a review of existing veterans service programs and the rules and regulations concerning same and (3) the feasibility of establishing a "Veterans Lottery" under the state lottery commission to provide funds for benefits and services for those involved in the Persian Gulf war.

Said commission shall report to the general court the results of its investigation and study and its recommendations, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday in December, nineteen hundred and ninety-two.

Approved January 9, 1992.



## The Commonwealth of Massachusetts

Office of the Secretary of State  
Michael Joseph Connolly, Secretary

Kathryn K. Maillett  
*Director, Regulations Division*

### **NUMBER OF ACTS AND RESOLVES APPROVED, APPROVAL WITHHELD, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO AND ACTS DECLARED EMERGENCY LAWS BY THE GOVERNOR UNDER AUTHORITY OF THE CONSTITUTION.**

The General Court during its first session held in 1991 passed 558 Acts and Four Resolves of which 550 Acts and all Resolves received Executive approval.

Chapter 193, "An Act to Reorganize the Division of Energy Resources to Make the Operation of Government More Efficient" was adopted under Article LXXXVII of the Amendments to the Constitution, not having been disapproved by the General Court, and has been so certified.

Chapters 236, 529, 556, and 557 were vetoed by the Governor but the vetoes were overridden in the General Court, the objections of the Governor notwithstanding.

Chapters 74, 190 and 558 were not returned to the General Court with the Governor's objections within ten days as provided in the Constitution and as the General Court had not prorogued they became law without his signature.

36 Acts were declared to be emergency laws by the Governor under Article XLVIII of the Amendments to the Constitution; being respectively Chapters 4, 30, 41, 50, 59, 88, 106, 107, 109, 114, 129, 142, 146, 155, 168, 184, 187, 219, 220, 223, 249, 286, 310, 331, 363, 389, 398, 399, 454, 460, 476, 483, 488, 490, 543, and 554.

The 1991 session of the General Court was dissolved at midnight on Wednesday January 1, 1992 the session having lasted 364 days.

February 24, 1992

A handwritten signature in cursive script, reading "Michael J. Connolly".

Michael Joseph Connolly  
Secretary of State

OFFICE OF THE SECRETARY,

BOSTON,

February 24, 1992

I hereby certify that the Acts and Resolves contained in this volume are true copies of the originals on file with the department.

I further certify that the Index and Table of Changes contained in this volume have been prepared under the direction of the Committee on Rules of the two branches of the General Court in accordance with the provisions of Section 51 of Chapter 3 of the General Laws.

A handwritten signature in black ink, reading "Michael J. Connolly". The signature is written in a cursive, flowing style with a large initial "M" and "C".

Michael Joseph Connolly  
Secretary of State

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Sect. 184 revised, 1992, 368 1.

Sect. 191, definition of "Late-deafened deaf" added, 1992, 411 1.

Sect. 195, first paragraph, third, fourth, and fifth sentences revised, 1992, 411 2; second paragraph revised, 1992, 411 3.

Sect. 204 amended, 1992, 133 170. (See 1992, 133 599.)

Sects. 205-208 added, 1992, 133 171. (See 1992, 133 599.)

### CHAPTER 6A - Executive Offices.

Sect. 2 amended, 1991, 142 4; 1992, 133 172. (See 1991, 142 49, 50; 1992, 133 597-599.)

Sect. 4A added, 1992, 133 173. (See 1992, 133 597-599.)

Sect. 8 amended, 1991, 481 4; first sentence amended, 1992, 133 174. (See 1992, 133 599.)

Sect. 8A added, 1992, 133 175. (See 1992, 133 597-599.)

Sect. 9 amended, 1991, 193 1; first paragraph amended, 1991, 552 5.

Sect. 9A amended, 1991, 138 95; 1992, 133 177. (See 1991, 138 393; 1992, 133 597-599.)

Sect. 16 amended, 1991, 138 248, 251, 252, 253; 1992, 133 180; 286 4. (See 1991, 138 393; 1992, 133 597-599; 286 278, 279.)

Sect. 17 amended, 1991, 193 2. (See 1991, 193 18.)

Sect. 18 amended, 1991, 138 253; section revised, 1991, 412 4. (See 1991, 138 393; 412 139.)

Sect. 18 1/2 added, 1991, 138 249. (See 1991, 138 393.)

Sect. 18B amended, 1991, 412 5; section amended, 1992, 286 5. (See 1991, 412 139; 1992, 286 278-279.)

Sect. 19, first paragraph amended, 1992, 286 6 (See 1992, 286 278-279.)

Sect. 31 revised, 1991, 495 1. (See 1991, 495 65.)

Sect. 32 amended, 1991, 495 2; third paragraph, third sentence amended, 1992, 133 181. (See 1991, 495 65; 1992, 133 597-599.)

Sect. 32B, paragraph (g) added, 1991, 6 3; section repealed, 1991 495 3. (See 1991, 6 95-97; 495 65.)

Sect. 32C repealed, 1991, 495 4. (See 1991, 495 65.)

Sect. 32D added, 1991, 138 96. (See 1991, 138 393.)

Sect. 34 amended, 1992, 133 170. (See 1992, 133 599.)



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Sect. 36 amended, 1991, 495 5. (See 1991, 495 65.)  
Sects. 59-64 repealed, 1991, 495 6. (See 1991, 495 65.)  
Sect. 65, first paragraph, second and third sentences stricken out, 1991, 495 7; last paragraph stricken out, 1991, 495 8. (See 1991, 495 65.)  
Sects. 65A-70 repealed, 1991, 495 9. (See 1991, 495 65.)  
Sect. 76 repealed, 1991, 495 10. (See 1991, 495 65.)  
Sect. 82A, subsection (d) amended, 1991, 138 97 (See 1991, 138 393.)  
Sect. 100, last paragraph revised, 1991, 138 246. (See 1991, 138 393.)  
Sect. 78-102 repealed, 1991, 495 11. (See 1991, 495 65.)

## CHAPTER 6B - ACUTE HOSPITAL FINANCE.

New chapter inserted, 1991, 495 1 12.

## CHAPTER 7- Executive Office for Administration and Finance. (Former title, Commission on Administration and Finance).

Sect. 1, definition of "Commission" revised, 1992, 286 1. (See 1992, 286 278, 279.)  
Sect. 3B, fourth paragraph revised, 1991, 6 4; section amended, 1992, 133 183; paragraph added, 1992, 133 184; 133 185. (See 1991, 6 95-97; 1992, 133 597-599.)  
Sect. 4A, first paragraph revised, 1992, 286 8. (See 1992, 286 278, 279.)  
Sect. 4G, first paragraph first sentence revised, 1991, 6 5. (See 1991, 6 95-97.)  
Sect. 22 amended, 1991, 477 1.  
Sect. 27A added, 1992, 133 186. (See 1992, 133 597-599.)  
Sect. 28 amended, 1992, 133 187. (See 1992, 133 597-599.)  
Sects. 30Q-30T repealed, 1991, 412 6. (See 1991, 412 139.)  
Sect. 38 repealed, 1992, 133 176. (See 1992, 133 599.)  
Sect. 38A 1/2 amended, 1992, 286 9; definition of "Commissioner" and "Division" revised, 1992, 286 10. (See 1992, 286 278, 279.)  
Sect. 38B amended, 1992, 286 11. (See 1992, 286 278, 279.)  
Sect. 39B, first and second paragraphs revised, 1992, 286 12. (See 1992, 286 278, 279.)  
Sect. 39C revised, 1992, 286 13. (See 1992, 286 278, 279.)  
Sect. 40B, amended, 1992, 286 14. (See 1992, 286 278, 279.)  
Sect. 40C amended, 1992, 286 15. (See 1992, 286 278, 279.)  
Sect. 40F amended, 1992, 286 16. (See 1992, 286 278, 279.)  
Sect. 40G, first paragraph, first sentence revised, 1991, 145 28; section amended, 1992, 286 18, 19. (See 1991, 6 95-97; 145 47; 1992, 286 278, 279.)  
Sect. 40H amended, 1992, 286 20, 21. (See 1992, 286 278, 279.)  
Sect. 40I amended, 1992, 286 22. (See 1992, 286 278, 279.)  
Sect. 40J amended, 1992, 286 23. (See 1992, 286 278, 279.)  
Sect. 40L amended, 1992, 286 24. (See 1992, 286 278, 279.)  
Sect. 40M amended, 1992, 286 25, 26. (See 1992, 286 278, 279.)  
Sect. 41A amended, 1992, 286 27, 28. (See 1992, 286 278, 279.)  
Sect. 41B amended, 1992, 286 29, 30, 31, 32. (See 1992, 286 278, 279.)  
Sect. 41C amended, 1992, 379 1. (See 1992, 379 232, 233.)  
Sect. 42A amended, 1992, 286 33, 34. (See 1992, 28 278, 279.)

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Sect. 42B amended, 1992, 286 35, 36. (See 1992, 286 278, 279.)  
Sect. 42C amended, 1992, 286 37. (See 1992, 286 278, 279.)  
Sect. 42D amended, 1992, 286 38, 39. (See 1992, 286 278, 279.)  
Sect. 42H amended, 1992, 286 40, 41. (1992, 286 278, 279.)  
Sect. 42I amended, 1992, 286 42. (See 1992, 286 278, 279.)  
Sect. 42J amended, 1992, 286 43, 44. (See 1992, 286 278, 279.)  
Sect. 43A amended, 1992, 286 45. (See 1992, 286 278, 279.)  
Sect. 43C amended, 1992, 286 46, 47. (See 1992, 286 278, 279.)  
Sect. 50 amended, 1991, 558.

### **CHAPTER 7A - OFFICE OF THE COMPTROLLER.**

### **CHAPTER 7B - ASSET MANAGEMENT BOARD.**

New chapter added, 1990, 150 220A.

### **CHAPTER 8 - State Superintendent of Buildings, and State House.**

Sect. 1 amended, 1992, 286 48, 49. (See 1992, 286 278, 279.)

### **CHAPTER 9 - Department of the State Secretary.**

Sect. 1 amended, 1992, 286 48, 49. (See 1992, 286 278-279.)  
Sect. 7 repealed, 1992, 403 2.  
Sect. 7A repealed, 1992, 403 2.  
Sect. 9 repealed, 1992, 403 2.

### **CHAPTER 10 - Department of the State Treasurer.**

Sect. 13 amended, 1992, 286 52. (See 1992, 286 278, 279.)  
Sect. 24, last paragraph stricken out, 1991, 461 1. (See 1991, 461 4.)  
Sect. 25, paragraph added, 1991, 461 2; last paragraph revised, 1991, 461 3. (See 1991, 461 4.)  
Sect. 35 amended, 1992, 133 189. (See 1992, 133 597-599.)  
Sect. 35D amended, 1992, 133 190. (See 1992, 133 597-599.)  
Sect. 35J added, 1990, 121 2; stricken out, 1992, 286 50. (See 1992, 121 : 108; 1992, 286 278-279.)  
Sect. 35J added, 1991, 138 305; clause (a) revised, 1992, 153 4. (See 1991, 138 393; 1992, 133 597-599; 153 85.)  
Sect. 35K added, 1992, 286 50; section repealed, 1992, 286 51. (See 1992, 286 278-279.)  
Sect. 35M added, 1992, 133 192. (See 1992, 133 597-599.)  
Sect. 39 amended, 1992, 133 193. (See 1992, 133 597-599.)  
Sect. 52, first sentence revised, 1992, 133 194. (See 1992, 133 597-599.)  
Sect. 53, first sentence revised, 1992, 133 195. (See 1992, 133 597-599.)  
Sect. 56 amended, 1992, 133 196; first sentence revised, 1992, 133 255; section amended, 1992, 133 198; last sentence revised, 1992, 133 199; section amended, 1992, 133 200, 201; last sentence stricken out and one

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sentence inserted, 1992, 133 202. (See 1992, 133 597-599.)  
Sect. 58 revised, 1992, 133 203. (See 1992, 133 597-599.)

### **CHAPTER 11 - Department of the State Auditor**

#### **Chapter 12 - Department of the Attorney General, and the District Attorneys**

Sect. 4A, inserted, 1991, 138 380. (See 1991, 138 393.)  
Sect. 8F amended, 1992, 133 204. (See 1992, 133 597-599.)  
Sect. 8N added, 1992, 133 205. (See 1992, 133 597-599.)  
Sect. 11C, second paragraph stricken out, 1991, 412 7. (See 1991, 412 139.)  
Sect. 11E amended, 1992, 133 178. (See 1992, 133 597-599.)  
Sect. 11F amended, 1992, 133 332. (See 1992, 133 597-599.)  
Sect. 20D added, 1991, 138 100. (See 1991, 138 393.)

### **CHAPTER 12A -OFFICE OF THE INSPECTOR GENERAL.**

Sect. 4, second paragraph, sentence added, 1992, 133 206. (See 1992, 133 597-599.)  
Sect. 5 amended, 1992, 133 207. (See 1992, 133 597-599.)

### **CHAPTER 13 - Department of Civil Service and Registration.**

Sect. 10 amended, 1992, 286 52. (See 1992, 286 278, 279.)  
Sect. 10B stricken out, 1992, 286 53. (See 1992, 286 278, 279.)  
Sect. 11C added, 1992, 286 53. (See 1992, 286 278, 279.)  
Sects. 42-44 revised, 1991, 348.  
Sect. 89 amended, 1992, 286 54. (See 1992, 286 278, 279.)  
Sect. 92 added, 1991, 168 1.

### **CHAPTER 14 - Department of Revenue.**

Sect. 6, subparagraphs 3 and 4 stricken out and subparagraphs 4 and 5 inserted, 1992, 286 55. (See 1992, 286 278, 279.)

### **CHAPTER 15 - Department of Education.**

Sect. 1E, first paragraph, first two sentences stricken out and three sentences inserted, 1991, 142 5; first two sentences revised, 1991, 142 6A; section amended, 1992, 133 170. (See 1991, 142 49, 50; 1992, 133 599.)  
Sect. 1G amended, 1992, 133 208; paragraph inserted, 1992, 414 1. (See 1992, 133 597-599.)  
Sect. 1H amended, 1992, 133 170. (See 1992, 133 599.)  
Sect. 1L repealed, 1991, 138 319 (See 1991, 138 393.)  
Sect. 18A amended, 1991, 142 (See 1991, 142 49, 50.)

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## CHANGES IN THE

### CHAPTER 15A - PUBLIC EDUCATION

Chapter revised, 1991, 142 7. (See 1991, 142 49, 50.)  
New title inserted, 1992, 286 56. (See 1992, 286 278, 279.)  
Sect. 3, paragraph (g) added, 1992, 133 209. (See 1992, 133 597-599.)  
Sect. 4, first paragraph, first sentence revised, 1991, 222 1; second paragraph, first sentence revised, 1991, 222 2.  
Sect. 6, second paragraph, last sentence stricken out, 1991, 138 101;  
section revised, 1991, 142 7. (See 1991, 138 393; 1991, 142 49, 50.)  
Sect. 8 repealed, 1991, 142 7. (See 1991, 142 49.)  
Sect. 9 added, 1991, 142 7; clause (i) revised, 1992, 69 3. (See 1991, 142 49; 1992, 69 22.)  
Sect. 19, second paragraph revised, 1992, 133 210 (See 1992, 133 597-599.)  
Sect. 22 added, 1991, 145 29. (See 1991, 145 47.)  
Sect. 29, subsection (a), definition of "Optional fee" added, 1991, 462 1; section amended, 1991, 462 2B (See 1991, 462 3.)  
Sect. 37 added, 1992, 133 211. (See 1992, 133 597-599.)  
Sect. 38 added, 1992, 286 57. (See 1992, 286 278, 279.)

### CHAPTER 15-- THE NEW ENGLAND EDUCATIONAL LOAN MARKETING CORPORATION ACT.

Chapter repealed, 1982, 356 2.

### CHAPTER 15 - MASSACHUSETTS COLLEGE STUDENT LOAN AUTHORITY.

Sect. 4, Paragraph (a), ninth sentence revised, 1992, 286 58. (See 1992, 286 278-279.)

### CHAPTER 16 - DEPARTMENT OF HIGHWAYS. (Formerly, DEPARTMENT OF PUBLIC WORKS.)

New title inserted, 1992, 286 1 59. (See 1992, 286 1 278, 279.)  
Sect. 1 revised, 1991, 6 7; first sentence revised, 1991, 33 79; seventh sentence revised, 1991, 33 80; section revised, 1991, 552 6; second sentence revised, 1992, 286 60. (See 1991, 6 95-97; 33 155; 1991, 286 278-279.)  
Sect. 2, fourth sentence stricken out, 1991, 6 8; fifth sentence stricken out, 1991, 33 81. (See 1991, 6 95-97.)  
Sect. 4, first paragraph amended, 1991, 552 8.  
Sect. 4A amended, 1991, 552 9.  
Sect. 4B amended, 1991, 552 10.  
Sect. 5, paragraph (b), third sentence stricken out and three sentences inserted, 1991, 33 82. (See 1991, 33 155.)  
Sect. 9 amended, 1991, 412 8. (See 1991, 412 139.)  
Sects. 10, 11, 11A repealed, 1991, 412 9. (See 1991, 412 139.)  
Sect. 14 amended, 1991, 552 11.

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### **CHAPTER 17 - DEPARTMENT OF PUBLIC HEALTH**

Sect. 16 added, 1991, 138 236 (See 1991, 138 393.)

### **CHAPTER 18- Department of Public Welfare.**

Sect. 2, subsection (b), clause (i) added, 1991, 6 9. (See 1991, 6 95-97.)

Sect. 16, fifth paragraph revised, 1991, 138 102. (See 1991, 138 393.)

### **CHAPTER 18A - Department of Youth Services.**

### **CHAPTER 18B - Department of Social Services.**

### **CHAPTER 19 - DEPARTMENT OF MENTAL HEALTH.**

Sect. 1, sixth paragraph amended, 1991, 552 12.

### **CHAPTER 19A - Department of Elder Affairs.**

Sect. 37 added, 1991, 138 320. (See 1991, 138 393.)

### **CHAPTER 19B - Department of Mental Health. (Former title, Department of Mental Diseases.)**

Sect. 1, fifth paragraph amended, 1991, 552 13.

Sect. 15, paragraph (f) revised, 1992, 313.

### **CHAPTER 19C - DISABLED PERSONS PROTECTION COMMISSION.**

New chapter inserted, 1987, 465 11.

Sect. 2 amended, 1991, 138 103. (See 1991, 138 393.)

### **CHAPTER 20 - DEPARTMENT OF FOOD AND AGRICULTURE.**

Sect. 6, section revised, 1991, 138 104; amended, 1992, 286 61. (See 1991, 138 393; 1992, 286 278, 279.)

### **CHAPTER 21 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

Sect. 6F, first six paragraphs stricken out and one paragraph inserted, 1992, 133 256; seventh paragraph revised, 1992, 133 257; ninth paragraph revised, 1992, 133 258; tenth paragraph, sentence inserted after first sentence, 1992, 133 259. (See 1992, 133 597-599.)

Sect. 6G stricken out, 1992, 133 260 (See 1992, 133 597-599.)

Sect. 6I added, 1991, 33 83; section amended, 1992, 133 261; paragraph added, 1992, 133 262 (See 1991, 33 155; 1992, 133 597-599.)

Sect. 17B, seventh paragraph amended, 1991, 552 14.

Sect. 17C, sentence added, 1991, 372.

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## CHANGES IN THE

Sect. 17F added, 1991, 33 84. (See 1991, 33 155.)  
Sect. 27A, paragraph (b) revised, 1992, 203 1; paragraph (e), third sentence stricken out, 1992, 203 2.  
Sect. 33E amended, 1992, 203 3.  
Sect. 37 amended, 1992, 133 263, 264. (See 1992, 133 597-599.)  
Sect. 43 amended, 1992, 133 267, 268. (See 1992, 133 597-599.)  
Sect. 54, second paragraph amended, 1991, 552 15.

### **CHAPTER 21 - Executive Office of Environmental Affairs.**

Sect. 11A amended, 1991, 552 16.

### **CHAPTER 21B - MINING REGULATION AND RECLAMATION.**

#### **CHAPTER 21C - Massachusetts Hazardous Waste Management Act.**

Sect. 5, two paragraphs added, 1992, 23 4.  
Sect. 15, definition of "Covered claim" amended, 1991, 138 351; 1992, 133 317 (See 1991, 138, 393; 1992, 133 597-599.)  
Sect. 19, first sentence amended, 1991, 138 352; 1992 133 318. (See 1991, 138 393; 1992, 133 597-599.)

#### **CHAPTER 21D - Massachusetts Hazardous Waste Facility Citing Act.**

Sect. 12 amended, 1992, 133 319. (See 1992, 133 597-599.)

#### **CHAPTER 21E - MASSACHUSETTS OIL AND HAZARDOUS MATERIAL RELEASE PREVENTION AND RESPONSE ACT.**

Sect. 2 amended, 1991, 476 1; definition of "Fiduciary" inserted, 1992, 133 271; definition of "Offshore oil facility" inserted, 1991, 476 2; definitions of "Oil facility", "Oil pollution act", and "Onshore oil facility" inserted, 1991, 476 3; definition of "Owner" or "Operator", first sent revised, 1991, 476 4; definition of "Person" amended, 1991, 476 5; definition of "Priority disposal site" revised, 1991, 476 5A; definition of "Public vessel" inserted, 1991, 476 6; section amended, 1992 133 272, 273; definition of "Owner or operator" revised, 1992, 133 274; definition of "Person" revised, 1992, 286 62; definition of "Secured lender" inserted, 1992, 133 275; definition of "Statement of claim" or "statement" revised, 1992, 133 276; definition of "Substantial hazard" amended, 1992, 133 277 (See 1992, 133 597-599; 1992, 286 278, 279.)  
Sect. 3 amended, 1991, 476 7; subsection (d) inserted, 1992, 133 278. (See 1992, 133 597-599.)  
Sect. 3A, subsection (b), first paragraph revised, 1992, 133 279; fourth paragraph revised, 1992, 133 280; subsection (c) revised, 1992, 133 281; subsection (d) revised, 1992, 133 282; subsection (f) revised, 1992, 133 283; subsection (g) revised, 1992, 133 284; subsection (i) revised, 1992,

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133 285; subsection (j) revised, 1992, 133 286; subsection (l) stricken out, 1992, 133 287; subsection (m) revised, 1992, 133 288; subsection (n) revised, 1992, 133 289. (See 1992, 133 597-599.)

Sect. 3B added, 1992, 133 290. (See 1992, 133 597-599.)

Sect. 4, paragraph added, 1991, 476 8; first paragraph, third sentence amended, 1992, 133 291; third and fourth sentences revised, 1992, 133 292; third paragraph stricken out and two paragraphs inserted, 1992, 133 293. (See 1992, 133 597-599.)

Sect. 4A added, 1992, 133 294. (See 1992, 133 597-599.)

Sect. 5, subsection (a) amended, 1992, 133 295; paragraph inserted after first paragraph, 1992, 133 296; paragraph (a) amended, 1991, 476 9; paragraph (b) amended, 1991, 476 10; subsection (d) revised, 1992, 133 297; subsection (e) revised, 1992, 133 298; subsection (g) inserted, 1992, 133 299. (See 1992, 133 597-599.)

Sect. 5A added, 1992, 133 300. (See 1992, 133 597-599.)

Sect. 5B added, 1992, 133 300. (See 1992, 133 597-599.)

Sect. 6, three paragraphs added, 1992, 133 301. (See 1992, 133 597-599.)

Sect. 7, first sentence revised, 1992, 133 302; paragraph added, 1992, 133 303. (See 1992, 133 597-599.)

Sect. 8 revised, 1992, 133 304. (See 1992, 133 597-599.)

Sect. 9, first paragraph, first sentence revised, 1992, 133 305; second paragraph revised, 1992, 133 306. (See 1992, 133 597-599.)

Sect. 10 revised, 1992, 133 307. (See 1992, 133 597-599.)

Sect. 11, third paragraph, last sentence revised, 1992, 133 308 (See 1992, 133 597-599.)

Sect. 11A added, 1992, 133 309. (See 1992, 133 597-599.)

Sect. 13 revised, 1992, 133 310. (See 1992, 133 597-599.)

Sect. 14 revised, 1992, 133 311 (See 1992, 133 597-599.)

## CHAPTER 21F -Coastal Facilities Improvement.

### CHAPTER 21G - MASSACHUSETTS WATER MANAGEMENT ACT.

Sect. 5 amended, 1992, 286 63. (See 1992, 286 278, 279.)

### CHAPTER 21H - SOLID WASTE FACILITIES.

New chapter added, 1987, 584 3.

Sect. 3, paragraph (k) revised, 1991, 549 1; section amended, 1992, 133 320. (See 1992, 133 597-599.)

Sect. 6, subsections (b) and (c) stricken out, 1992, 23 5.

### CHAPTER 21I - MASSACHUSETTS TOXICS USE REDUCTION ACT.

New chapter inserted, 1989, 265 3.

Sect. 2, definition of "Toxics users" revised, 1991, 6 10; definition of "Toxic or hazardous substance" amended, 1991, 6 11. (See 1991, 6 95-97.)  
Sect. 9, Introductory paragraph revised, 1992, 286 64. (See 1992, 286 278, 279.)

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## CHANGES IN THE

Sect. 19, paragraph (C) revised, 1991, 6 12; paragraph (G), second sentence revised, 1991, 6 13. (See 1991, 6 95-97.)

### **CHAPTER 21J - UNDERGROUND STORAGE TANK PETROLEUM PRODUCT CLEANUP FUND.**

New chapter added, 1990, 524 1.

Sect. 1 amended, 1992, 133 321, 322; amended, 1992, 286 65. (See 1992, 133 597-599; 1992, 286 278, 279.)

Sect. 4 amended, 1992, 133 323. (See 1992, 133 597-599.)

Sect. 6, second sentence revised, 1992, 133 324 (See 1992, 133 597-599.)

Sect. 8 amended, 1992, 133 325. (See 1992, 133 597-599.)

Sect. 9 amended, 1992, 286 66. (See 1992, 286 278, 279.)

Sect. 10 amended, 1992, 133 326. (See 1992, 133 597-599.)

### **CHAPTER 22 - Department of Public Safety.**

Sect. 3 amended, 1991, 412 10; second paragraph stricken out, 1991, 412 11. (See 1991, 412 139.)

Sect. 3A, 3B repealed, 1991, 412 11A. (See 1991, 412 139.)

Sect. 6 amended, 1991, 412 11B, 11C, 11D (See 1991, 412 139.)

Sect. 6A amended, 1991, 412 12. (See 1991, 412 139.)

Sect. 7 amended, 1991, 412 13, 14. (See 1991, 412 139.)

Sect. 7A amended, 1991, 412 15 (See 1991, 412 139.)

Sect. 7B amended, 1991, 412 16 (See 1991, 412 139.)

Sect. 7C repealed, 1991, 412 17. (See 1991, 412 139.)

Sect. 8 amended, 1991, 412 18. (See 1991, 412 139.)

Sect. 9P amended, 1991, 6 14. (See 1991, 6 95-97.)

Sects. 9-9U repealed, 1991, 412 19. (See 1991, 412 139.)

Sect. 11B added, 1992, 177 1.

Sect. 15A added, 1991, 412 20. (See 1991, 412 139.)

Sect. 15A added, 1992, 286 67 (See 1992, 286 278, 279.)

Sect. 15B added, 1991, 412 20. (See 1991, 412 139.)

Sect. 15C added, 1991, 412 20 (See 1991, 412 139.)

Sect. 15D added, 1991, 412 20; first sentence revised, 1992, 133 327. (See 1992, 133 597-599.)

Sects. 16-19 repealed, 1991, 412 19A (See 1991, 412 139.)

Sect. 16 stricken out, 1992, 286 67. (See 1990, 475 1; 1992, 286 278, 279.)

### **CHAPTER 22A - CENTRAL REGISTER FOR MISSING CHILDREN.**

### **CHAPTER 22B - CAPITOL POLICE.**

Chapter repealed, 1991, 412 1 21. (See 1991, 412 1 139.)

### **CHAPTER 22C - THE DEPARTMENT OF STATE POLICE.**

New chapter added, 1991, 412 1 22. (See 1991, 412 1 139.)



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### **CHAPTER 23 - Department of Labor and Industries.**

Sect. 13A added, 1991, 6 15 (See 1991, 6 95-97.)

### **CHAPTER 23A - Department of Commerce and Development. (Former title, Department of Commerce.)**

Sect. 32, paragraph (f) amended, 1991, 472 5.

### **CHAPTER 23B - Department of Community Affairs.**

### **CHAPTER 23C - BOARD OF CONCILIATION AND ARBITRATION.**

### **CHAPTER 23D - MASSACHUSETTS INDUSTRIAL SERVICE PROGRAM.**

Sect. 4 amended, 1992, 286 68. (See 1992, 286 278, 279.)

Sect. 18 amended, 1992, 286 69. (See 1992, 286 278, 279.)

### **CHAPTER 23 - DEPARTMENT OF INDUSTRIAL ACCIDENTS.**

Sect. 3 revised, 1991, 398 1. (See 1991, 398 111.)

Sect. 5, first sentence revised, 1991, 398 2. (See 1991, 398 111.)

Sect. 6, first four sentences revised, 1991, 398 3; six paragraphs added, 1991, 398 4.

Sect. 8, first paragraph revised, 1991, 398 5. (See 1991, 398 111.)

Sects. 9-11 revised, 1991, 398 6. (See 1991, 398 111.)

Sect. 12 Repealed, 1991, 398 7 (See 1991, 398 111.)

Sect. 13 repealed, 1991, 398 7. (See 1991, 398 111.)

Sect. 17 amended, 1991, 398 8. (See 1991, 398 111.)

### **CHAPTER 23F - THE ECONOMIC DIVERSIFICATION PROGRAM.**

New chapter added, 1990, 525.

### **CHAPTER 24 - Department of Industrial Accidents**

Chapter repealed, 1953, 314 14.

### **CHAPTER 24 - Department of Industrial Accidents**

Sect. 2A amended, 1992, 133 170. (See 1992, 133 599.)

Sect. 4 amended, 1992, 141 1. (See 1992, 141 55.)

Sect. 12A, caption stricken out, 1992, 286 70.

(See 1992, 286 278, 279.)

Sect. 12M amended, 1991, 138 106; 1992, 141 2. )

(See 1991, 138 393; 1992, 141 55.)

Sect. 12N added, 1992, 141 2. (See 1992, 141 55.)

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Sect. 18 amended, 1991, 138 107; 1992, 141 4; 153 7.  
(See 1991, 138 393; 1992, 141 55; 153 85.)

### **CHAPTER - 25A DIVISION OF ENERGY RESOURCES. (Formerly, Executive Office of Energy Resources.)**

(Title revised, 1992, 286 1 71.)

Sect. 1 revised, 1991, 193 3. (See 1991, 193 18.)

Sect. 2, third paragraph stricken out, 1991, 193 4. (See 1991, 193 18.)

Sect. 3, definition of "Secretary" stricken out, 1991, 193 5; (See 1991, 193 18.)

Sect. 7, first paragraph revised, 1991, 455.

Sect. 11B added, 1991, 520.

### **CHAPTER 25B - MASSACHUSETTS APPLIANCE EFFICIENCY STANDARDS ACT.**

Sect. 3 amended, 1991, 481 5.

### **CHAPTER 26 - Department of Banking and Insurance.**

Sect. 8E, three paragraphs added, 1991, 399 1; two paragraphs added, 1992, 413 1.

Sect. 8F amended, 1992, 133 331; section revised, 1992, 153 8. (See 1992, 133 597-599; 153 85.)

Sect. 8G, sixth paragraph, sentence added, 1991, 430; amended, 1992, 286 72-77. (See 1992, 286 278, 279.)

Sect. 8J added, 1992, 153 9 (See 1992, 153 85.)

### **CHAPTER 27 - Department of Correction.**

Sect. 1 amended, 1991, 138 254. (See 1991, 138 226, 393.)

Sect. 2 amended, 1991, 138 255 (See 1991, 138 393.)

Sect. 3 amended, 1991, 138 256. (See 1991, 138 226, 393.)

Sect. 4 amended, 1991, 138 257. (See 1991, 138 226, 393.)

Sect. 7 amended, 1991, 138 258. (See 1991, 138 226, 393.)

### **CHAPTER 28 - Metropolitan District Commission.**

Sect. 3, third sentence revised, 1992, 286 78. (See 1992, 286 278, 279.)

### **CHAPTER 28A - Office For Children.**

Sect. 10, paragraph (a) amended, 1992, 109.

Sect. 10A added, 1992, 106.

### **CHAPTER 29 - State Finance.**

Sect. 1 amended, 1992 133 333 (See 1992, 133 597-599.)

Sect. 2C 1/2 added, 1992, 133 334. (See 1992, 133 597-599.)

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Sect. 2F amended, 1992, 286 79-81. (See 1992, 286 278, 279.)  
Sect. 2I, second paragraph revised, 1992, 133 335. (See 1992, 133 597-599.)  
Sect. 2J, clause (a) revised, 1992, 133 336. (See 1992, 133 597-599.)  
Sect. 2M repealed, 1992, 133 337. (See 1992, 133 597-599.)  
Sect. 2N repealed, 1992, 133 337. (See 1992, 133 597-599.)  
Sect. 2O amended, 1992, 286 82. (See 1992, 286 278, 279.)  
Sect. 2P stricken out, 1992, 286 83. (See 1992, 286 278, 279.)  
Sect. 2Q, third sentence revised, 1992, 133 338. (See 1992, 133 597-599.)  
Sect. 2T added, 1991, 138 108; section revised, 1992, 133 340; 1992, 254 2. (See 1991, 138 393; 1992, 133 597-599; 254 8.)  
Sect. 2U revised, 1991, 375.  
Sect. 2V added, 1992, 23 7.  
Sect. 2W added, 1992, 203 4.  
Sect. 5, first paragraph amended, 1991, 371; subsection (b), paragraph added, 1992, 255 5; last paragraph stricken out, 1992, 402 1.  
Sect. 5C, first paragraph amended, 1991, 138 372; section amended, 1992, 133 341. (See 1991, 138 393; 1992, 133 597-599.)  
Sect. 5D revised, 1991, 6 16. (See 1991, 6 95-97.)  
Sect. 5E repealed, 1991, 6 17.  
Sect. 6D amended, 1992, 133 342. (See 1992, 133 597-599.)  
Sect. 7A amended, 1992, 286 84-87. (See 1992, 286 278, 279.)  
Sect. 7B amended, 1992, 286 88. (See 1992, 286 278, 279.)  
Sect. 7C amended, 1992, 286 89, 90. (See 1992, 286 278, 279.)  
Sect. 7D revised, 1992, 286 91. (See 1992, 286 278, 279.)  
Sect. 7H, paragraph added, 1991, 138 370; amended, 1992, 286 92, 93. (See 1991, 138 393; 1992, 286 278, 279.)  
Sect. 7I amended, 1992, 286 94-96. (See 1992, 286 278, 279.)  
Sect. 7K amended, 1992, 286 97. (See 1992, 286 278, 279.)  
Sect. 7M added, 1991, 138 277. (See 1991, 138 393.)  
Sect. 8B amended, 1991, 552 17.  
Sect. 8C amended, 1991, 552 18.  
Sect. 10 added, 1991, 138 368. (See 1991, 138 393.)  
Sect. 13, first paragraph revised, 1991, 138 19. (See 1991, 138 393.)  
Sect. 27 amended, 1992, 133 343; last sentence amended, 1992, 133 344. (See 1992, 133 597-599.)  
Sect. 29E revised, 1991, 6 18. (See 1991, 6 95-97.)  
Sect. 29F added, 1991, 550 1.  
Sect. 29G added, 1992, 153 10. (See 1992, 153 85.)  
Sect. 60A, second paragraph amended, 1992, 133 345. (See 1992, 133 597-599.)  
Sect. 64, three paragraphs added, 1991, 494 1. (See 1992, 133 597-599.)  
Sect. 64D added, 1991, 494 2.  
Sects. 67-70 repealed, 1992, 133 346. (See 1992, 133 597-599.)

## CHAPTER 29A - Financing the Judicial System.

Sect. 3A added, 1992, 122 347. (See 1992, 133 597-599.)  
Sect. 4, first and second sentences revised, 1992, 379 1A. (See 1992, 379 232, 233.)  
Sect. 6 amended, 1992, 133 170. (See 1992, 133 599.)

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## CHANGES IN THE

### CHAPTER 29B - STATE REVENUE GROWTH CONTROL.

Sect. 1 amended, 1992, 133 348 (See 1992, 133 597-599.)

### CHAPTER 29C - WATER POLLUTION ABATEMENT REVOLVING LOAN PROGRAM.

New chapter inserted, 1989, 275 8.

Sect. 1 amended, 1992, 203 5; definition of "Loan agreement" amended, 1992, 203 6.

Sect. 2, paragraph (b), sentence inserted after second sentence, 1992, 203 7; paragraph (b) amended, 1992, 203 8.

Sect. 5, clause (iii) revised, 1992, 203 9.

Sect. 6, clause (i) amended, 1992, 203 10; section amended, 1992, 203 11.

Sect. 6A added, 1992, 203 12.

Sect. 8, three sentences added, 1992, 203 13.

Sect. 9, paragraph (a), eighth sentence stricken out, 1992, 203 14.

Sect. 10, paragraph (a), first sentence stricken out and two sentences inserted, 1992, 203 15.

### CHAPTER 30 - General Provisions Relative to State Departments, Com- missions, Officers and Employee.

Sect. 36A amended, 1991, 477 2, 3, 4

Sect. 1, subsection (b) clause (12) revised, 1991, 138 110; clause (13) amended, 1991, 138 111; clauses (15) to (26), inclusive, added, 1991, 138 112; clause (15) added, 1991, 404; clauses (27) and (28) added, 1991, 495 13; section amended, 1991, 552 20; subsection (b), clause (13) amended, 1992, 286 105; clause (14) amended, 1992, 286 106; clause (15) stricken out, 1992, 286 107; clause (24) revised, 1992, 286 108; clause (28) re-vised, 1992, 286 109; clause (29) inserted, 1992, 186 109; clause (30) added, 1992, 153 11; subsection (e) added, 1992, 153 12. (See 1991, 138 393; 1992, 153 85; 286 278, 279.)

Sect. 6, paragraph (j) added, 1992, 153 13. (See 1992, 153 85.)

Sect. 9B, paragraph added, 1992, 133 255. (See 1992, 133 597-599.)

Sect. 12, paragraph (f) amended, 1992, 153 14; section amended, 1992, 286 110. (See 1992, 153 85; 286 278, 279.)

Sect. 13A added, 1992, 153 15. (See 1992, 153 85.)

### CHAPTER 31 - Civil Service.

Sect. 1 amended, 1991, 412 23. (See 1991, 412 139.)

Sect. 7 amended, 1991, 412 24. (See 1991, 412 139.)

Sect. 44 revised, 1991, 138 113; 1992, 133 351.

(See 1991, 138 393; 1992, 133 597-599.) Sect. 48, first paragraph amended, 1991, 138 380; 552 21; revised, 1992, 286 111 (See 1991, 138 393; 1992, 286 278, 279.)

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Sect. 64 amended, 1991, 412 25, 26, 27, 28. (See 1991, 412 139.)

Sect. 65 amended, 1991, 412 29, 30. (See 1991, 412 139.)

Sect. 66, first paragraph amended, 1991, 552 22.

Sect. 67, third paragraph amended, 1991, 552 23.

Sect. 94C, subsection (a), Class B, four clauses added, 1991, 341.

### CHAPTER 31A - MUNICIPAL PERSONNEL SYSTEMS.

### CHAPTER 32 - Retirement Systems and Pensions.

Sect. 1 amended, 1992, 286 112 (See 1992, 286 278, 279.)

Sect. 3 amended, 1991, 412 31, 32; subdivision (4A) inserted, 1992, 333

1. (See 1991, 412 139.)

Sect. 3A added, 1991, 3.

Sect. 4, subdivision (1), paragraph (f 1/2) inserted, 1992, 333 2.

Sect. 5, subdivision (1), paragraph (m) amended, 1991, 138 385. (See 1991, 138 393.)

Sect. 12, third paragraph, option (c), subdivision (2) amended, 1991, 297.

Sect. 14, subdivision (1), paragraph (a), sentence added, 1991, 398 9;  
paragraph (c) amended, 1991, 398 10; subdivision (2), paragraph (a)  
amended, 1991, 398 11; paragraph (b) amended, 1991, 398 12 (See 1991, 398 111.)

Sect. 22, subdivision (1), paragraph (b 1/2) amended, 1991, 138 364; sub-  
division (1), paragraph (b 1/2) amended, 1991, 138 365; subdivision (6),  
paragraph (a), subparagraphs (iv) and (v) inserted, 1992, 133 354; subdivi-  
sion (7), clause (a) amended, 1991, 138 114; 1992, 133 355; paragraph  
(c), clause (i), second sentence amended, 1991, 138 366; section amended,  
1992, 286 113 (See 1991, 138 393; 1992, 133 597-599; 286 278, 279.)

Sect. 22C, second paragraph amended, 1992, 133 356; fourth sentence  
amended, 1992, 133 357 (See 1992, 133 597-599.)

Sect. 22D, subdivision (1), second paragraph amended, 1991, 138 115;  
fourth paragraph amended, 1991, 138 116; subsection (11) amended, 1991, 6  
19.

Sect. 26 revised, 1991, 412 33 (See 1991, 412 139.)

Sect. 28A, first paragraph revised, 1991, 412 34. (See 1991, 412 139.)

Sect. 28B repealed, 1991, 412 35. (See 1991, 412 139.)

Sect. 28K revised, 1991, 499 16. (See 1991, 499 45, 46.)

Sect. 28L repealed, 1991, 412 35A. (See 1991, 412 139.)

Sect. 28M added, 1992, 164.

Sect. 65C, first paragraph amended, 1992, 133 359. (See 1992, 133 597-599.)

Sect. 65H, first paragraph amended, 1992, 133 360. (See 1992, 133 597-599.)

Sect. 65I, first paragraph amended, 1992, 133 360. (See 1992, 133 597-599.)

Sect. 68 repealed, 1991, 412 35B. (See 1991, 412 139.)

Sect. 69 repealed, 1991, 412 35B.

Sect. 71 amended, 1991, 412 36, 36A. (See 1991, 412 139.)

Sect. 72 amended, 1991, 412 36B. (See 1991, 412 139.)

Sect. 89, fifth paragraph amended, 1991, 552 24; section amended, 1991,

412 37; sixth paragraph stricken out, 1991, 412 38. (See 1991, 412 139.)

Sect. 89A, fourth paragraph amended, 1991, 552 25; section amended, 1991,

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412 39, 40. (See 1991, 412 139.)  
Sect. 90A amended, 1991, 412 41. (See 1991, 412 139.)  
Sect. 90I amended, 1992, 286 114 (See 1992, 286 278, 279.)  
Sect. 91A amended, 1992, 23 8.  
Sect. 94, first paragraph amended, 1991, 552 26; section amended, 1991, 412 42, 43, 44 (See 1991, 412 139.)

### **CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.**

Sect. 3 amended, 1992, 133 170. (See 1992, 133 599.)  
Sect. 8, third paragraph after second sentence, sentence inserted, 1991, 110 1; third paragraph, sentence added, 1991, 110 2; fourth paragraph, sixth sentence revised, 1992, 133 362. (See 1991, 110 7; 1992, 133 597-599.)  
Sect. 11 amended, 1991, 138 117. (See 1991, 138 393.)  
Sect. 18 added, 1991, 138 118. (See 1991, 138 393.)  
Sect. 19 added, 1991, 138 119. (See 1991, 138 393.)

### **CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.**

Sect. 2, paragraph (d), sentence inserted after sixth sentence, 1992, 250.  
Sect. 3A, first sentence stricken out, two sentences inserted, 1991, 138 120. (See 1991, 138 393.)  
Sect. 4 amended, 1991, 138 384; third sentence revised, 1992, 133 363; fifth sentence revised, 1992, 133 364; eighth sentence stricken out and three sentences inserted, 1992, 133 365. (See 1991, 138 393; 1992, 133 597-599.)  
Sect. 9I added, 1991, 110 3. (See 1991, 110 7.)  
Sect. 11C, clause (e) added, 1991, 138 121. (See 1991, 138 393.)  
Sect. 12, paragraph added, 1992, 133 366. (See 1992, 133 557-599.)  
Sect. 18 added, 1991, 138 122. (See 1991, 138 393.)

### **CHAPTER 33 - Militia.**

Sect. 14, third paragraph revised, 1991, 138 383. (See 1991, 138 393.)  
Sect. 15, subsection (b), first paragraph revised, 1991, 315 1.  
Sect. 31 amended, 1991, 363.  
Sect. 111 amended, 1991, 412 45.  
Sect. 122, subsection (g) added, 1992, 133 368. (See 1991, 412 139; 1992, 133 597-599.)

### **CHAPTER 34 - Counties and County Commissioners.**

Sect. 14B added, 1991, 311.

### **CHAPTER 34A - COUNTY CHARTER PROCEDURES.**

Sect. 6 amended, 1992, 403 4; 1992, 403 4.

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### **CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.**

Sect. 26 amended, 1991, 552 27.

### **CHAPTER 36 - Registers of Deeds.**

### **CHAPTER 37 - Sheriffs.**

### **Chapter 38 - Medical Examiners**

Sect. 1B, second paragraph, fifth sentence revised, 1991, 499 17. (See 1991, 45, 46.)

Sect. 8 amended, 1991, 552, 28.

Chapter revised, 1992, 368 2

### **CHAPTER 39 - Municipal Government.**

### **CHAPTER 40 - Powers and Duties of Cities and Towns.**

Sect. 4A, first paragraph stricken out and two paragraphs inserted, 1992, 133 369. (See 1992, 133 597-599.)

Sect. 5, first paragraph amended, 1991, 138 381. (See 1991, 138 393.)

Sect. 5B, third paragraph amended, 1991, 138 333. (See 1991, 138 393.)

Sect. 8D, sentence inserted after fourth sentence, 1992, 136.

Sect. 8J revised, 1991, 390.

Sect. 21, last paragraph revised, 1991, 468.

Sect. 21D revised, 1992, 133 370. (See 1992, 133 597-599.)

Sect. 22A, fifth sentence stricken out, 1992, 133 371. (See 1992, 133 597-599.)

Sect. 22B amended, 1991, 552 29.

Sect. 22F added, 1991, 138 123.

Sect. 22G added, 1992, 241.

Sect. 36B amended, 1991, 412 46; first sentence revised, 1992 286 115 (See 1991, 412 139; 1992, 286 278, 279.)

Sect. 36C amended, 1991, 412 47, 47C, 48. (See 1991, 412 139.)

Sect. 39C amended, 1991, 552 30. (See 1991, 138 393.)

Sect. 39H revised, 1992, 343 1.

Sect. 39K amended, 1992, 286 116. (See 1992, 286 278, 279.)

Sect. 57 amended, 1992, 286 117 (See 1992, 286 278, 279.)

Sect. 49 amended, 1991, 212.

### **CHAPTER 40A - Zoning Regulations.**

Sect. 3, section amended, 1991, 481 6.

Sect. 5, seventh paragraph, sentence added, 1991, 515 1; eighth paragraph, first sentence stricken out, 1991, 515 2.

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## **CHANGES IN THE**

### **CHAPTER 40 - Regional Planning**

Sect. 12 amended, 1991, 199  
Sect. 18 amended, 1992, 403 5.  
Sect. 24 amended, 1991, 552 31.

### **CHAPTER - 40C Historic Districts.**

### **CHAPTER 40D - Industrial Development of Cities and Towns.**

Sect. 21 amended, 1991, 552 32.

### **CHAPTER 40E - Massachusetts Industrial Development Authority.**

Sect. 3 amended, 1992, 133 170. (See 1992, 133 599.)

### **CHAPTER 40F - Community Development Finance Corporation.**

Sect. 1 amended, 1992, 403 6.

### **CHAPTER 40G - Massachusetts Technology Development Corporation.**

### **CHAPTER 40H - Community Economic Development Assistance Corporation.**

### **CHAPTER 40I - THE BAY STATE SKILLS CORPORATION ACT.**

### **CHAPTER 40J - Massachusetts Technology Park Corporation.**

Sect. 1A added, 1991, 138 298; section amended, 1992, 286 118. (See 1991, 138 393; 1992, 286 278, 279.)

Sect. 2, definitions of "Director" and "Operational" inserted, 1991, 138 299; definition of "Director" revised, 1992, 286 119 (See 1991, 138 393; 1992, 286 278, 279.)

Sect. 4A added, 1991, 138 300; paragraph (a) amended, 1992, 286 120; section amended, 1992, 286 121. (See 1991, 138 393; 1992, 286 278, 279.)

Sect. 4B added, 1991, 138 300. (See 1991, 138 393.)

Sect. 4C added, 1991, 138 300. (See 1991, 138 393.)

Sect. 4D added, 1991, 138 300. (See 1991, 138 393.)

Sect. 5, sixth paragraph stricken out, 1991, 138 301 (See 1991, 138 393.)

### **CHAPTER 40K - MASSACHUSETTS PRODUCT DEVELOPMENT CORPORATION.**

### **CHAPTER 40L - AGRICULTURAL INCENTIVE AREAS.**



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### **CHAPTER 40M - GOVERNMENTAL UNITS POOLED INSURANCE.**

### **CHAPTER 40N - MODEL WATER AND SEWER COMMISSION .**

Chapter inserted, 1992, 343 | 2.

### **CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.**

Sect. 2, last sentence revised, 1991, 234 1.

Sect. 10, fifth paragraph revised, 1991, 278.

Sect. 67 amended, 1991, 552 33.

Sect. 70 amended, 1992, 403 7.

Sect. 81Q amended, 1992, 133 372 (See 1992, 133 597-599.

Sect. 87A revised, 1991, 412 48. (See 1991, 412 139.)

Sect. 96B, first paragraph, first sentence revised, 1991, 412 49; second paragraph, first sentence revised, 1991, 412 50. (See 1991, 412 139.)

Sect. 98F amended 1991, 125; first sentence amended, 1992, 286 122. (See 1992, 286 278, 279.)

Sect. 99I, fourth paragraph amended, 1991, 552 34.

Sect. 108L, first paragraph amended, 1991, 138 124; revised, 1991, 412 51; fifth paragraph amended, 1991, 138 125; third sentence revised, 1991, 412 52 (See 1991, 138 393; 412 139.)

### **CHAPTER 42 - Boundaries of Cities and Towns.**

Sect. 7 amended, 1991, 552 35.

### **CHAPTER 43 - City Charters.**

Sect. 2 amended, 1992, 403 8.

Sect. 128 amended, 1992, 403 9.

### **CHAPTER 43A - Standard Form of Representative Town Meeting Government.**

### **CHAPTER 43B - Home Rule Procedures.**

### **CHAPTER 43C - OPTIONAL FORMS OF MUNICIPAL ADMINISTRATION ACT.**

New chapter inserted, 1987, 756.

Sect. 11, third paragraph, clause (ii) revised, 1992, 50.

Sect. 14 added, 1992, 133 373. - (See 1992, 133 597-599.)

Sect. 15 added, 1992, 133 373. - (See 1992, 133 597-599.)

### **CHAPTER 44 - Municipal Finance.**

Sect. 4, sentence added, 1992, 143 1.

Sect. 6 amended, 1991, 552 36.

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Sect. 7 amended, 1991, 552 37.  
Sect. 8 amended, 1992, 286 123 (See 1992, 286 278, 279.)  
Sect. 17 revised, 1992, 143 2.  
Sect. 17A repealed, 1992, 143 3.  
Sect. 20A added, 1992, 143 4.  
Sect. 22C added, 1992, 143 5.  
Sects. 23-27 stricken out and seven sections 23 to 27A, inclusive, inserted, 1991, 541 1.  
Sect. 31 amended, 1991, 544 2.  
Sect. 53 amended, 1992, 62.  
Sect. 53D revised, 1992, 42.  
Sect. 56 amended, 1991, 138 228; section revised, 1991, 223 1. (See 1991, 138 393; 223 5.)  
Sect. 56A amended, 1991, 138 229; section revised, 1991, 223 2 (See 1991, 138 393; 223 5.)  
Sect. 69, first paragraph revised, 1991, 226.

### **CHAPTER 44A - QUALIFIED BOND ACT.**

### **CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.**

### **CHAPTER 46 - Return and Registry of Births, Marriages and Death.**

### **CHAPTER 47 - Infirmarys.**

### **CHAPTER 48 - Fires, Fire Departments and Fire Districts.**

Sect. 16 amended, 1991, 552 38.  
Sect. 57G amended, 1991, 412 53. (See 1991, 412 139.)

### **CHAPTER 49 - Fences, Fence Viewers, Pounds and Field Drivers.**

### **CHAPTER 49A - Use of Certain Animals for Scientific Investigation, Experiment or Instruction.**

### **CHAPTER 50 - General Provisions relative to Primaries, Caucuses and Elections.**

Sect. 1, definition of "Political designation", two sentences added, 1991, 483 1; definition of "Political party", first sentence stricken out, 1991, 483 2.

### **CHAPTER 51 - Voters**

Sect. 4, third sentence revised, 1991, 431.  
Sect. 6 amended, 1992, 403 10.  
Sect. 25 second sentence revised, 1991, 295.  
Sect. 28 amended, 1991, 203.  
Sect. 36 section revised, 1991, 483 3.

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Sect. 42A, first paragraph, first sentence revised, 1991, 234 3; second sentence revised, 1991, 234 2.  
Sect. 44 amended, 1991, 483 4.  
Sect. 50 amended, 1992, 286 124 (See 1992, 286 278, 279.)  
Sect. 91A, third sentence revised, 1992, 23 9.

### CHAPTER 52 - Political Committees.

Sect. 8 amended, 1991, 234 4.

### Chapter 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

Sect. 2, first sentence revised, 1991, 483 5.  
Sect. 6, first paragraph, first and second sentences revised, 1991, 483 6.  
Sect. 7, first paragraph amended, 1991, 483 7.  
Sect. 14 amended, 1992, 133 37 (See 1992, 133 597-599.)  
Sect. 18A amended, 1991, 234 5.  
Sect. 32, sentence inserted after first sentence, 1991, 483 8.  
Sect. 34A, subsection (c) revised, 1991, 234 7.  
Sect. 38A revised, 1991, 234 8; 483 9.  
Sect. 44, last sentence revised, 1992, 286 125 (See 1992, 286 278, 279.)  
Sect. 45, second paragraph revised, 1992, 286 126. (See 1992, 286 278, 279.)  
Sect. 47 amended, 1992, 286 127. (See 1992, 286 278, 279.)

### CHAPTER 54 - Elections.

Sect. 1 revised, 1992, 403 11.  
Sect. 2 revised, 1992, 403 12; first paragraph, last sentence stricken out, 1992, 281 1.  
Sect. 4, first paragraph revised, 1992, 403 13.  
Sect. 6 revised, 1992, 403 14; second paragraph, last sentence stricken out, 1992, 281 2.  
Sect. 9, second sentence revised, 1992, 403 15.  
Sect. 9A revised, 1992, 403 16.  
Sect. 24, sentence inserted after third sentence, 1992, 281 3; sentence inserted after third sentence, 1992, 403 17; last sentence revised, 1991, 234 9.  
Sect. 41, fifth paragraph amended, 1992, 286 128 (See 1992, 286 278, 279.)  
Sect. 42 amended, 1991, 234 10.  
Sects. 55-58 repealed, 1991, 234 11.  
Sect. 58A, paragraph added, 1991, 234 12.  
Sect. 65 amended, 1992, 286 129 (See 1992, 286 278, 279.)  
Sect. 93, revised, 1991, 234 13.  
Sect. 95, second paragraph, fourth sentence stricken out and two sentences inserted, 1991, 234 14.  
Sect. 135 amended, 1992, 286 130. (See 1992, 286 278, 279.)

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## **CHANGES IN THE**

### **CHAPTER 54A - Election of City and Town Officers by Proportional Representation and Preferential Voting.**

### **CHAPTER 55 - Disclosure of Campaign Expenditures and Contributions and Election Inquests.**

Sect. 6, paragraph inserted after fourth paragraph, 1992, 133 379. (See 1992, 133 597-599.)

Sect. 18, thirteenth paragraph, last sentence stricken out, 1991, 175 1; three paragraphs inserted after thirteenth paragraph, 1991, 175 2.

### **CHAPTER 55A - Limited Public Financing of Campaigns for Statewide Elective Office.**

### **CHAPTER 55B - The State Ballot Law Commission.**

### **CHAPTER 56 - Violations of Elections Laws.**

### **CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and Apportionment of Representatives.**

Sect. 1 revised, 1992, 7 2; 105 2. (See 1992, 7 5; 105 6.)

### **CHAPTER 58 - General Provisions relative to Taxation.**

Sect. 17C added, 1991, 138 234. (See 1991, 138 393.)

Sect. 18B amended, 1991, 552 39.

Sect. 20A revised, 1992, 133 381. (See 1992, 133 597-599.)

### **CHAPTER 58A - Appellate Tax Board. (Former title, Board of Tax Appeals.)**

### **CHAPTER 59 - Assessment of Local Taxes.**

Sect. 2A amended, 1991, 481 7.

Sect. 5 amended, 1991, 7 1A; clause Eighteenth revised, 1991, 405 1; clause Thirty-sixth revised, 1991, 481 8; clause Fortieth, first paragraph amended, 1991, 138 380; clause revised, 1992, 286 131; clause Forty-first A, first paragraph, sentence added, 1991, 138 126. (See 1991, 7 2; 138 393; 1992, 286 278, 279.)

Sect. 5H added, 1992, 36 1.

Sect. 21C, paragraph (f) amended 1991, 6 20; paragraph (i) revised, 1992, 286 133; paragraph (k 1/2) added, 1991, 138 243; stricken out, 1992, 286 132. (See 1991, 6 95-97; 138 393; 1992, 286 278, 279.)

Sect. 25 revised, 1991, 138 127. (See 1991, 138 393.)

Sect. 78A amended, 1992, 133 386. (See 1992, 133 597-599.)

### **CHAPTER 59A - Classification of Real Property.**

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### **CHAPTER 60 - Collection of Local Taxes.**

Sect. 23 amended, 1992, 403 18.

#### **CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.**

Sect. 1, first sentence revised, 1991, 138 128. (See 1991, 138 393.)

Sect. 2, first paragraph, seventh sentence revised, 1992, 286 134. (See 1992, 286 278, 279.) Sect. 2A amended, 1992, 133 388. (See 1992, 133 597-599.)

#### **CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.**

#### **CHAPTER 61 - classification and Taxation of Forest Lands and Forest Products.**

(Former title, Taxation of Forest Products and Classification and of Forest Lands.)

#### **CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.**

#### **CHAPTER 61B - Classification and Taxation of Recreational Land.**

#### **CHAPTER 62 - Taxation of Incomes.**

Sect. 2, paragraph (a), Part 1, subparagraph A amended, 1992, 133 389; Part 2, subparagraph A amended, 1992, 133 390; Part 2, paragraph (I) added, 1992, 133 391 (See 1992, 133 597-599.) Sect. 6D amended, 1992, 286 135, 136. (See 1992, 286 278, 279.)

Sect. 6G amended, 1992, 286 137. (See 1992, 286 278, 279.)

#### **CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.**

#### **CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.**

Sect. 14, subsection (a) amended, 1992, 133 393. (See 1992, 133 597-599.)

#### **CHAPTER 62C - Administrative Provisions Relative to State Taxation.**

Sect. 12A added, 1992, 255 1; section repealed, 1992, 402 2.

Sect. 21, clause (11), first paragraph revised, 1991, 138 129; subsection (b), clause (15) stricken out, 1992, 402 3; paragraph 15 added, 1992, 2. (See 1991, 138 393.)

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Sect. 21A added, 1992, 133 394; section repealed, 1992, 402 4 (See 1992, 133 597-599.)

Sect. 26 amended, 1991, 412 54.

Sect. 32 revised, 1992, 133 395. (22See 1992, 133 597-599.)

Sect. 40, first paragraph stricken out and two paragraphs inserted, 1992, 133 396 (See 1992, 133 597-599.)

Sect. 78 added, 1992, 133 397. (See 1992, 133 597-599.)

Sect. 81 added, 1991, 7 1

Sect. 82 added, 1992, 4402 5,

Sect. 83 added, 1992, 402 5. (See 1991, 7 2.)

### **CHAPTER 62D - SET-OFF DEBT COLLECTION.**

### **CHAPTER 62 E - WAGE REPORTING SYSTEM.**

Sect. 1 amended, 1991, 412 53A. (See 1991, 412 139.)

Sect. 12, paragraph added, 1992, 26 1.

### **CHAPTER 62F - LIMITATION ON THE GROWTH OF STATE TAX REVENUES.**

### **CHAPTER 63 - Taxation of Corporations.**

Sect. 30, paragraph 1 amended, 1992, 133 398; paragraph (2) amended, 1992, 133 399; paragraph (5) amended, 1992, 133 400, 401, 402; paragraph added, 1992, 133 403 (See 1992, 133 597-599.)

Sect. 31C amended, 1992, 286 138. (See 1992, 286 278, 279.)

Sect. 38B, paragraph (a) amended, 1992, 133 405; paragraph (b) amended, 1992, 133 406. (See 1992, 133 597-599.)

Sect. 38M added, 1991, 138 130; section revised, 1991, 176 6. (See 1991, 138 393; 176 7.)

### **CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.**

### **CHAPTER 63B - Declaration of Estimated Tax by Corporations.**

Sect. 3, subsection (a) amended, 1992, 133 406A (See 1992, 133 597-599.)

### **CHAPTER 63C - Taxation of Income of Certain Corporations.**

Chapter repealed, 1985, 593 24.

### **CHAPTER 64 - Taxation of Stock Transfers.**

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### **CHAPTER 64A - Taxation of Sales of Gasoline. (Former Title, Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel.)**

Sect. 13, paragraphs (a) and (b) revised, 1991, 33 85; paragraph (b) revised, 1992, 286 139. (See 1992, 286 278, 279. (See 1991, 33 155.)

### **CHAPTER 64B - Excise upon Charges for Meals served to the Public.**

#### **CHAPTER 64C - Cigarette Excise.**

Sect. 6 amended, 1992, 254 4. (See 1992, 254 8.)

Sect. 7 added, 1992, 254 3. (See 1992, 254 8.)

Sect. 13 amended, 1991, 138 377; 1992, 286 140. (See 1992, 286 278, 279.) (See 1991, 138 393 226.)

Sect. 26 amended, 1991, 412 54. (See 1991, 412 139.)

Sect. 28 revised, 1991, 495 14; paragraph (c) revised, 1992, 133 407; paragraph (d) stricken out, 1992, 133 407; section amended, 1992, 254 5. (See 1992, 254 8) (See 1992, 133 597-599.)

#### **CHAPTER 64D - Excise on Deeds, Instruments and Writings.**

Sect. 1 revised, 1992, 133 408. (See 1992, 133 597-599.)

Sect. 12 revised, 1992, 133 410; first paragraph amended, 1992, 133 412; fifth paragraph amended, 1992, 133 413, 414. (See 1992, 133 597-599.)

Sect. 13 amended, 1992, 23 10. (See 1992, 23 77.)

#### **CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.**

#### **CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and used within the Commonwealth.**

#### **CHAPTER 64G - Room Occupancy Excise.**

Sect. 3A, fourth sentence amended, 1992, 133 416 (See 1992, 597-599.)

#### **CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.**

Sect. 1, definitions of "Sale" and "Selling" amended, 1991, 4 1; definition of "Sale at retail" or "Retail sale", fourth sentence revised, 1991, 4 2; definition of "Sales price" revised, 1991 4 3; definition "Costs of performance" stricken out, 1991, 4 4; definition of "Services" revised, 1991, 4 5; definition of "Sic" stricken out, 1991, 4 6; definition of "Business" revised, 1992, 286 141; section amended, 1992, 286 142. (See 1992, 286 278, 279.)

Sect. 2A repealed, 1991, 4 7.

Sect. 3, paragraph (a) amended, 1991, 4 7A; paragraph (b) stricken out, 1991, 4 8.

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## CHANGES IN THE

Sect. 6, paragraphs (mm), (nn) and (oo) stricken out, 1991, 4 9; paragraph (qq), first sentence revised, 1991, 4 10.  
Sect. 8, paragraphs (f), (g), (h), and (i) revised, 1991, 4 11; paragraph (e) revised, 1992, 286 143 (See 1992, 286 278, 279)  
Sect. 25, third paragraph stricken out, 1991, 489 1; fourth paragraph revised, 1992, 133 415. (See 1991, 489 20; 1992, 133 597-599.)  
Sect. 27A added, 1991, 4

### **CHAPTER 64I -- Tax on storage, Use or Other Consumption of Certain Tangible Personal Property**

Sect. 2A repealed 1991, 4 13.  
Sect. 4, second paragraph, two sentences added, 1991, 6 21; last sentence amended, 1992, 23 11; sentence added, 1992, 23 12. (See 1991, 6 95-97.)  
Sect. 8, paragraphs (a) and (b) stricken out, paragraph (a) inserted, 1991, 4 14; paragraphs (h), (i), (j), (k), revised, 1991, 4 15; paragraph (g) revised, 1992, 286 144. (See 1992, 286 278, 279.)  
Sect. 26, third paragraph stricken out, 1991, 489 2 (See 1991, 489 20.)

### **CHAPTER 64J - TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.**

Sect. 12, two paragraphs added, 1991, 510.

### **CHAPTER 65 - Taxation of Legacies and Successions.**

#### **CHAPTER 65A - Taxation of Transfers of Certain Estates.**

#### **CHAPTER 65B - Settlement of Disputes respecting the Domicile of Decedents for Death Tax Purposes.**

#### **CHAPTER 65C - Massachusetts Estate Tax.**

Sect. 2, subsection (a) amended, 1992, 133 417; subsection (c) inserted, 1992, 133 418. (See 1992, 133 597-599.)  
Sect. 2A added, 1992, 133 419. (See 1992, 133 597.)  
Sect. 3, subsection (a) revised, 1992, 133 420; subsection (b) amended, 1992, 133 421 (See 1992, 133 597.)  
Sect. 3A, subsection (a) amended, 1992, 133 422 (See 1992, 133 597.)

### **Chapter 66 - Public Records**

Sect. 10 amended, 1991, 412 55; section amended, 1992, 286 145.  
(See 1991, 412 139; 1992, 286 278, 279.)

### **CHAPTER 66A - Fair Information Practices.**



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### CHAPTER 67 - Parishes and Religious Societies.

Sect. 41 amended, 1991, 134.

### CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.

Sect. 19, sixth and seventh sentences revised, 1992, 133 423 (See 1992, 133 598-599.)

Sect. 24 amended, 1992, 133 424. (See 1992, 133 598-599.)

### CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.

### CHAPTER 69 - Powers and Duties of the Department of Education.

Sect. 30 amended, 1991, 142 8, 9, 10. (See 1991, 142 49-50.)

Sect. 30A amended, 1991, 142 11, 12. (See 1991, 142 49-50.)

Sect. 31 amended, 1991, 142 13. (See 1991, 142 49-50.)

Sect. 31A amended, 1991, 142 14. (See 1991, 142 49-50.)

Sect. 31B amended, 1991, 142 15. (See 1991, 142 49-50.)

### CHAPTER 70 - School Funds and State Aid for Public Schools. (Former title, School Funds and Other State Aid for Public Schools.)

Sect. 2 amended, 1992, 403 19.

### CHAPTER 70A - EQUAL EDUCATIONAL OPPORTUNITY GRANTS.

Sect. 5 revised, 1991, 138 131. (See 1991, 138 393.)

### CHAPTER 71 - Public Schools.

Sect. 4 amended, 1992, 403 20.

Sect. 7A, first paragraph, first sentence, clause (d) revised, 1991, 138 335; amended, 1991, 145 31; last paragraph, sentence added, 1991, 145 32; first paragraph, first sentence revised, 1992, 286 14 (See 1991, 138 393; 145 47; 1992, 286 278, 279.)

Sect. 7B, first paragraph amended, 1991, 145 33; last paragraph, sentence added, 1991, 145 34.) (See 1991, 145 47.)

Sect. 16, subsection (d) amended, 1991, 138 134. (See 1991, 138 393.)

Sect. 16B, paragraph inserted after sixth paragraph, 1991, 6 22; sixth paragraph, paragraph added, 1991, 138 374. (See 1991, 6 95-97; 138 393.)

Sect. 16C amended, 1991, 138 132 (See 1991, 138 393.)

Sect. 17 repealed, 1991, 138 336. (See 1991, 138 393.)

Sect. 20A added, 1991, 275.

Sect. 37H, second paragraph, two sentences inserted after first sentence, 1992, 133 430 (See 1992, 133 597-599.)

Sect. 37M added, 1992, 133 431 (See 1992, 133 597-599.)

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## CHANGES IN THE

Sect. 38G, paragraph added, 1991, 151.

Sect. 40, first paragraph, third and fourth sentences stricken out and three sentences inserted, 1991, 138 230; first paragraph revised, 1991, 223 3. (See 1991, 138 393; 223 5.)

Sect. 41A amended, 1991, 54.

Sect. 54B revised, 1991, 138 135; 1992, 133 433. (See 1991, 138 393; 1992, 133 597-599.)

Sect. 57, inserted, 1992 286 148. (See 1992, 286 278, 279.)

Sect. 68, second and third sentences stricken out and three sentences inserted, 1991, 138 133. (See 1991, 138 393.)

Sect. 88 added, 1991, 145 35 (See 1991, 145 47.)

### CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.

Sect. 1, definition of "School age child with special needs" revised, 1991, 138 136; revised, 1991, 514 1; definition of "Least restrictive environment" added, 1991, 138 137; section amended, 1992, 286 149. (See 1991, 138 393; 514 4; 1992, 286 278, 279.)

Sect. 2, three sentences inserted after first sentence, 1991, 138 138 (See 1991, 138 393.)

Sect. 3, second paragraph revised, 1991, 138 139; twelfth paragraph, third and fourth sentences stricken out and four sentences inserted, 1991, 138 140; thirteenth paragraph revised, 1991, 138 340. (See 1991, 138 393.)

Sect. 3A added, 1991, 138 141. (See 1991, 138 393.)

Sect. 5, first paragraph amended, 1991, 138 142; first paragraph, third and fourth sentences stricken out and one paragraph inserted, 1991, 138 143; first paragraph, first sentence amended, 1992, 286 150; second paragraph, first sentence revised, 1992, 133 434. (See 1991, 138 393; 1992, 133 597-599; 1992, 286 278, 279.)

Sect. 11 repealed, 1991, 138 144. (See 1991, 138 393.)

Sect. 11A added, 1992, 133 435 (See 1992, 133 597-599.)

Sect. 12, fifth paragraph, third and fourth sentences stricken out, 1991, 138 145 (See 1991, 138 393.)

### CHAPTER 72 - School Registers and Returns.

#### CHAPTER 73 - State Colleges and Community Colleges. (Former title, State Teachers Colleges and Community Colleges.)

Sect. 1F, first paragraph revised, 1991, 462 2.

Sect. 3, last sentence revised, 1992, 153 20. (See 1991, 462 3; 1992, 153 85.)

Sect. 17 amended, 1992, 133 436. (See 1992, 133 599.)

### CHAPTER 74 - Vocational Education.

Sect. 8 amended, 1991, 138 146; paragraph added, 1992, 133 437. (See 1991, 138 393; 1992, 133 599.)

Sect. 30 amended, 1992, 265.

Sect. 33, second sentence stricken out and three sentences inserted, 1991,

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386.

Sect. 37B, second paragraph revised, 1991, 138 147 (See 1991, 138 393.)

Sect. 37C, third sentence revised, 1991, 138 148. (See 1991, 138 393.)

Sect. 37D repealed, 1991, 138 149. (See 1991, 138 393.)

Sect. 37E repealed, 1991, 138 150 (See 1991, 138 393.)

### **CHAPTER 75 - University of Massachusetts. (Former title, Massachusetts State College.)**

Sect. 1 revised, 1991, 142 16; section amended, 1992, 133 170. (See 1991, 142 49, 50; 1992, 133 599.)

Sect. 1A added, 1991, 142 17; fourth paragraph, fourth sentence revised, 1991, 222 3. (See 1991, 142 49, 50.)

Sect. 2 revised, 1991, 142 18. (See 1991, 142 49, 50.)

Sect. 11A amended, 1991, 462 2A (See 1991, 462 3.)

Sect. 13 revised, 1991, 142 19. (See 1991, 142 49, 50.)

Sect. 14, second and third paragraphs stricken out and one paragraph inserted, 1991, 142 20; definition of "General salary schedule" stricken out, 1991, 142 21. (See 1991, 142 49, 50.)

Sects. 14A and 14B added, 1991, 142 22 (See 1991, 142 49, 50.)

Sect. 14C added, 1992, 153 21. (See 1992, 153 85.)

Sect. 32, paragraph added, 1992, 122 439. (See 1992, 133 599.)

### **CHAPTER 75A - University of Lowell. (Former title, Lowell Technological Institute of Massachusetts.)**

Chapter repealed, 1991, 142 23. (See 1991, 142 49, 50.)

### **CHAPTER 75B - Southeastern Massachusetts University. (Former title, South Eastern Massachusetts University.) (Former title Southeastern Massachusetts Technological Institute.)**

Chapter repealed, 1991, 142 24. (See 1991, 142 49, 50.)

### **CHAPTER 75C - Private Correspondence Schools.**

### **CHAPTER 75D - Private Business Schools.**

### **CHAPTER 76 - School Attendance.**

Sect. 12, first paragraph revised, 1991, 6 23 (See 1991, 6 95-97.)

### **CHAPTER 77 - School Offenders and County Training Schools.**

### **CHAPTER 78 - Libraries.**

Sect. 19A amended, 1992, 133 441. (See 1992, 133 599.)

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## **CHANGES IN THE**

### **CHAPTER 79 - Eminent Domain.**

Sect. 3, first paragraph amended, 1991, 552 40.  
Sect. 22, last sentence revised, 1991, 401 1.

### **CHAPTER 79A - Relocation Assistance.**

Sect. 1 amended, 1991, 481 9.  
Sect. 7 amended, 1991, 552 41.

### **CHAPTER 80 - Betterments.**

### **CHAPTER 80 - A Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.**

### **CHAPTER 81 - State Highways.**

Sect. 1, caption "PUBLIC WORKS" stricken out and caption "HIGHWAYS" inserted, 1991, 552 42; section amended, 1991, 552 43.  
Sect. 7I amended, 1991, 552 44.  
Sect. 7J amended, 1991, 552 45.  
Sect. 21 amended, 1992, 334.  
Sect. 26 amended, 1991, 552 46.  
Sect. 31 amended, 1991, 552 47.  
Sect. 32 amended, 1991, 552 48.  
Sect. 71 stricken out, 1992, 286 151. (See 1992, 286 278, 279.)

### **CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinu- ance of Public Ways, and Specific Repairs Thereon.**

Sect. 1, second paragraph amended, 1991, 552 49.  
Sect. 8 amended, 1991, 552 50.

### **CHAPTER 83 - Sewers Drains and Sidewalks.**

Sect. 1 paragraph added, 1992, 343 3.  
Sect. 4 amended, 1991, 552 51.  
Sect. 15B added, 1991, 387.

### **CHAPTER 84 - Repair of Ways and Bridges.**

Sect. 1 amended, 1991, 552 52.  
Sect. 11 amended, 1991, 552 53.  
Sect. 15 amended, 1992, 343 4.

### **CHAPTER 85 - Regulations and By Laws to Ways and Bridges.**

Sect. 2 amended, 1991, 552 54.  
Sect. 2C amended, 1991, 412 56 (See 1991, 412 139.)

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Sect. 7A amended, 1991, 33 86; 552 55. (See 1991, 33 155.)  
Sect. 11C revised, 1992, revised, 1992, 133 442. (See 1992, 133 598.)  
Sect. 30 amended, 1991, 552 56.  
Sect. 30A amended, 1991, 552 57; first sentence revised, 1992, 286 152. (See 1992, 286 278, 279.)

### **CHAPTER 86 - Boundaries of Highways and Other Public Places, and Encroachments Thereon.**

#### **CHAPTER 87 - Shade Trees.**

Sect. 8 amended, 1991, 552 58.

#### **CHAPTER 88 - Ferries, Canals and Public Landings.**

Sect. 12 amended, 1991, 552 59.  
Sect. 14 amended, 1991, 552 60.

#### **CHAPTER 89 - Law of the Road.**

Sect. 1, first paragraph amended, 1991, 552 61.  
Sect. 4 amended, 1991, 552 62.  
Sect. 4B amended, 1991, 552 63.  
Sect. 8, first paragraph amended, 1991, 552 64; second paragraph amended, 1991, 552 65.  
Sect. 9, first paragraph amended, 1991, 552 66.  
Sect. 11, first paragraph amended, 1991, 552 67.

#### **CHAPTER 90 - Motor Vehicles and Aircraft.**

Sect. 1, definition of "Boat transporter" inserted, 1991, 129 5; definition of "B-train assembly unit" inserted 1991, 129 4; definition of "House trailer" inserted, 1991, 129 4A; definition of "Low-boy boat transporter" inserted, 1991, 129 8; definition of "Motorized bicycle" revised, 1991, 33 87; 138 388; 1992, 286 153; definition of "Routes of reasonable access" revised, 1991, 129 2; definition of "Specific business location" stricken out, 1991, 129 1; definition of "Specific manufacturing facility" stricken out, 1991, 129 6; definition of "Stinger steered boat transporter" inserted, 1991, 129 7; definition of "Terminal" revised, 1991, 129 3; definition of "Truck trailer" inserted, 1991, 129 3; section amended, 1991, 552 68; definition of "Dealer" revised, 1991, 489 3; definition of "Established place of business" revised, 1991, 489 4; definition of "Farmer" revised, 1991, 489 5; 1992, 128; definition of "Manufacturer" revised, 1991, 489 6; definition of "Owner-contractor" revised, 1991, 489 7; definition of "Repairman" revised, 1991, 489 8; definition of "Repossessor" stricken out, 1991, 489 11; definition of "Special mobile equipment" revised, 1991, 489 9; definition of "Tow truck operator" stricken out, 1991, 489 12; definition of "Transporter" revised, 1991, 489 10. (See 1991, 33 155; 138 393; 489 20; 1992, 286 278, 279.)

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## CHANGES IN THE

- Sect. 1A amended, 1992, 133 444. (See 1992, 133 598.)
- Sect. 2, seventh paragraph, second sentence revised, 1991, 317; paragraph added, 1991, 138 151; section amended, 1991, 424; thirteenth paragraph stricken out, 1991, 489 13; section amended, 1992, 286 154. (See 1991, 138 393; 489 20; 1992, 286 278, 279.)
- Sect. 5 revised, 1991, 489 14. (See 1991, 489 20.)
- Sect. 7, second paragraph, sentence added, 1991, 129 8A.
- Sect. 7E amended, 1991, 52; section amended, 1992, 286 155. (See 1992, 286 278, 279.)
- Sect. 8 amended, 1991, 138 267. (See 1991, 138 393.)
- Sect. 9 amended, 1991, 552 69; sentence inserted after first sentence, 1991, 489 15; section amended, 1992, 257. (See 1991, 489 20.)
- Sect. 9D amended, 1992, 286 156. (See 1992, 286 278, 279.)
- Sect. 14A, sentence inserted after first sentence, 1992, 329 1; last sentence revised, 1992, 329 2.
- Sect. 15 revised, 1991, 201.
- Sect. 18A, first paragraph, third sentence stricken out, 1992, 133 443; second, fourth, fifth and sixth paragraphs stricken out and one paragraph inserted, 1992, 133 443. (See 1992, 133 598.)
- Sect. 19, first paragraph revised, 1991, 129 8B; first sentence amended, 1991, 552 70; section amended, 1991, 552 71.
- Sect. 19A amended, 1991, 552 72.
- Sect. 19D amended, 1991, 552 73.
- Sect. 19F revised, 1991, 129 9; second paragraph amended, 1992, 286 158. (See 1992, 286 278, 279.)
- Sect. 19G revised 1991, 129 10.
- Sect. 19H repealed, 1991 129 11.
- Sect. 20, fourth paragraph, first sentence stricken out, 1991, 138 153. (See 1991, 138 393.)
- Sect. 20A amended, 1992, 133 445, 446. (See 1992, 133 598, 599.)
- Sect. 20A 1/2 amended, 1992, 153 22. (See 1992, 153 85.)
- Sect. 22C amended, 1991, 412 57; revised, 1992, 286 157. (See 1991, 412 139; 1992, 286 278, 279.)
- Sect. 23 amended, 1992, 286 159. (See 1992, 286 278, 279.)
- Sect. 24 amended, 1991, 138 287; section amended, 1991, 460 1; subdivision (2), paragraph (a 1/2) inserted, 1991, 460 2; section amended, 1991, 460 3; paragraph (c) revised, 1991, 460 4; paragraph inserted, 1992, 133 447; amended, 1992, 379 1B, 1C. (See 1991, 138 393; 460 5; 1992, 133 599; 1992, 379 232, 233.)
- Sect. 27 revised, 1991, 138 154. (See 1991, 138 393.)
- Sect. 29 revised, 1991, 412 58. (See 1991, 412 139.)
- Sect. 32I repealed, 1991, 489 16. (See 1991, 489 20.)
- Sect. 33, subdivision (7), seventh and eighth paragraphs stricken out, 1991, 489 17; section amended, 1992, 133 448; last paragraph revised, 1992, 133 449. (See 1991, 489 20; 1992, 133 599.)
- Sect. 34, first paragraph amended, 1991, 552 74; paragraph added, 1991, 138 156; paragraph (2), clause (h) revised, 1991, 412 59. (See 1991, 138 393; 412 139.)

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## **GENERAL LAWS**

### **CHAPTER 90A - The Highway Safety Act.**

Sect. 1 amended, 1991, 552 75.

### **CHAPTER 90B - Motorboats and Other Vessels.**

Sect. 12 amended, 1991, 412 60. (See 1991, 412 139.)

Sect. 14 amended, 1992, 286 160. (See 1992, 286 278, 279.)

Sect. 20, definition of "Law enforcement officer" amended, 1991, 412 61. (See 1991, 412 139.)

Sect. 32 amended, 1991, 412 62. (See 1991, 412 139.)

### **CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.**

Sect. 1, definition of "Audit sheet" stricken out and definitions of "Appellate division" and "Audit sheet" inserted, 1991, 138 155; definition of "Appellate division" amended, 1992, 379 2; definition of "Audit sheet" amended, 1992, 286 161; definition of "Citation" revised, 1991, 138 157; definition of "Civil Motor Vehicle Infraction", "Criminal", "District Court", "Division", and "Magistrate" inserted, 1991, 138 158; definition of "Police chief" amended, 1991, 412 63; definitions of "Registrar", "Scheduled assessment" and "Violator" inserted, 1991, 138 159; definition of "scheduled assessment" amended, 1992, 379 3; section amended, 1991, 412 63, 63A, 64. (See 1991, 138 393; 412 139; 1992, 379 232, 233.)

Sect. 2, fifth paragraph stricken out and two paragraphs inserted, 1991, 138 160; fifth paragraph, clause (b) amended, 1992, 379 4. (See 1991, 138 393; 1992, 379 232, 233.)

Sect. 3 revised, 1991, 138 161. (See 1991, 138 393.)

Sect. 4, first paragraph revised, 1991, 138 162. (See 1991, 138 393.)

Sects. 6-7 stricken out and sections 6, 7 and 7A added, 1991, 138 163.

Sect. 7A amended, 1992, 379 5. (See 1992, 379 232, 233.) (See 1991, 138 393.)

### **CHAPTER 90D - Motor Vehicle Certificate of Title.**

Sect. 2 amended, 1991, 481 10, 11.

Sect. 20B amended, 1991, 481 11.

### **Chapter 90E - Bikeways**

Sect. 1 amended, 1991, 552 76; definition of "Commissioner" revised, 1992, 286 162. (See 1992, 286 278, 279.)

### **CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR VEHICLES ACT.**

New chapter inserted, 1990, 246 2.

Sect. 1, definition of "Commerce" revised, 1992, 18 1.

Sect. 8 amended, 1992, 286 163. (See 1992, 286 278, 279.)

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## **CHANGES IN THE**

Sect. 9 amended, 1992, 286 164. (See 1992, 286 278, 279.)

Sect. 11, seventh paragraph revised, 1992, 18 2; paragraph (E), first two sentences revised, 1992, 18 3.

### **CHAPTER 90G - CIVIL INFRACTIONS.**

New chapter inserted, 1992, 133 1 452 (See 1992, 133 1598).

### **CHAPTER 91 - Waterways.**

Sect. 10A 1/2 added, 1991, 33 88. (See 1991, 33 155.) Sect. 11A added, 1991, 33 89. (See 1991, 33 155.)

### **CHAPTER 91A - Port of Boston Commission. (Former title, Port of Boston Authority.)**

### **CHAPTER 92 - Metropolitan Sewers, Water and Parks.**

Sects. 60B-63B repealed, 1991, 412 65. (See 1991, 412 139.)

Sect. 72 amended, 1991, 552 77.

Sect. 73 amended, 1991, 552 78.

Sect. 104 revised, 1992, 36 2.

Sect. 107A added, 1992, 36 3.

Sect. 108, first sentence stricken out and five sentences inserted, 1992, 36 4.

Sect. 113 revised, 1991, 138 165; 1992, 133 453. (See 1992, 133 599.)

Sect. 113A added, 1992, 133 453. (See 1992, 133 599.)

### **CHAPTER 92A - Commonwealth Zoological Corporation**

New chapter inserted, 1991, 6 1 24. (See 1991, 6 1 58.)

Sect. 5, clause (p) amended, 1991, 412 66. (See 1991, 412 139.)

### **CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.**

New chapter inserted, 1992, 286 1 165

### **CHAPTER 93 - Regulation of Trade and Certain Enterprises.**

Sect. 30A amended, 1991, 552 79.

Sect. 52A, first sentence amended, 1991, 138 235; amended, 1992, 286 167. (See 1991, 138 393; 1992, 286 278, 279.)

Sect. 104 added, 1991, 414 1.

Sect. 105 added, 1991, 414 1.

### **CHAPTER 93A - Regulation of Business Practices for Consumers Protection.**



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## **GENERAL LAWS**

### **CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers.**

Sect. 5A amended, 1991, 481 12.

### **CHAPTER 93C - Protection of Consumers Against Careless and Erroneous Billings.**

### **CHAPTER 93D - Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems.**

Sect. 1 amended, 1991, 552 80.

### **CHAPTER 93E - Regulation of Dealers' Agreements for the Sale of Gasoline.**

### **CHAPTER 93F - Regulating Certain Business Practices Between Motion Picture Distributors and Exhibitors.**

### **CHAPTER 93G - Inspection and Sale of Food, Drugs and Various Articles.**

Sect. 123 amended, 1992, 133 170 (See 1992, 133 599.)

Sect. 184C added, 1991, 121.

Sect. 295CC, two sentences inserted after first sentence, 1991, 214.

Sect. 323, paragraph (i) added, 1992, 405 1.

Sect. 327 amended, 1992, 405 2.

## **CHAPTER 94A - MILK CONTROL**

### **CHAPTER 94B - Hazardous Substances.**

### **CHAPTER 94C - Controlled Substances Act.**

Sect. 2 amended, 1992, 286 168 (See 1992, 286 278, 279.)

Sect. 7, paragraph (g) revised, 1991, 445 1; second paragraph revised, 1992, 10 1; paragraph (g) amended, 1992, 10 2.

Sect. 9 revised, 1991, 445 2; paragraph (a) amended, 1992, 10 3; subsection (b), first paragraph revised, 1992, 10 4; two paragraphs added, 1991, 545; paragraph (c) revised, 1992, 10 5; paragraph (d) amended, 1992, 10 6; paragraph (e), first sentence revised, 1992, 10 6.

Sect. 21A added, 1992, 176. Sect. 31, Class B, subsection (a) amended, 1991, 341.

Sect. 32A, paragraph (c) amended, 1991, 391.

Sect. 32E, paragraph (b) amended, 1991, 395. (See 1991, 412 139.)

Sect. 47 amended, 1991, 412 66A, 67; subsection (d) amended, 1992, 133 455, 456; subsection (f) amended, 1992, 133 457, 458; paragraph (2) inserted, 1992, 133 459. (See 1991, 412 139; 1992, 133 599.)

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## **CHANGES IN THE**

### **CHAPTER 94D - Controlled Substances Therapeutic Research Act.**

New chapter inserted, 1991, 480 | 1.

### **CHAPTER 95 - Measuring of Leather.**

### **CHAPTER 96 - Measurement of Lumber.**

### **CHAPTER 97 - Surveying of Land.**

Sects. 8-17 stricken out and ten sections inserted, 1991, 248.

### **CHAPTER 98 - Weights and Measures.**

Sect. 33A amended, 1992, 403 | 21.

### **CHAPTER 99 - The Metric System of Weights and Measures.**

### **CHAPTER 100 - Auctioneers.**

### **CHAPTER 100A - MOTOR VEHICLE DAMAGE REPAIR SHOPS.**

New chapter inserted, 1988, 273 | 32. (See 1988, 273 | 77.)  
Sect. 2, first sentence stricken out and two sentences inserted, 1991, 143 | 1.  
Sect. 7, second paragraph stricken out, 1991, 143 | 2.  
Sect. 8 revised, 1991, 143 | 3.  
Sect. 9 amended, 1991, 143 | 4.

### **CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.**

Sect. 22 amended, 1992, 403 | 22.

### **CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.**

Sect. 27 amended, 1991, 552 | 81.

### **CHAPTER 103 - Pilots.**

Sect. 31 revised, 1991, 161 | 1; first paragraph revised, 1991, 161 | 2. (See 1991, 161 | 3.)

### **CHAPTER 104 - Agents, Consignees and Factors.**

### **CHAPTER 104A - Consignment of Fine Art.**

### **CHAPTER 105 - Public Warehouses.**

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## **GENERAL LAWS**

### **CHAPTER 105A - SELF-STORAGE FACILITIES.**

#### **CHAPTER 106 - Uniform Commercial Code.**

Sect. 1-105, subsection (2), paragraph added, 1991, 286 1; Article 4A inserted, 1991, 286 2. (See 1991, 286 3.)

Sect. 2-207 amended, 1991, 319.

Article 4A inserted, 1991, 286 2. (See 1991, 286 3.)

Sect. 9-301, paragraph (2) revised, 1991, 272 1.

Sect. 9-312, paragraph (4) amended, 1991, 272 2.

Sect. 9-410 amended, 1992, 286 169. (See 1992, 286 278, 279.)

#### **CHAPTER 107 - Money and Registration, Issuance and Redemption of Bonds and other Securities, Facsimile Signatures. (Former title, Money and Negotiable Instruments.)**

#### **CHAPTER 107A - Assignments of Accounts Receivable.**

#### **CHAPTER 108 - Criminal Offences Relative to Bills of Lading. (Former title, Bills of Lading.)**

#### **CHAPTER 108A - Partnerships.**

#### **CHAPTER 109 - Limited Partnerships.**

#### **CHAPTER 109A - FRAUDULENT TRANSFERS OF REAL AND PERSONAL PROPERTY.**

#### **CHAPTER 110 - Labels, Trade Marks, Names and Registration thereof.**

Sect. 401 amended, 1992, 157 1.

#### **CHAPTER 110A - Uniform Securities Act.**

Sect. 204 amended, 1991, 490 1; subsection (a), clauses (F) and (G) revised, 1991, 490 2.

Sect. 407A, caption revised, 1991, 490 3; subsection (a) revised, 490 4; subsection (d) added, 1991, 490 5; amended, 1992, 286 170. (See 1992, 286 278, 279.)

Sect. 408, second sentence revised, 1991, 490 6.

Sect. 410, subsection (e), first sentence revised, 1991, 490 7.

#### **CHAPTER 110B - Registration and Protection of Trademarks.**

#### **CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.**

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## **CHANGES IN THE**

### **CHAPTER 110D - REGULATION OF CONTROL SHARE ACQUISITIONS.**

New chapter inserted, 1987, 272 1. (See 1987, 272 3.)

### **CHAPTER 110E - REGULATION OF CONTROL SHARE ACQUISITIONS OF FOREIGN CORPORATIONS.**

New chapter inserted, 1987, 272 2.

### **CHAPTER 110F - BUSINESS COMBINATIONS WITH INTERESTED SHARE-HOLDERS.**

New chapter inserted, 1989, 242 8.

## **CHAPTER 111 - Public Health.**

Sect. 2D amended, 1992, 286 173.

(See 1992, 286 278, 279.)

Sect. 5L amended, 1992, 132 1.

Sect. 5N, first paragraph amended, 1992, 132 2; section amended, 1992 132 3.

Sect. 5O amended, 1992, 132 4, 5; .

Sect. 5Q added, 1992, 132 6.

Sect. 13 amended, 378.

Sect. 25A amended, 1992, 403 23.

Sect. 25C, second paragraph, sentence inserted after second sentence, 1991, 495 15.

Sect. 27C amended, 1992, 403 24.

Sect. 31 amended, 1992, 23 13.

Sect. 31A, second paragraph amended, 1991, 552 82.

Sect. 31B amended, 1992, 23 14.

Sect. 31C, fourth paragraph, first sentence revised, 1992, 23 15.

Sect. 51 amended, 1991, 495 16.

Sect. 53C added, 1991, 509.

Sect. 67E, paragraph added, 1992, 87.

Sect. 69L amended, 1992, 286 171.

(See 1992, 286 278, 279.)

Sect. 70 amended, 1991, 408; first paragraph, fifth sentence stricken out and three sentences inserted, 1992, 311 1.

Sect. 70E, amended, 1992, 311 2.

Sect. 71A 1/2 revised, 1991, 138 343.

(See 1991, 138 393.)

Sect. 72G, second paragraph, sentence added, 1992, 133 461.

(See 1992, 133 599.)

Sect. 111C amended, 1992 286 172.

(See 1992, 286 278, 279.)

Sect. 122 amended, 1992, 23 16.

Sect. 123 amended, 1992, 23 17.

Sect. 127A amended, 1991, 402.

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(See 1991, 412 139.)

Sect. 127B, second paragraph revised, 1992, 133 462; amended, 1992, 407 1-4.

Sect. 127C amended, 1992, 407 5, 6.

(See 1992, 133 462.)

Sect. 127F, paragraph inserted, 1992, 407 7.

Sect. 127G, revised, 1992, 407 8.

Sect. 127H repealed, 1992, 407 9.

Sect. 127I revised, 1992 407 10.

Sect. 142K amended, 1992 286 174.

(See 1992, 286 278, 279.)

Sect. 142L inserted, 1992, 340.

Sect. 150B, three paragraphs added, 1992, 23 18; last paragraph revised, 1992, 69 4; 1992, 286 175.

(See 1992, 69 22; 1992, 286 278, 279.)

Sect. 201 amended, 1991, 412 69; first paragraph revised, 1992, 39.

(See 1991, 412 139.)

### **CHAPTER 111A - Drug Addiction Rehabilitation.**

Chapter repealed, 1969, 889 23A.

### **CHAPTER 111B - Alcoholism.**

### **CHAPTER 111C - Emergency Medical Care.**

Sect. 15 added, 1991, 206.

### **CHAPTER 111D - Clinical Laboratories.**

### **CHAPTER 111E - DRUG REHABILITATION.**

### **CHAPTER 111F - HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS.**

### **CHAPTER 111G - EARLY CHILDHOOD INTERVENTION SERVICES.**

### **CHAPTER 111H - MASSACHUSETTS LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ACT.**

Sect. 1, amended, 1992, 403 25.

Sect. 2, first paragraph amended, 1991, 138 43. (See 1991, 138 393.)

Sects. 4A, 4B added, 1991, 138 166.

(See 1991, 138 393.)

### **CHAPTER 111I - WOMEN'S, INFANTS AND CHILDREN PROGRAM.**

Chapter Inserted, 1992, 414 | 3.

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## **CHANGES IN THE**

### **CHAPTER 112 - Registration of Certain Professions and Occupations.**

Sect. 5L added, 1992, 132 7.  
Sect. 9E, third paragraph revised, 1991, 445 3.  
Sect. 12A 1/2 added, 1991, 225.  
Sect. 12T amended, 1992, 286 176. (See 1992, 286 278, 279.)  
Sect. 12U amended, 1992, 286 177. (See 1992, 286 278, 279.)  
Sect. 12AA revised, 1991, 482 1.  
Sect. 12CC, revised, 1992, 311 3.  
Sect. 23E amended, 1991, 214 1; last paragraph stricken out, 1991, 214 2.  
Sect. 23P 1/2 revised, 1991, 484 2.  
Sect. 38 amended, 1992, 153 24. (See 1992, 153 85.)  
Sect. 39 amended, 1992, 153 25. (See 1992, 153 85.)  
Sect. 80B amended, 1992, 10 8; revised, 1992, 286 178. (See 1992, 286 278, 279.)  
Sect. 80E revised, 1992, 10 9.  
Sect. 87A, definition of "Reviewer" added, 1992, 342 1.  
Sect. 87E 1/2 added, 1992, 342 2.  
Sect. 87PP amended, 1991, 144 1,2.  
Sect. 101, four paragraphs inserted after first paragraph, 1991, 367.  
Sect. 132 amended, 1991, 6 25. (See 1991, 6 95-97.)  
Sect. 135B amended, 1992, 286 179. (See 1992, 286 278, 279.)  
Sects. 173-195, added, 1991, 168 2. Sect. 189 amended, 1992, 286 180. (See 1992, 286 278, 279.)

### **CHAPTER 113 - Promotion of Anatomical Science.**

### **CHAPTER 114 - Cemeteries and Burials.**

### **CHAPTER 115 - Veteran's Benefits.**

(Former title, State and Military Aid, Soldier's Relief, etc.)

Sect. 115, amended, 1992, 403 26.

### **CHAPTER 115A - Soldier's Homes.**

### **CHAPTER 116 - Settlement.**

### **CHAPTER 117 - Support by the Commonwealth.**

(Former title, Support by the Cities and Towns.)

Sect. 1 amended, 1992, 23 19.  
Sect. 1A amended, 1991, 6 26. (See 1991, 6 95-97.)  
Sect. 2, paragraph (d) amended, 1991, 6 27. (See 1991, 6 95-97.)  
Sect. 4, paragraph added, 1991, 138 167. (See 1991, 138 393.)

### **CHAPTER 117A - SUPPORT BY THE COMMONWEALTH.**

New chapter inserted, 1991, 255 | 4. (See 1991, 255 | 7.)

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### **CHAPTER 118 - Aid to Families with Dependent Children. (Former title, Aid to Dependent Children.)**

Sect. 2, first paragraph amended, 1991, 138 168; section amended, 1992, 133 466. (See 1991, 138 393; 1992, 133 599.)

Sect. 3 amended, 1991, 138 169. (See 1991, 138 393.)

### **CHAPTER 118A - Assistance to the Aged and Disabled. (Former title, Old Age Assistance and Medical Assistance for the Aged.)**

### **CHAPTER 118B - The Merit System in the Administration of Aid to Families with Dependent Children and Old Age Assistance.**

### **CHAPTER 118C - Coverage of Certain Employees under the Federal Social Security Act.**

### **CHAPTER 18D - Assistance to Persons who are Disabled.**

### **CHAPTER 118E - Medical Care and Assistance.**

Sect. 1 revised, 1991, 138 170; second paragraph amended, 1991, 495 17; revised, 1992, 23 20. (See 1991, 138 393.)

Sect. 1A, paragraph added, 1991, 138 171. (See 1991, 138 393.)

Sect. 1B repealed, 1991, 138 172. (See 1991, 138 393.)

Sect. 2, paragraph (h) revised, 1991, 138 173; paragraph added, 1991, 138 174. (See 1991, 138 393.)

Sect. 4, first paragraph amended, 1991, 138 175. (See 1991, 138 393.)

Sect. 4B, clause (i) stricken out and clause (a)(1) inserted, 1992, 286 181; amended, 1992, 286 182, 183. (See 1992, 286 278, 279.)

Sect. 5 repealed, 1991, 138 176. (See 1991, 138 393; 1992, 133 599.)

Sect. 6 revised, 1991, 138 177. (See 1991, 138 393.)

Sect. 7, first two paragraphs revised, 1991, 138 178; second paragraph amended, 1992, 286 184. (See 1991, 138 393; 1992, 286 278, 279.)

Sect. 8, second paragraph revised, 1991, 138 179. (See 1991, 138 393.)

Sect. 9 revised, 1991, 138 180. (See 1991, 138 393.)

Sect. 10, paragraph added, 1991, 6 28; section revised, 1991, 138 181. (See 1991, 6 95-97; 138 393.)

Sect. 10A repealed, 1991, 138 182. (See 1991, 138 393. (See 1991, 138 393.)

Sect. 14, sentence inserted after first sentence, 1991, 138 183. (See 1991, 138 393.)

Sect. 15 repealed, 1991, 138 184. (See 1991, 138 393.)

Sect. 16, first paragraph revised, 1991, 6 29; section revised, 1991, 6 30. (See 1991, 6 95-97.)

Sect. 16A, two paragraphs inserted before first paragraph, 1991, 6 31; section revised, 1992, 133 468. (See 1991, 6 95-97; 1992, 133 599.)

Sect. 16B repealed, 1992, 133 469. (See 1992, 133 599.)

Sect. 16C, paragraph (a), first sentence revised, 1991, 6 32; paragraph (d), first sentence amended, 1991, 6 33; paragraph (g) inserted, 1991, 6 34; amended, 1991, 138 342; 499 18; section repealed, 1992, 133 470. (See 1991,

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6 95-97; 138 393; 499 45, 46; 1992, 133 599.)  
Sect. 16D revised, 1992, 133 471. (See 1992, 133 599.)  
Sect. 17, sentence added, 1992, 133 472. (See 1992, 133 599.)  
Sect. 20, paragraph inserted after first paragraph, 1991, 138 185; fourth paragraph stricken out, 1991, 138 186. (See 1991, 138 393.)  
Sect. 21D revised, 1991, 230.  
Sect. 22 revised, 1991, 138 187. (See 1991, 138 393.)

### CHAPTER 118F - DEPARTMENT OF MEDICAL SECURITY.

New chapter added, 1988, 23 45. (See 1988, 23 92.)  
Sect. 2 revised, 1991, 4945 18. (See 1991, 495 65.)  
Sect. 8, second sentence revised, 1992, 26 2.  
Sect. 9, first paragraph, clause (l) revised, 1992, 26 3; fourth paragraph stricken out, 1992, 26 4; section amended, 1992, 133 473. (See 1992, 133 599.)  
Sect. 9A added, 1992, 26 5.  
Sect. 9B added, 1992, 26 5.  
Sect. 12A added, 1991, 494 20.  
Sect. 14A added, 1991, 495 21.  
Sect. 15, subdivision (1) revised, 1991, 138 188; subdivision (7) revised, 1991, 6 35; section revised, 1991 495 19; subsection (1) amended, 1992, 133 474; subsection (2) amended, 1992, 133 475; subsection (3) amended, 1992, 133 476; subsection (4) amended, 1992, 133 477; subdivisions (1) to (4) revised, 1992, 286 185. (See 1991, 138 393; 6 95-97; 1992, 133 599; 1992, 286 278, 279.)  
Sect. 17A added, 1991, 495 23; clause (1), first sentence revised, 1992, 133 478. (See 1992, 133 599.)  
Sect. 19, subdivisions (7), (8), and (9) stricken out, and subdivisions (8) and (9) inserted, 1991, 6 36; section amended, 1991, 138 189, 190; 1992, 286 186, 187. (See 1991, 6 95-97; 138 393; 1992, 286 278, 279.)

### CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

Sect. 23, four paragraphs inserted after first paragraph, 1991, 492; section (D) amended, 1992, 379 7. (See 1992, 379 232, 233.)  
Sect. 24, three sentences inserted after first sentence, 1992, 303 1; amended, 1992, 379 8. (See 1992, 379 232, 233.) tfl  
Sect. 26, second paragraph, clause (4) added, 1992, 303 2; last paragraph revised, 1992, 303 3.  
Sect. 27 amended, 1992, 379 9. (See 1992, 379 232, 233.)  
Sect. 29B, second paragraph, second sentence stricken out and two sentences inserted, 1992, 69 5. (See 1992, 69 22.) (See 1992, 69 22.)  
Sect. 39D revised, 1991, 292.  
Sect. 39E amended, 1992, 379 10. (See 1992, 379 232, 233.)  
Sect. 39H, three paragraphs inserted after first paragraph, 1991, 519 1; amended, 1992, 379 11. (See 1992, 379 232, 233.)  
Sect. 39I amended, 1992, 379 12, 13. (See 1992, 379 232, 233.)



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Sect. 51A amended, 1991, 280; sentence added, 1992, 115 1.  
Sect. 51B, two sentences added, 1992, 115 2. (See 1992, 3 12.)  
Sect. 51C amended, 1992, 379 14. (See 1992, 379 232, 233.)  
Sect. 51F, two sentences added, 1992, 115 3.  
Sect. 52, definition of "Court" revised, 1992, 379 15. (See 1992, 379 232, 233.)  
Sect. 55A amended, 1992, 379 16. (See 1992, 379 232, 233.)  
Sect. 56 amended, 1992, 379 17-19. (See 1992, 379 232, 233.)  
Sect. 58 amended, 1992, 379 20. (See 1992, 379 232, 233.)  
Sect. 60 revised, 1991, 488 1; section amended, 1992, 398 2.  
Sect. 61, second paragraph revised, 1991, 488 2; third and fourth paragraphs stricken out and three paragraphs inserted, 1991, 488 3; fourth paragraph, last sentence stricken out and three sentences inserted, 1991, 488 4; fifth paragraph, last sentence stricken out and three sentences inserted, 1991, 488 5; sixth paragraph amended, 1991, 488 6; fifth paragraph, first sentence revised, 1992, 398 3; amended, 1992, 379 20A; revised, 1992, 286 188. (See 1992, 379 232, 233; 1992, 286 278, 279.)  
Sect. 63, fourth, fifth, sixth and seventh sentences stricken out and one sentence inserted, 1992, 379 21. (See 1992, 379 232, 233.)  
Sect. 67 amended, 1991, 519 2.  
Sect. 72 revised, 1991, 488 7; third paragraph amended, 1992, 398 4; paragraph added, 1992, 398 5; amended, 1992, 379 22. (See 1992, 379 232, 233.)  
Sect. 83, revised, 1992, 398 6.

### CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.

Sect. 2, sentence added, 1992, 133 479. (See 1992, 133 599.)  
Sect. 14 added, 1992, 133 480. (See 1992, 133 599.)

### CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools. (Former title, Youth Service Board and Massachusetts Training Schools.)

Sect. 10, subsection (a), first paragraph, sentence added, 1991, 488 8.  
Sect. 50 amended, 1992, 379 23. (See 1992, 379 232, 233.)

### CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

#### CHAPTER 121A - Urban Redevelopment Corporations.

Sect. 18D, amended, 1992, 403 27.

#### CHAPTER 121B - Housing and Urban Renewal.

Sect. 1, definition of "Veteran" revised, 1991, 405 2.  
Sect. 26B amended, 1992, 286 189. (See 1992, 286 278, 279.)  
Sect. 32, first paragraph revised, 1991, 6 37, 38. (See 1991, 6 95-97.)  
Sect. 34, thirteenth paragraph revised, 1991, 138 191. (See 1991, 138 393.)

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## **CHANGES IN THE**

Sect. 40, paragraph (e) amended, 1991, 6 39, 40, 41, 42. (See 1991, 6 95-97.)  
Sect. 44 amended, 1991, 6 43, 44, 45, 46; first paragraph, clause (b) stricken out, 1992, 153 26. (See 1991, 6 95-97; 1992, 153 84.)  
Sect. 57 amended, 1992, 153 27, 27A. (See 1992, 153 85.)

### **CHAPTER 121C - Economic Development and Industrial Corporations.**

#### **CHAPTER 122 - Tewksbury Hospital. (Former titles, Tewksbury State Hospital and (Former title, Tewksbury State Hospital and Infirmary and State Infirmary.)**

### **CHAPTER 123 - Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.**

Sect. 8B amended, 1992, 379 26, 27. (See 1992, 379 232,233.)  
Sect. 9, paragraph (b) amended, 1992, 379 28. (See 1992, 379 232,233.)  
Sect. 12 amended, 1992, 379 29. (See 1992, 379 232, 233.)  
Sect. 16 amended, 1992, 286 190. (See 1992, 286 278, 279.)  
Sect. 18A added, 1991, 138 275. (See 1991, 138 393.)  
Sect. 35 amended, 1992, 379 30. (See 1992, 379 232, 233.)

#### **CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons. (Former title, Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)**

Sect. 9A added, 1991, 454.  
Sect. 9B added, 1991, 454.

### **CHAPTER 123B - MENTAL HEALTH.**

### **CHAPTER 124 - Powers and Duties of the Department of Correction.**

#### **CHAPTER 125 - Correctional Institutions of the Commonwealth. (Former title, Penal and Reformatory Institutions of the Commonwealth.)**

Sect. 1 amended, 1992, 286 191. (See 1992, 286 278, 279.)

#### **CHAPTER 126 - Jails, Houses of Correction and Reformation, and County Industrial Farms.**

#### **CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.**

Sect. 38B, amended, 1992, 323.

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Sect. 49B amended, 1992, 286 192. (See 1992, 286 278, 279.)  
Sect. 84 amended, 1991, 552 83.  
Sect. 130A amended, 1992, 133 483. (See 1992, 133 599.)  
Sect. 131A amended, 1991, 412 69. (See 1991, 412 139.)

### **CHAPTER 128 - Agriculture.**

Sect. 2, subsection (g) revised, 1991, 114 1; last paragraph stricken out and six paragraphs inserted, 1992, 101 1.  
Sect. 2D added, 1992, 212 1.  
Sect. 32, amended, 1992, 374 1.  
Sect. 35, first paragraph, two sentences inserted after first sentences, 1992, 376 2.

### **CHAPTER 128A - Horse and Dog Racing Meetings.**

Sect. 5, second and third paragraphs revised, 1992, 101 2.  
Sect. 7 amended, 1992, 101 3.  
Sect. 8 amended, 1991, 412 70. (See 1991, 412 139.)  
Sect. 9B, eighth and ninth paragraphs revised, 1992, 101 4.  
Sect. 19 amended, 1992, 286 193. (See 1992, 286 278, 279.)  
Sect. 20 amended, 1992, 286 194. (See 1992, 286 278, 279.)  
Sect. 30 amended, 1992, 286 195, 196. (See 1992, 286 278, 279.)

### **CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion**

### **CHAPTER 128C - SIMULCAST WAGERING OF HORSE AND DOG RACING.**

Chapter inserted, 1992, 101 1 5.

### **CHAPTER 129 - Livestock Disease Control. (Former title, Animal Industry.)**

Sect. 45 amended, 1992, 286 197. (See 1992, 286 278, 279.)

### **CHAPTER 129A - Marine Fish and Fisheries, Inland Fish and Fisheries, Birds and Mammals, General Provisions.**

### **CHAPTER 130 - Marine Fish and Fisheries. (Former title, Marine Fish and Fisheries Including Crustacean and Shellfish.)**

Sect. 1, definition of "Coastal waters" revised, 1992, 133 482. (See 1992, 133 599.)  
Sect. 2B added, 1991, 33 90; section amended, 1992, 133 484. (See 1991, 33 150; 1992, 133 599.)

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## **CHANGES IN THE**

- Sect. 5 added, 1992, 133 485. (See 1992, 133 599.)
- Sect. 38B, revised, 1992, 369 1.
- Sect. 69 revised, 1991, 105.
- Sect. 105 amended, 1991, 552 85.

### **CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources. (Former title, Powers and Duties of the Division of Fisheries and Game.)**

- Sect. 1, definition of "Coastal waters" revised, 1992, 133 486. (See 1992, 133 599.)
- Sect. 4 amended, 1991, 412 71; 552 86; clause (12) revised, 1992, 133 487. (See 1991, 412 139; 1992, 133 599.)
- Sect. 5C added, 1991, 364 1.
- Sect. 40, paragraph inserted after paragraph (18), 1991, 141 2.
- Sect. 40B added, 1991, 141 3; revised, 1992, 286 198. (See 1992, 286 278, 279.)
- Sect. 59 amended, 1991, 412 72. (See 1991, 412 72.)
- Sect. 63 amended, 1991, 412 73.
- See 1991, 412 139
- Sect. 82 amended, 1991, 412 74. (See 1991, 412 139.)
- Sect. 87 amended, 1991, 412 75. (See 1991, 412 139.)
- Sect. 88 amended, 1991, 412 76. (See 1991, 412 139.)
- Sect. 89 amended, 1991, 412 77. (See 1991, 412 139.)
- Sect. 90, paragraph added, 1991, 364 2.

### **CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.**

- New chapter added, 1990, 408 4. (See 1990, 408 5.)
- Sect. 4 amended, 1991, 552 87.
- Sect. 5, paragraph (2), clause (vi) revised, 1992, 286 199. (See 1992, 286 278, 279.)
- Sect. 6, paragraph (d) inserted, 1992, 133 488. (See 1992, 133 599.)

### **CHAPTER 132 - Forestry.**

- Sect. 7A, third, fourth, and fifth paragraphs revised, 1992, 133 489. (See 1992, 133 599.)

### **CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.**

**(Former title, State Parks and Reservations outside of the Metropolitan  
Parks District.)**

- Sect. 1 revised, 1991, 138 192. (See 1991, 138 393.)
- Sect. 2C amended, 1991, 552 88.
- Sect. 16B amended, 1992, 286 203. (See 1992, 286 278, 279.)

### **CHAPTER 132B - Massachusetts Pesticide Control Act.**

### **CHAPTER 133 - Disposition of Old and Infirm Animals.**

- Sect. 1 amended, 1992, 286 201. (See 1992, 286 278, 279.)

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### **CHAPTER 134 - Lost Goods and Stray Beasts.**

### **CHAPTER 135 - Unclaimed and Abandoned Property.**

### **CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays.**

**(Former title, Observance of the Lord's Day and Legal Holidays.)**

Sect. 6, subparagraph (17) amended, 1992, 133 492; clause (52) amended, 1991, 378 1; revised, 1992, 202; clause (52) stricken out and clause (53) inserted, 1992, 88 1; clause (52), clause (a) revised, 1992, 133 490; clause (52) revised, 1992, 133 491; clause (54) added, 1992, 153 28. (See 1991, 378 2; 1992, 85; 1992, 133 599.)

### **CHAPTER 137 - Gaming.**

### **CHAPTER 138 - Alcoholic Liquors.**

**(Former title, Intoxicating Liquors and Certain Non-intoxicating Beverages.)**

Sect. 12, fourth paragraph, first sentence revised, 1991, 138 193; twelfth paragraph amended, 1991, 138 194. (See 1991, 138 393.)  
Sect. 15, second paragraph, second sentence revised, 1991, 138 195. (See 1991, 138 393.)  
Sect. 15C added, 1991, 1 1; repealed, 1991, 1 2. (See 1991, 1 3.)  
Sect. 17, amended, 1992, 404 28.  
Sect. 22 amended, 1991, 412 78. (See 1991, 412 139.)  
Sect. 30A, last sentence stricken out, 1991, 138 196. (See 1991, 138 393.)  
Sect. 34C, first sentence revised, 1992, 110.

### **CHAPTER 139 - Common Nuisances.**

Sect. 3A, second paragraph, third, fourth and fifth sentences revised, 1992, 133 494 (See 1992, 133 599.)  
Sect. 19 amended, 1992, 133 495. (See 1992, 133 599.)

### **CHAPTER 140 - Licenses.**

Sect. 27 amended, 1991, 481 13.  
Sect. 32A amended, 1991, 481 14.  
Sect. 32B amended, 1991, 481 15.  
Sect. 32C revised, 1991, 481 16.  
Sect. 32D revised, 1991, 481 17.  
Sect. 32E revised, 1991, 481 18.  
Sects. 32F-32R revised, 1991, 481 19.  
Sect. 58, last two paragraphs stricken out, 1991, 489 18; section amended, 1992, 18 4. (See 1991, 489 20.)  
Sect. 59A amended, 1991, 552 89, 90.

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Sect. 66 amended, 1991, 412 79, 80. (See 1991, 412 139.)  
Sect. 128A, first sentence revised, 1991, 82 1.  
Sect. 129C amended, 1991, 82 2; clause (g) revised, 1991, 89; clause (t) added, 1991, 82 3.  
Sect. 131B amended, 1991, 82 4.  
Sect. 131H amended, 1991, 412 81. (See 1991, 412 139.)  
Sect. 145B, revised, 1992, 237.  
Sect. 147, second sentence revised, 1991, 436.  
Sect. 173 amended, 1992, 133 496. (See 1992, 133 598.)  
Sect. 173A revised, 1992, 133 497. (See 1992, 133 598.)

### **CHAPTER 140A - Regulation of Certain Credit Transactions.**

### **CHAPTER 140B - Control of Certain Junkyards.**

Sect. 1 amended, 1991, 552 91.

### **CHAPTER 140C - Consumer Credit Cost Disclosure.**

Chapter repealed, 1981, 733 1.

### **CHAPTER 140D - CONSUMER CREDIT COST DISCLOSURE.**

New chapter added, 1981, 733 2.  
Sect. 4 amended, 1992, 118 11.

### **CHAPTER 140E - CONSUMER ACCOUNT DISCLOSURE.**

### **CHAPTER 141 - Supervision of Electricians.**

Sect. 7 amended, 1992, 135.

### **CHAPTER 142 - Supervision of Plumbing.**

### **CHAPTER 142A - REGULATION OF HOME IMPROVEMENT CONTRACTORS.**

New chapter inserted, 1991, 453.

### **CHAPTER 143 - Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs.**

Sect. 2A amended, 1992, 133 498. (See 1992, 133 599.)  
Sect. 2C amended, 1991, 412 82. (See 1991, 412 139.)  
Sect. 3, paragraph added, 1992, 168 1.  
Sect. 3A, third paragraph amended, 1991, 552 92; third paragraph revised, 1992, 286 202. (See 1992, 286 278, 279.)  
Sect. 9 amended, 1992, 133 499. (See 1992, 133 599.)  
Sect. 51, two sentences inserted after first sentence, 1992, 66.  
Sect. 94 amended, 1991, 552 93; two paragraphs added, 1992, 168 2.

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### **CHAPTER 144 - Tenement Houses in Cities.**

### **CHAPTER - 145 Tenement Houses in Town.**

### **CHAPTER - 146 Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.**

Sect. 53 amended, 1991, 485 1; six paragraphs added, 1991, 485 2.  
(See 1991, 485 9.)  
Sect. 54A added, 1991, 485 3.(See 1991, 485 9.)  
Sect. 55 revised, 1991, 485 4. (See 1991, 485 9.)  
Sect. 65 revised, 1991, 485, (See 1991, 485 9.)  
Sect. 67 amended, 1991, 485 6.(See 1991, 485 9.)  
Sect. 81, definition of "Pipefitting" revised, 1992, 144.

### **CHAPTER - 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.**

Sect. 1A repealed, 1991, 412 82A. (See 1991, 412 139.)  
Sect. 2 revised, 1991, 412 8 (See 1991, 412 139.)  
Sect. 3 amended, 1991, 412 84.(See 1991, 412 139.)  
Sects. 4-7 repealed, 1991, 412 85.(See 1991, 412 139.)  
Sects. 9-10E repealed, 1991, 412 85A (See 1991, 138 393.)  
Sects. 10G-10M repealed, 1991, 412 85B. (See 1991, 412 139.)  
Sect. 18, amended, 1992, 403 29.  
Sect. 23, second paragraph, clause 8 revised, 1991, 326.  
Sect. 29 amended, 1992, 286 203.(See 1992, 286 278, 279.)  
Sect. 35A added, 1992, 324 1.(See 1992, 324 2.)  
Sect. 49 revised, 1992, 74.

### **CHAPTER - 148 - Fire Prevention**

Sect. 5, fifth sentence stricken out and three sentences inserted, 1992, 133 5HAA0 amended, 1991, 481 20.  
Sect. 38D amended, 1992, 286 204. (See 1992, 286 278, 279.)  
Sect. 56 amended, 1991, 202.  
Sect. 59 added, 1992, 336

### **CHAPTER 149 - Labor and Industries**

Sect. 26 amended, 1991, 552 94.  
Sect. 27E amended, 1991, 552 95.  
Sect. 30 amended, 1991, 552 96 (See 1991, 412 139.)  
Sect. 30B amended, 1991, 412 8 (See 1991, 412 139.)  
Sect. 30C amended, 1991, 412 88, 88A(See 1991, 412 139.)  
Sect. 34 amended, 1991, 552 97.  
Sect. 44A, subsection (1) paragraph added, 1991, 138 239; definition of "Deputy commissioner" revised, 1992, 286 205; subsection (5) added, 1991,

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138 240; section amended, 1992, 286 206, 207.  
(See 1991, 138 393; 1992, 286 278, 279.)  
Sect. 44B amended, 1992, 286 208, 209. (See 1992, 286 278, 279.)  
Sect. 44C revised, 1991, 550 2.  
Sect. 44D amended, 1992, 286 210.(See 1992, 286 278, 279.)  
Sect. 44E, subsection (2), sentence inserted, 1991, 550 3; section amended, 1992, 286 211.(See 1991, 550 5; 1992, 286 278, 279.)  
Sect. 44F, subsection (4), sentence inserted, 1991, 550 4.  
(See 1991, 550 5.)  
Sect. 44G amended, 1992, 286 212, 213. (See 1992, 286 278, 279.)  
Sect. 44M, third, fourth, and fifth paragraphs revised, 1991, 193 6.  
(See 1991, 193 18.)  
Sect. 60, last paragraph stricken out and two paragraphs inserted, 1991, 293.  
Sect. 61 amended, 1991, 407.  
Sect. 129D added, 1992, 177 2.  
Sect. 148, paragraph inserted after third paragraph, 1991, 138 331; first paragraph revised, 1992, 133 502; section amended, 1992, 133 503; section amended, 1992, 133 504.(See 1991, 138 393; 1992, 133 599.)  
Sect. 148B, first paragraph, first sentence revised, 1992, 286 214.  
(See 1992, 286 278)  
Sect. 149 amended, 1992, 286 215. (See 1992, 286 278, 279.)

### **CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.**

Sect. 6, second sentence stricken out and three sentences inserted, 1992, 133 505.(See 1992, 133 599.)

### **CHAPTER 150A - Labor Relations.**

### **CHAPTER 150B - Peaceful Settlement of Industrial Disputes Dangerous to Public Health and Safety.**

### **CHAPTER 150C - Collective Bargaining Agreements to Arbitrate.**

### **CHAPTER 150D - Registration of Labor Replacements of Strike Breakers.**

### **CHAPTER 150E - Labor Relations; Public Employees.**

Sect. 1, definition of "Employer", third sentence revised, 1991, 142 25. (See 1991, 142 49-50.)  
Sect. 3, third paragraph, first sentence revised, 1991, 412 89; fourth paragraph stricken out, 1991, 412 90. (See 1991, 412 139.)  
Sect. 7, paragraph (b) amended, 1991, 142 26; paragraph (c) amended, 1991, 142 27; section amended, 1992, 379 31, 32. (See 1991, 142 49-50; 1992, 379 232, 233.)

### **CHAPTER 151 - Minimum Fair Wages. (Former title, Minimum Fair Wages for Women and Minors.)**



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### **CHAPTER 151A - EMPLOYMENT AND TRAINING. (Former title, Employment Security.)**

Title revised, 1990, 177 247.

Sect. 1, clause (a) revised, 1992, 26 6; subsection (r), clause (3) revised, 1992, 118 4; subsection (z), clauses (aa), (bb), and (cc) inserted, 1992, 118 10. (See 1992, 26 37.)

Sect. 12 revised, 1992, 118 5.

Sect. 14, clause (a) revised, 1992, 26 6; first paragraph revised, 1992, 26 7; subsection (a) amended, 1992, 26 8; paragraph (4) added, 1992, 26 9; paragraph (4) revised, 1992, 118 6; subsection (e), paragraph (1) revised, 1992, 26 10; paragraph (5) amended, 1992, 26 11; paragraph (6) amended, 1992, 26 12; subsection (h), paragraph (3) revised, 1992, 26 13; subsection (i) revised, 1992, 26 14; paragraph (l) added, 1992, 118 7. (See 1992, 26 35, 37.)

Sect. 14G, subsection (k) added, 1992, 26 15.

Sect. 14J added, 1992, 26 15.

Sect. 14J repealed, 1992, 26 17. (See 1992, 26 38.)

Sect. 24, clauses (a) and (b) revised, 1992, 26 18.

Sect. 24A added, 1992, 118 10A.

Sect. 25 amended, 1992, 286 217. (See 1992, 186 278, 279.)

Sect. 29D, subsection (i), first sentence revised, 1992, 118 8; section amended, 1992, 118 8A.

Sect. 30 revised, 1991, 9 2; subsection (c) revised, 1992, 118 9.

Sect. 38 amended, 1992, 286 218. (See 1992, 286 278, 279.)

Sect. 46 amended, 1991, 412 90A. (See 1991, 412 139.)

Sect. 58A amended, 1992, 286 219. (See 1992, 286 278, 279.)

Sect. 62 amended, 1992, 286 220. (See 1992, 286 278, 279.)

### **CHAPTER 151B - Unlawful Discrimination Because Of Race, Color, Religious Creed, National Origin, Ancestry Or Sex. (Former title, Unlawful Discrimination Against Race, Color, Religious Creed, National Origin or Ancestry.)**

Sect. 3, subsection 1 revised, 1992, 286 221; subsection 6 amended, 1991, 323 1. (See 1992, 286, 278, 279.)

Sect. 9, second paragraph amended, 1991, 323 2; sentence inserted after second sentence, 1991, 323 3; third paragraph, last sentence stricken out, 1991, 323 4.

### **CHAPTER 151C - Fair Education Practices.**

### **CHAPTER 151D - Health, Welfare and Retirement Funds.**

### **CHAPTER 151E - Prohibition of Certain Discrimination by Business.**

### **CHAPTER 152 - Workmen's Compensation.**

Sect. 1 amended, 1991, 552 98; subsection (1), paragraph added, 1991, 398 13; subsection (7A), third sentence stricken out and two sentences inserted, 1991,

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## CHANGES IN THE

- 398 14 subsection (12) revised, 1991, 398 15. (See 1991, 398 111.)  
Sect. 2A amended, 1991, 398 16. (See 1991, 398 111.)  
Sect. 5, paragraph added, 1991, 398 17. (See 1991, 398 111.)  
Sect. 6, first paragraph stricken out and two paragraphs added, 1991, 398 18; last paragraph revised, 1991, 398 19. (See 1991, 398 111.)  
Sect. 7 revised, 1991, 398 20. (See 1991, 398 111.)  
Sect. 7A revised, 1991, 398 21. (See 1991, 398 111.)  
Sect. 7C revised, 1991, 398 22. (See 1991, 398 111.)  
Sect. 7G added, 1991, 398 22A. (See 1991, 398 111.)  
Sect. 8, subsections (1) and (2) revised, 1991, 398 23; subsection (3) stricken out, 1991, 398 23; subsection (4) revised, 1991, 398 24; subsection (6) revised, 1991, 398 25. (See 1991, 398 110, 111.)  
Sect. 10 revised, 1991, 398 26. (See 1991, 398 108, 111.)  
Sect. 10A, subsection (1), sentence inserted after first sentence, 1991, 398 27; subsection (2), paragraph added, 1991, 398 28; last paragraph stricken out and two paragraphs inserted, 1992, 286 278, 279. (See 1991, 398 108, 111; 1992, 286 278, 279.)  
Sects. 10B-10C added, 1991, 398 29. (See 1991, 398 108, 111.)  
Sect. 11A revised, 1991, 398 30. (See 1991, 398 110, 111.)  
Sect. 11C, fifth to eighth sentences, inclusive, revised, 1991 398 31. (See 1991, 398 111.)  
Sect. 11D added, 1991, 398 32. (See 1991, 398 111.)  
Sect. 12 amended, 1991, 398 32A. (See 1991, 398 111.)  
Sect. 13, subsection (1), first and second paragraphs revised, 1991, 398 33; subsection (3), last sentence stricken out and eight sentences inserted, 1991, 398 34. (See 1991, 398 109, 111.)  
Sect. 13A revised, 1991, 398 35. (See 1991, 398 111.)  
Sect. 14, subsection (1) revised, 1991, 398 36; subsection (2) revised, 1991, 398 37; subsection (3) added, 1991, 398 38. (See 1991, 111.)  
Sect. 14A added, 1991, 398 38A. (See 1991, 398 111.)  
Sect. 15 revised, 1991, 398 39. (See 1991, 398 111.)  
Sect. 19, subsection (1), last sentence stricken out, 1991, 398 41; last sentence stricken out and four sentences inserted, 1991, 398 42. (See 1991, 398 111.)  
Sect. 24 revised, 1991, 398 43. (See 1991, 398 111.)  
Sect. 25A, paragraph added, 1991, 398 44; paragraph (2)(b) revised, 1992, 318 4. (See 1991, 398 111.)  
Sect. 25C, subsection (1) amended, 1991, 398 45; subsection (9) added, 1991, 398 45A; subsection (10) added, 1991, 398 45B. (See 1991, 398 111.)  
Sect. 25D revised, 1991, 398 46. (See 1991, 398 111.)  
Sect. 25E, paragraph inserted after first paragraph, 1991, 398 47; definition of "Worker's compensation self insurance group" amended, 1991, 398 48; section amended, 1991, 398 48A. (See 1991, 398 111.)  
Sect. 25G, paragraph (c), subsection (2), paragraph added, 1991, 398 49. (See 1991, 398 111.)  
Sect. 25J, subsection (2), paragraph (c) revised, 1991, 398 50. (See 1991, 398 111.)  
Sect. 25K, subsection (6) added, 1991, 398 51. (See 1991, 398 111.)  
Sect. 26, last paragraph revised, 1991, 398 40. (See 1991, 398 111.)  
Sect. 27A added, 1991, 398 51A. (See 1991, 398 111.)

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- Sect. 29, second sentence revised, 1991, 398 52. (See 1991, 398 111.)  
Sect. 30 revised, 1991, 398 53. (See 1991, 398 110, 111.)  
Sect. 30G, first paragraph, three sentences added, 1991, 398 54. (See 1991, 398 111.)  
Sect. 30H amended, 1991, 398 55; paragraph added, 1991, 398 56. (See 1991, 398 111.)  
Sect. 33 revised, 1991, 398 58. (See 1991, 398 111.)  
Sect. 34 revised, 1991, 398 59. (See 1991, 398 111.)  
Sect. 34A revised, 1991, 398 60. (See 1991, 398 111.)  
Sect. 34B revised, 1991, 398 61. (See 1991, 398 111.)  
Sect. 35 revised, 1991, 398 63. (See 1991, 398 111.)  
Sect. 35D, subsection (5), sentence added, 1991, 398 65. (See 1991, 398 111.)  
Sect. 35E, first sentence revised, 1991, 398 66. (See 1991, 398 111.)  
Sect. 35F repealed, 1991, 398 67. (See 1991, 398 111.)  
Sect. 36, subsection (1), introductory paragraph revised, 1991, 398 68; section amended, 1991, 398 69; paragraph (k), sentence added, 1991, 398 69A. (See 1991, 398 111.)  
Sect. 36A, second paragraph, sentence added, 1991, 398 70. (See 1991, 398 111.)  
Sect. 37 revised, 1991, 398 71. (See 1991, 398 111.)  
Sect. 45, first paragraph, sentence added, 1991, 398 72. (See 1991, 398 111.)  
Sect. 46, sentence added, 1991, 398 73. (See 1991, 398 111.)  
Sect. 48, subsection (1) amended, 1991, 398 74; subsection (2) amended, 1991, 398 74A; subsections (3) to (6), inclusive, revised, 1991, 398 75. (See 1991, 398 111.)  
Sect. 49 amended, 1991, 398 76. (See 1991, 398 111.)  
Sect. 50, first sentence revised, 1991, 398 77. (See 1991, 398 111.)  
Sect. 51 revised, 1991, 398 78. (See 1991, 398 111.)  
Sect. 52C amended, 1991, 398 80. (See 1991, 398 111.)  
Sect. 53A, subsection (2) revised, 1991, 398 81; section (4) revised, 1991, 398 82; subsections (12) to (17), inclusive, added, 1991, 398 83. (See 1991, 398 111.)  
Sect. 55A added, 1991, 398 84. (See 1991, 398 111.)  
Sect. 63 revised, 1991, 132 1.  
Sect. 65, subsection (2) revised, 1991, 398 85; subsection (4), paragraph (d) revised, 1991, 398 86; subsection (5), first sentence revised, 1991, 398 87; subsection (8) revised, 1991, 398 88; subsection (13) revised, 1991, 398 89. (See 1991, 398 111.)  
Sect. 65A revised, 1991, 398 90. (See 1991, 398 111.)  
Sect. 65B revised, 1991, 132 2; 398 90A. (See 1991, 398 111.)  
Sect. 65O revised, 1991, 398 92. (See 1991, 398 111.)  
Sect. 66, introductory paragraph revised, 1991, 398 93. (See 1991, 398 111.)  
Sect. 69, first paragraph amended, 1991, 552 99; section repealed, 1992, 133 507. (See 1992, 133 599.)  
Sect. 69B, first sentence amended, 1992, 133 508. (See 1992, 133 599.) tfl Sect. 75B, subsection (4) added, 1991, 398 94. (See 1991, 398 111.)

## CHAPTER 153 - Liability of Employers to Employees for Injuries not resulting in Death

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## **CHANGES IN THE**

### **CHAPTER 154 - Assignment of Wages.**

### **CHAPTER 155 - General Provisions relative to Corporations.**

### **CHAPTER 156 - Business Corporations.**

### **CHAPTER 56A - Professional Corporations.**

### **CHAPTER 156B - Certain Business Corporations.**

Sect. 13, paragraph (c), clause (1) revised, 1991, 229 1.

Sect. 14 revised, 1991, 229 2.

Sect. 34, subsection (b) revised, 1991, 138 389. (See 1991, 138 393.)

Sect. 78, subsection (d), clause (1) amended, 1991, 229 3; clause 4 stricken out, 1991, 229 4; subsection (d) revised, 1992, 286 223. (See 1992, 286 278, 279.)

Sect. 79 amended, 1992, 286, 224. (See 1992, 286 278, 279.)

Sect. 100, subsection (c) clause (1) revised, 1991, 229 5; paragraph (d), last sentence stricken out, 1991, 529.

Sect. 109, paragraph (5) stricken out, 1991, 229 6; paragraph (6) added, 1992, 255 4.

### **CHAPTER 157 - Co-operative Corporations.**

### **CHAPTER 157A - EMPLOYEE COOPERATIVE CORPORATIONS.**

### **CHAPTER 157B - Cooperative Housing Cooperations.**

### **CHAPTER 158 - Certain Miscellaneous Corporations**

### **CHAPTER 159 - Common Carriers.**

Sect. 12C amended, 1991, 322.

Sect. 59 amended, 1991, 552 100.

Sect. 62 amended, 1991, 552 101.

Sect. 65 amended, 1991, 552 102.

Sect. 70 amended, 1991, 552 103.

Sect. 72 amended, 1991, 552 104.

Sect. 74 amended, 1991, 552 105.

Sect. 75 amended, 1991, 552 106.

Sect. 77 amended, 1991, 552 107.

Sect. 78 amended, 1991, 552 108.

Sect. 79 amended, 1991, 552 109.

Sect. 80 amended, 1991, 552 110.

Sect. 92 revised, 1991, 90; section amended, 1991, 412 90B; amended, 1992, 23 21. (See 1991, 412 139.)

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## **GENERAL LAWS**

### **CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.**

Sect. 13 amended, 1991, 552 111.  
Sect. 32 added, 1992, 409.

### **CHAPTER 159B - Carriers of Property by Motor Vehicle.**

Sect. 3 amended, 1991, 552 112.  
Sect. 14A amended, 1991, 412 91, 91A.  
(See 1991, 412 139.)  
Sect. 20 amended, 1991, 552 113.

### **CHAPTER 160 - Railroads.**

Sect. 96 amended, 1991, 552 114.  
Sect. 102 amended, 1991, 552 115.  
Sect. 104 amended, 1991, 552 116.  
Sect. 134A, second paragraph amended, 1991, 552 117.  
Sect. 142 amended, 1991, 552 118.  
Sect. 143 amended, 1991, 552 119.  
Sect. 146 amended, 1991, 552 120.  
Sect. 245 amended, 1991, 552 121.

### **CHAPTER 161 - Street Railways.**

Sect. 50 amended, 1991, 552 122.  
Sect. 81 amended, 1991, 552 123.  
Sect. 82 amended, 1991, 552 124.  
Sect. 85 amended, 1991, 552 125.  
Sect. 131 amended, 1991, 552 126.  
Sect. 152, second sentence stricken out, and three sentences inserted,  
1991, 6 47. (See 1991, 6, 95-97.)

### **CHAPTER 61A - Massachusetts Bay Transit Authority.**

Sect. 7, last paragraph revised, 1991, 145 36. (See 1991, 145 47.)  
Sect. 19D, second paragraph revised, 1991, 138 197. (See 1991, 138 393.)  
Sect. 19G, first paragraph revised, 1991, 138 198. (See 1991, 138 393.)  
Sect. 19J revised, 1991, 138 199. (See 1991, 138 393.)  
Sect. 23, third paragraph revised, 1991, 33 91. (See 1991, 91 155.)  
Sect. 28, second sentence revised, 1991, 33 92. (See 1991, 93 155.)  
Sect. 32 added, 1991, 33 93. (See 1991, 93 155.)

### **CHAPTER 161B - Transportation Facilities, Highway Systems and Urban Development Plan.**

Sect. 1, definition of "Net cost of service" amended, 1991, 33 94; revised, 1992,  
286 225. (See 1991, 33 155; 1992, 286 278, 279.)  
Sect. 6, clause (d) amended, 1991, 138 200; paragraph (q) added, 1991, 33 95.

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(See 1991, 33 155; 138 393.)

Sect. 17, second paragraph, last sentence revised, 1991, 33 96. (See 1991, 33 155.)

### **CHAPTER 161C - Rail Transportation in the Commonwealth.**

Sect. 4, first paragraph amended, 1991, 552 127.

Sect. 5, first paragraph amended, 1991, 552 128.

Sect. 6 amended, 1991, 552 129.

### **CHAPTER 161D - THE MASSACHUSETTS INTERCITY BUS CAPITAL ASSISTANCE PROGRAM.**

Sect. 5 amended, 1991, 33 97, 98; clauses (3) and (5) revised, 1992, 286 278, 279; clause (6) added, 1991, 33 99. (See 1991, 33 155; 1992 286 278, 279.)

### **CHAPTER 162 - Electric Railroads.**

### **CHAPTER 163 - Trackless Trolley Companies.**

### **CHAPTER 164 - Manufacture and Sale of Gas and Electricity.**

Sect. 16 revised, 1991, 314.

Sect. 56B, first sentence revised, 1991, 283 1.

Sect. 56C, first sentence revised, 1991, 283 2.

Sect. 56D, first sentence revised, 1991, 283 3.

Sect. 69G, definition of "Applicant" revised, 1992, 141 5; definition of "Board" inserted, 1992, 141 6; definition of "Council" stricken out, 1992, 141 7; definition of "Long Range Forecast" stricken out, 1992, 141 8. (See 1992, 141 55.)

Sect. 69H, sixth paragraph amended, 1991, 138 201; first paragraph, sentence added, 1991, 193 7; section amended, 1991, 193 8; second paragraph, fifth sentence revised, 1991, 193 9; section amended, 1992, 133 170; section, revised, 1992, 141 9.

(See 1991, 138 393; 193 18; 1992, 133 599; 141 55.)

Sect. 69H 1/2 amended, 1992, 141 10; 141 11.

(See 1992, 141 55.)

Sect. 69I, first paragraph stricken out and three paragraphs inserted, 1992, 141 12; section amended, 1992, 141 13, 14. (See 1992, 141 55.)

Sect. 69J revised, 1992, 141 15. (See 1992, 141 55.)

Sect. 69J 1/2 amended, 1992, 141 16, 17, 18, 19. (See 1992, 141 55.)

Sect. 69K amended, 1992, 141 20, 21, 22. (See 1992, 141 55.)

Sect. 69L amended, 1992, 1441 23, 24, 25, 26. (See 1992, 141 55.)

Sect. 69M amended, 1992, 141 27, 28, 29. (See 1992, 141 55.)

Sect. 69N amended, 1992, 141 30, 31, 32. (See 1992, 141 55.)

Sect. 69O amended, 1992, 141 33, 34. (See 1992, 141 55.)

Sect. 69P amended, 1992, 141 35, 36. (See 1992, 141 55.)

Sect. 69Q amended, 1992, 141 37. (See 1992, 141 55.)

Sect. 69R amended, 1992, 141 38, 39. (See 1992, 141 55.)

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Sect. 69S amended, 1992, 141 40, 41. (See 1992, 141 55.)

Sect. 75C amended, 1991, 552 130.

Sect. 126, paragraph added, 1992, 112 1.

Sect. 127, paragraph added, 1992, 112 2.

### **CHAPTER 164A - New England Power Pool.**

Sect. 1 definition of "Domestic electric utility" revised, 1991, 33 100.  
(See 1991, 33 155.)

### **CHAPTER 165 - Water and Aqueduct Companies.**

### **CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.**

### **CHAPTER 166A - Community Antenna Television Systems.**

Sect. 19 amended, 1991, 437 1.

Sect. 22 revised, 1991, 437 2.

### **CHAPTER 167 - Supervision of Banks.**

### **CHAPTER 167A - Bank Holding Companies.**

### **CHAPTER 167B - ELECTRONIC BRANCHES AND ELECTRONIC FUND TRANSFERS.**

Sect. 1, definition of "Merchant" inserted, 1991, 471 1; definitions of "Organization" and "Point of sale" revised, 1991, 471 2.

Sect. 8, clause (13) stricken out, 1991, 471 3.

Sect. 12 repealed, 1991, 471 4.

### **CHAPTER 167C - BANK LOCATIONS.**

### **CHAPTER 167D - DEPOSITS AND ACCOUNTS.**

Sect. 32A added, 1992, 400 16. (See 1992, 400 19.)

### **CHAPTER 167E - MORTGAGES AND LOANS.**

Sect. 12, first paragraph revised, 1992, 268 1.

Sect. 12A repealed, 1992, 268 2.

Sect. 14, subsection A, paragraph 1, clause (e) stricken out, 1991, 265 1; subsection B, paragraph 1, clause (d) stricken out, 1991, 265 2; subsection C, two paragraphs added, 1991, 469; subsection D revised, 1991, 265 3.

### **CHAPTER 167F - INVESTMENTS AND OTHER POWERS.**

Sect. 2, paragraph 9, first sentence revised, 1992, 166.

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## **CHANGES IN THE**

### **CHAPTER 167G - TRUST DEPARTMENT.**

Sect. 3, paragraph 10A revised, 1991, 377; paragraph 11 revised, 1992, 319.

### **CHAPTER 167H - MUTUAL HOLDING COMPANIES.**

New chapter added, 1987, 630

### **CHAPTER 168 - Savings Banks.**

Sect. 34F added, 1992, 75 1.

Sect. 39 amended, 1991, 131 1.

### **CHAPTER 169 - Deposits with Others than Banks.**

Chapter revised, 1991, 337 1.

### **CHAPTER 170 - Co-operative Banks.**

Sect. 26F added, 1992, 75 2.

Sect. 30 amended, 1991, 131 2.

### **CHAPTER 171 - Credit Unions.**

Sect. 32, second paragraph, clause (b) revised, 1991, 268.

Sect. 58, third paragraph revised, 1991, 265 4. (See 1991, 265 5.)

Sect. 61, first paragraph revised, 1991, 481 21.

Sect. 62 revised, 1991, 267.

Sect. 67, paragraph (q), last sentence revised, 1991, 266 1; clauses (s) and (t) revised, 1991, 353; clause (u) inserted, 1991, 353; section revised, 1992, 286 227. (See 1992, 286 278, 279.)

Sect. 75 paragraph inserted after third paragraph, 266 2; section amended, 1992, 286 228. (See 1992, 286 278, 279.)

Sect. 78A added, 1992, 75 3.

Sect. 78B added, 1992, 75 3.

### **CHAPTER 172 - Trust Companies.**

### **CHAPTER 172A - Banking Companies.**

### **CHAPTER 173 - Mortgage Loan Investment Companies.**

### **CHAPTER 174A - Regulation of Rates for Fire, Marine and Inland Marine Insurance, and Rating Organizations.**

### **CHAPTER 174B - Regulation of Automobile Clubs.**



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## **GENERAL LAWS**

### **CHAPTER 175 - Insurance.**

Sect. 19E added, 1991, 339.  
Sect. 24B added, 1991, 495 24.  
Sect. 24C added, 1992, 107.  
Sect. 25A added, 1991, 398 94A. (See 1991, 398 111.)  
Sect. 47, paragraph added, 1992, 118 12.  
Sect. 47B, paragraph (a), two sentences added, 1991, 495 25.  
Sect. 47K added, 1992, 404 1.  
Sect. 47L added, 1992, 404 1.  
Sect. 63, amended, 1992, 403 30.  
Sect. 108F added, 1991, 478 1.  
Sect. 110, subdivision (H), paragraph (a), two sentences added, 1991, 495 26.  
Sect. 112A added, 1991, 498; section stricken out, 1992, 286 229. (See 1992, 286 278, 279)  
Sect. 113L, paragraph (2), sentence inserted after first sentence, 1991, 376.  
Sect. 117D added, 1992, 118 13.  
Sect. 146B amended, 1992 286 230. (See 1992, 286 230.)  
Sects. 149F added, 1991, 508.  
Sect. 149G added, 1991, 508.  
Sect. 149I added, 1991, 508.  
Sect. 149J added, 1991, 508.  
Sect. 149K added, 1991, 508.  
Sect. 149L added, 1991, 508.  
Sect. 177 amended, 1992, 118 14, 15.  
Sect. 184 amended, 1992, 118 16, 17.  
Sect. 187E amended, 1992, 161.  
Sect. 205 added, 1991, 499 19. (See 1991, 45, 46.)

### **CHAPTER 175A - Regulation of Rates for Certain Casualty Insurance, including Fidelity, Surety and Guaranty Bonds, and for all other Forms of Motor Vehicle Insurance, and Regulation of Rating Organizations.**

#### **CHAPTER 175B - Unauthorized Insurer's Process Act.**

#### **CHAPTER 175C - Urban Area Insurance Placement Facility.**

Sect. 6A added, 1992, 413 2.

#### **CHAPTER 175D - Massachusetts Insurers Insolvency Fund.**

Sect. 1 amended, 1992, 65 1.  
Sect. 5, amended, 1992, 318 1.  
Sect. 9, amended, 1992, 318 2.

#### **CHAPTER 175E - Regulation of Rates for Optional Motor Vehicle Insurance.**

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## **CHANGES IN THE**

### **CHAPTER 175F - Medical Malpractice Self-Insurance Trust Funds.**

### **CHAPTER 175G - POLLUTION LIABILITY REINSURANCE CORPORATION.**

New chapter inserted, 1987, 650 2.

### **CHAPTER 175H - FALSE HEALTH CARE CLAIMS.**

New chapter added, 1988, 295.

### **CHAPTER 175I - INSURANCE INFORMATION AND PRIVACY PROTECTION.**

New chapter inserted, 1991, 516 1 1. (See 1991, 516 1 6.)

### **CHAPTER 176 - Fraternal Benefit Societies.**

Sect. 7, clause (7) revised, 1992, 72.

### **CHAPTER 176A - Non Profit Hospital Service Corporations.**

Sect. 1B added, 1991, 138 203.

(See 1991, 138 393.)

Sect. 5 amended, 1991, 495 27, 28; twelfth paragraph, first two sentences revised, 1991, 495 29; section amended, 1991, 495 30 to 35, inclusive; seventeenth paragraph revised, 1991, 495 36.

Sect. 6, paragraph added after first sentence, 1991, 478 2.

Sect. 8A, paragraph (a), two sentences added, 1991, 495 37.

Sect. 8N added, 1992, 404 2.

Sect. 10, fourth paragraph, paragraph (a), two sentences added, 1991, 495 38.

### **CHAPTER 176B - Medical Service Corporations.**

Sect. 4A, paragraph (a), two sentences added, 1991, 495 39.

Sect. 4A 1/2, two sentences added, 1991, 495 40.

Sect. 4N added, 1992, 404 3.

Sect. 7B added, 1991, 138 204.

(See 1991, 138 393)

Sect. 9, paragraph added, 1991, 370.

### **CHAPTER 176C - Non-Profit Medical Service Plans.**

### **CHAPTER 176D - UNFAIR PRACTICES AND UNFAIR DECEPTION ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE.**

Sect. 3A added, 1991, 495 41.

Sect. 7 amended, 1991, 398 93A.

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### **CHAPTER 176E - Dental Service Corporations.**

Sect. 3 amended, 1991, 46 1 fourth paragraph, sentence added, 1991, 46 2.

### **CHAPTER 176F - Optometric Service Corporations.**

### **CHAPTER 176G - Health Maintenance Organizations.**

Sect. 4E added, 1992, 404 4.

Sect. 18 added, 1991, 478 3.

### **CHAPTER 176H - Legal Service Plans.**

### **CHAPTER 176I - PREFERRED PROVIDER ARRANGEMENTS.**

New chapter inserted, 1988, 23 65. (See 1988, 23 92.)

Sect.1 amended, 1991, 398 94B; definition of "Organization" revised, 1992, 286 231. (See 1991, 398 111; 1992, 286 278, 279.)

Sect. 3 amended, 1991, 398 94C; introductory paragraph revised, 1992, 286 232. (See 1991, 398 111; 1992, 286 278, 279.)

Sect. 3A added, 1991, 398 94D. (See 1991, 398 111.)

Sect. 7 amended, 1991, 398 94E, 94F. (See 1991, 398 111.)

Sect. 9 amended, 1991, 398 94G. (See 1991, 398 111.)

Sect. 11 amended, 1991, 398 94H. (See 1991, 398 111.)

### **CHAPTER 176J - SMALL GROUP HEALTH INSURANCE.**

New chapter inserted, 1991, 495 1 42.

### **CHAPTER 177 - ASSESSMENT INSURANCE.**

Chapter repealed, 1924, 406 17; 1929, 24, 1.

### **CHAPTER 178 - Savings Bank Life Insurance.**

Chapter repealed, 1990, 499 22. (See 1990, 499 24.)

### **CHAPTER 178A - SAVINGS BANK LIFE INSURANCE.**

New chapter inserted, 1990, 499 23. (See 1990, 499 24.)

### **CHAPTER 179 - Proprietors of Wharves, Real Estate lying in Common, and General Fields.**

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## **CHANGES IN THE**

### **CHAPTER 180 - Corporations for Charitable and Certain Other Purposes.**

Sect. 4, clause (m) revised, 1991, 398 95; clause (n) inserted, 1991, 398 95. (See 1991, 398 111.)  
Sect. 6, fourth paragraph stricken out and two paragraphs inserted, 1991, 229 7.  
Sect. 6D added, 1991, 229 8.

### **CHAPTER 180A - Management of Institutional Funds.**

#### **CHAPTER 181 - Foreign Corporations.**

Sect. 4 revised, 1991, 229 9; first paragraph, clause (1) amended, 1992, 286 233; second paragraph amended, 1992, 286 235; sixth paragraph, clause (1) amended, 1992, 234; paragraph (6) added, 1992, 255 3 (See 1992, 286 278, 279.)  
Sect. 4A added, 1991, 229 10.  
Sect. 15 revised, 1991, 229 11.  
Sect. 17 added, 1991, 229 12.

### **CHAPTER 182 - Voluntary Associations and Certain Trusts.**

#### **CHAPTER 183 - Alienation of Land.**

Sect. 54B added, 1992, 410.  
Sect. 63A added, 1992, 272.

#### **CHAPTER 183A - Condominiums.**

Sect. 1, definitions of "Declarant", "Leasehold condominium" and "Manager" inserted, 1992, 400 2; definition of "Replacement" inserted, 1992, 400 3; definition of "Unit owner" revised, 1992, 400 4. (See 1992, 400 19.)  
Sect. 2 revised, 1992, 400 5. (See 1992, 400 19.)  
Sect. 4, subsections (4) to (6), inclusive, inserted, 1992, 400 6. (See 1992, 400 19.)  
Sect. 6, subsections (a) and (b) revised, 1992, 400 7; paragraph (c) revised, 1991, 554 1; first paragraph, second sentence revised, 1992, 8; first paragraph stricken out and two paragraphs inserted, 1992, 400 8; first paragraph stricken out and three paragraphs inserted, 1992, 400 9; subsection (d) revised, 1992, 400 10. (See 1991, 554 7; 1992, 400 19.)  
Sect. 7 revised, 1992, 400 11. (See 1992, 400 19.)  
Sect. 8, subsection (i), three sentences added, 1992, 400 12. (See 1992, 400 19.)  
Sect. 10, subsection (b), paragraph (5) added, 1992, 400 13; subsections (c), (d) and (e) stricken out and subsections (f) to (n), inclusive inserted, 1992, 400 14. (See 1992, 400 19.)  
Sect. 21, paragraph (a), clause (6) revised, 1992, 400 15. (See 1992, 400 29.)

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## **GENERAL LAWS**

### **CHAPTER 183B - REAL ESTATE TIME-SHARES.**

New chapter inserted, 1987, 760 1. (See 1987, 760 2.)

### **CHAPTER 184 - General Provisions relative to Real Property.**

Sect. 17D, paragraph (e) amended, 1992, 286 236 (See 1992, 286 278, 279.  
Sect. 29 amended, 1992, 286 237.

### **CHAPTER 184A - The Rule against Perpetuities.**

Sect. 5, paragraph (d) added, 1991, 434.

### **CHAPTER 184B - SHORT FORM TERMS FOR WILLS AND TRUSTS.**

### **CHAPTER 185 - The Land Court and Registration of Title to Land.**

Sect. 2 revised, 1992, 379 33. (See 1992, 379 232, 233.)  
Sect. 6 revised, 1992, 379 34. (See 1992, 379 232, 233.)  
Sect. 7 revised, 1992, 379 35 (See 1992, 379 232, 233.)  
Sect. 10A amended, 1992, 379 36 (See 1992, 379 232, 233.)  
Sect. 11 amended, 1992, 379 37. (See 1992, 379 232, 233.)  
Sect. 12 amended, 1992, 379 38. (See 1992, 379 232, 233.)  
Sect. 13 revised, 1992, 379 39 (See 1992, 379 232, 233.)  
Sect. 13A revised, 1992, 379 40 (See 1992, 379 232, 233.)  
Sect. 14 revised, 1992, 379 41. (See 1992, 379 232, 233.)  
Sect. 61A amended, 1992, 286 238. (See 1992, 286 278, 279.)  
Sect. 70, first sentence revised, 1991, 157 1 (See 1991, 157 8.)

### **CHAPTER 185A - Housing Court of the City of Boston, Jurisdiction and Powers.**

### **CHAPTER 185B - Housing Court of the County of Hampden, Jurisdiction and Powers.**

### **CHAPTER 185C - Housing Court Department.**

Sect. 4 revised, 1992, 379 42. (See 1992, 379 232, 233.)  
Sect. 5 revised, 1992, 379 43. (See 1992, 379 232, 233.)  
Sect. 7 revised, 1992, 379 44. (See 1992, 379 232, 233.)  
Sect. 8 revised, 1992, 379 45. (See 1992, 379 232, 233.)  
Sect. 8A revised, 1992, 379 46. (See 1992, 379 232, 233.)  
Sect. 9 revised, 1992, 379 47 (See 1992, 379 232, 233.)  
Sect. 9A revised, 1992, 379 48 (See 1992, 379 232, 233.)  
Sect. 10 revised, 1992, 379 49 (See 1992, 379 232, 233.)  
Sect. 11 revised, 1992, 379 50. (See 1992, 379 232, 233.)  
Sect. 12 revised, 1992, 379 51. (See 1992, 379 232, 233.)  
Sect. 13 revised, 1992, 379 52 (See 1992, 379 232, 233.)  
Sect. 14 revised, 1992, 379 53 (See 1992, 379 232, 233.)

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Sect. 16 revised, 1992, 379 54 (See 1992, 379 232, 233.)  
Sect. 18 revised, 1992, 379 55 (See 1992, 379 232, 233.)  
Sect. 20 revised, 1992, 379 56. (See 1992, 379 232, 233.)  
Sect. 23 revised, 1992, 379 57 (See 1992, 379 232, 233.)

### **CHAPTER 186 - Estates for Years and at Will.**

Sect. 18 amended, 1991, 554 2 (See 1991, 554 7.)

### **CHAPTER 187 - Easements.**

### **CHAPTER 188 - Homesteads.**

Sect. 1 amended, 1992, 286 239. (See 1992, 286 278, 279.)  
Sect. 1A revised, 1991, 481 23.  
Sect. 2 amended, 1991, 481 24.

### **CHAPTER 189 - Dower and Curtesy.**

### **Chapter 190 -Descent and Distribution of Real and Personal Property.**

Sect. 35, clause (j) revised, 1991, 138 309; clause (n) amended, 1991, 138 310; clauses (u) and (v) stricken out and clauses (u), (v), (w), and (x) inserted, 1991, 138 311. (See 1991, 138 393.)  
Sect. 35A added, 1991, 138 312 (See 1991, 138 393.)  
Sect. 38K added, 1991, 138 31 (See 1991, 138 393.)  
Sect. 38L added, 1991, 138 313. (See 1991, 138 393.)  
Sect. 38M added, 1991, 138 313 (See 1991, 138 393.)  
Sect. 38N added, 1991, 138 313.  
Sect. 39I, fourth paragraph revised, 1991, 138 314. (See 1991, 138 393.)

### **CHAPTER 190A - Effect of Apparently Simultaneous Deaths Upon Devolution and Disposition of Property, including Proceeds of Insurance.**

### **CHAPTER 191 - Wills.**

Sect. 15 amended, 1992, 286 239. (See 1992, 286 278, 279.)

### **CHAPTER 191A - Disclaimer of Certain Property Interest Act.**

### **CHAPTER 191B - UNIFORM STATUTORY WILL ACT.**

New chapter inserted, 1987, 319 2.

### **CHAPTER 192 - Probate of Wills and Appointment of Executors.**

Sect. 9 revised, 1991, 320 1.

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### **CHAPTER 193 - Appointment of Administrators.**

### **CHAPTER 194 - Public Administrators.**

### **CHAPTER 195 - General Provisions relative to Executors and Administrators.**

### **CHAPTER 196 - Allowances to Widows and Children, and Advancements.**

### **CHAPTER 197 - PAYMENT OF DEBTS, LEGACIES AND DISTRIBUTIVE SHARES.**

Sect. 9, paragraph (d) revised, 1991, 6 48. (See 1991, 6 95-97.)

### **CHAPTER 198 - Insolvent Estates Of Deceased Persons.**

### **CHAPTER 199 - Settlement of Estates of Deceased Non-residents.**

### **CHAPTER 199A - General Provisions Regarding Certain Foreign Fiduciaries.**

### **CHAPTER 200 - Settlement of Estates of Absentees.**

### **CHAPTER 200A - Abandoned Property.**

Sect. 1 amended, 1992, 241. (See 1992, 286 278, 279.)

Sect. 6B amended, 1992, 286 242, 243, 244. (See 1992, 286 278, 279.)

Sect. 6C amended, 1992, 245, 246, 247. (See 1992, 286 278, 279.)

Sect. 8 amended, 1992, 286 248. (See 1992, 286 278, 279.)

Sect. 8B amended, 1992, 286 249 (See 1992, 286 278, 279.)

Sect. 14 amended, 1992, 289 250 (See 1992, 286 278, 279.)

### **CHAPTER 201 - Guardians and Conservators.**

Sect. 1, sentence inserted after first sentence, 1992, 379 58; paragraph added, 1992, 379 59. (See 1992, 379 232, 233.)

### **CHAPTER 201A - UNIFORM TRANSFER TO MINORS ACT. (Former title, Uniform Gifts to Minors Act.) (Title revised, 1987, 465 57.)**

Sect. 8 amended, 1992, 286 251 (See 1992, 1992 278, 279.)

### **CHAPTER 201B - UNIFORM DURABLE POWER OF ATTORNEY ACT.**

### **CHAPTER 201C - STATUTORY CUSTODIANSHIP TRUSTS.**

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## **CHANGES IN THE**

### **CHAPTER 201D - HEALTH CARE PROXIES.**

New chapter inserted, 1990, 332 1.

Title inserted, 1992, 286 252.

Sect. 1, definition of "Facility" revised, 1992, 286 253 (See 1992, 286 278, 279.)

Sect. 15, introductory paragraph revised, 1992, 286 254. (See 1992, 286 278, 279.)

### **CHAPTER 202 - Sales, Mortgages and Leases of Real Estate by Executors, Administrators, Guardians and Conservators.**

Sect. 38 revised, 1991, 320 2.

### **CHAPTER 203 - Trusts.**

Sect. 21B amended, 1992, 286 255 (See 1992, 286 278, 279.)

Sect. 25A revised, 1991, 347; section amended, 1992, 286 256 (See 1992, 286 278, 279.)

### **CHAPTER 203A - Uniform Common Trust Fund Act. (Former title, Collective Investment of Small Trust Funds.)**

### **CHAPTER 204 - General Provisions relative to Sales, Mortgages, Releases, Compromises, etc., by Executors, etc.**

### **CHAPTER 205 - Bonds of Executors, Administrators, Guardians, Conservators, Trustees, and Receivers.**

### **CHAPTER 206 - Accounts and Settlements of Executors, Administrators, Guardians, Conservators, Trustees and Receivers.**

### **CHAPTER 207 - Marriage.**

Sect. 38, amended, 1991, 419.

Sect. 39, last paragraph revised, 1991, 249.

### **CHAPTER 208 - Divorce.**

Sect. 28, sentence inserted after third sentence, 1991, 173 1.

Sect. 34D added, 1992, 188 1.

### **CHAPTER 209 - Husband and Wife.**

Sect. 3 revised, 1992, 289 257. (See 1992, 286 278, 279.)

Sect. 32, two paragraphs inserted after first paragraph, 1992, 188 2.

Sect. 37, sentence inserted after second sentence, 1991, 173 2.



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### **CHAPTER 209A - Abuse Prevention.**

Sect. 3A added, 1992, 188 3.

Sect. 7, paragraph inserted before first paragraph, 1992, 188 4.

### **CHAPTER 209B - Massachusetts Child Custody Jurisdiction Act.**

### **CHAPTER 209C - CHILDREN BORN OUT OF WEDLOCK.**

Sect. 9 amended, 1992, 286 258. (See 1992, 286 278, 279.)

Sect. 13 amended, 1992, 286 259 (See 1992, 286, 278, 279.)

Sect. 15, two paragraphs added, 1992, 188 5.

### **CHAPTER 210 - Adoption of Children and Change of Names.**

Sect. 3, paragraph (b), paragraph added, 1992, 303 4; paragraph (c), three paragraphs added after second sentence.

### **CHAPTER 211 - The Supreme Judicial Court.**

Sect. 2A amended, 1992, 379 60 (See 1992, 379 232, 233.)

Sect. 3 amended, 1992, 379 61 (See 1992, 379 232, 233.)

Sect. 4 amended, 1992, 379 62 (See 1992, 379 232, 233.)

Sect. 26 revised, 1992, 379 63. (See 1992, 379 232, 233.)

Sect. 26A added, 1992, 379 64. (See 1992, 379 232, 233.)

Sect. 26B added, 1992, 379 64. (See 1992, 379 232, 233.)

Sect. 28 added, 1992, 379 65. (See 1992, 379 232, 233.)

### **CHAPTER 211A - Appeals Court.**

Sect. 10 amended, 1992, 379 66 (See 1992, 379 232, 233.)

Sect. 16, paragraph (d) added, 1992, 379 67 (See 1992, 379 232, 233.)

Sect. 17 amended, 1992, 379 68. (See 1992, 379 232, 233.)

### **CHAPTER 211B - Trial Court of the Commonwealth.**

Sect. 1 revised, 1992, 379 69 (See 1992, 379 232, 233.)

Sect. 2 revised, 1992, 379 70. (See 1992, 379 232, 233.)

Sect. 5 revised, 1992, 379 72 (See 1992, 379 232, 233.)

Sect. 6 revised, 1992, 379 73 (See 1992, 379 232, 233.)

Sect. 7, first paragraph revised, 1992, 379 74; second paragraph amended, 1992, 379 75 (See 1992, 379 232, 233.)

Sect. 8 revised, 1992, 379 76. (See 1992, 379 232, 233.)

Sect. 9 revised, 1992, 379 77 (See 1992, 379 232, 233.)

Sect. 9A added, 1992, 379 78 (See 1992, 379 232, 233.)

Sect. 10 revised, 1992, 379 79 (See 1992, 379 232, 233.)

Sect. 10A added, 1992, 379 80 (See 1992, 379 232, 233.)

Sect. 11 repealed, 1992, 379 81. (See 1992, 379 232, 233.)

Sect. 12 revised, 1992, 379 82 (See 1992, 379 232, 233.)

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Sect. 13 amended, 1992, 379 83 (See 1992, 379 232, 233.)  
Sect. 14 amended, 1992, 379 84 (See 1992, 379 232, 233.)  
Sect. 15 repealed, 1992, 379 85 (See 1992, 379 232, 233.)  
Sect. 16 revised, 1992, 379 86. (See 1992, 379 232, 233.)  
Sect. 17 revised, 1992, 379 87. (See 1992, 379 232, 233.)  
Sect. 18 repealed, 1992, 379 88 (See 1992, 379 232, 233.)  
Sect. 19 amended, 1991, 145 37; section revised, 1992, 379 89, 90;  
stricken out, 1992, 286 260 (See 1991, 145 45; 1992, 379 232, 233, 1992, 286  
278, 279.)  
Sect. 20 inserted, 1992, 286 261 (See 1992, 286 278, 279.)

### **CHAPTER 211C - Commission on Judicial Conduct.**

### **CHAPTER 211D - Committee for Public Counsel Services.**

Sect. 2A, paragraph inserted after first paragraph, 1991, 138 205 (See 1991, 138  
393.)

### **CHAPTER 212 - The Superior Court.**

Sect. 1 revised, 1992, 379 91. (See 1992, 379 232, 233.)  
Sect. 2 amended, 1992, 379 92. 1tf1 (See 1992, 379 232, 233.)  
Sect. 14A amended, 1992, 379 93; second paragraph amended, 1992, 379 94 (See  
1992, 379 232, 233.)  
Sect. 19 amended. 1992, 379 95. 1tf1 (See 1992, 379 232, 233.)  
Sect. 20A amended, 1992, 379 96. (See 1992, 379 232, 233.)  
Sect. 21 amended, 1992, 379 97 (See 1992, 379 232, 233.)  
Sect. 23 amended, 1992, 379 98 (See 1992, 379 232, 233.)

### **CHAPTER 213 - Provisions Common to the Supreme Judicial and Superior Courts.**

### **CHAPTER 214 - Equity Jurisdiction. (Former title, Equity Jurisdiction and Procedure in the Supreme Judicial and Superior Courts.)**

Sect. 7B added, 1991, 373.

### **CHAPTER 215 - Probate Courts.**

Sect. 54 amended, 1992, 379 99. (See 1992, 379 232, 233.)  
Sect. 55 amended, 1992, 379 100. (See 1992, 379 232, 233.)  
Sect. 62 revised, 1992, 379 101. (See 1992, 379 232, 233.)

### **CHAPTER 216 - Courts of Insolvency.**

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### CHAPTER 217 - Judges and Registers of Probate and Insolvency.

- Sect. 2, first sentence revised, 1991, 409 1; section amended, 1992, 379 102 (See 1991, 409 3; 1992, 379 232, 233.)  
Sect. 3B revised, 1992, 379 102 (See 1992, 379 232, 233.)  
Sect. 3C amended, 1991, 409 2; 1992, 379 104 (See 1991, 409 3; 1992, 379 232, 233.)  
Sect. 6B revised, 1992, 379 105 (See 1992, 279 232, 233.)  
Sect. 8 revised, 1992, 379 106 (See 1992, 379 232, 233.)  
Sect. 8A amended, 1992, 379 107. (See 1992, 379 232, 233.)  
Sect. 15 amended, 1992, 379 108. (See 1992, 379 232, 233.)  
Sect. 15C revised, 1992, 286 262 (See 1992, 286 278, 279.)  
Sect. 23, first sentence revised, 1992, 389 109; section amended, 1992, 379 110. (See 1992, 379 232, 233.)  
Sect. 23A, first sentence revised, 1992, 379 111. (See 1992, 379 232, 233.)  
Sect. 27, first sentence revised, 1992, 379 112 (See 1992, 379 232, 233.)  
Sect. 28, first two sentences revised, 1992, 379 113 (See 1992, 379 232, 233.)  
Sect. 29, first two sentences revised, 1992, 379 114. (See 1992, 379 232, 233.)  
Sect. 29A, first two sentences revised, 1992, 379 115 (See 1992, 379 232, 233.)  
Sect. 29B, first two sentences revised, 1992, 379 116 (See 1992, 379 232, 233.)  
Sect. 31 repealed, 1992, 379 117 (See 1992, 379 232, 233.)  
Sect. 35A amended, 1992, 379 118 (See 1992, 379 232, 233.)  
Sect. 35B amended, 1992, 379 119. (See 1992, 379 232, 233.)  
Sect. 42 amended, 1992, 379 120 (See 1992, 379 232, 233.)

### CHAPTER 218 - District Courts.

- Sect. 1 revised, 1992, 379 121. (see 1992, 379 232, 233.)  
Sect. 6 revised, 1992, 379 122. (See 1992, 379 232, 233.)  
Sect. 6A revised, 1992, 379 123 (See 1992, 379 232, 233.)  
Sect. 8 revised, 1992, 379 124 (See 1992, 379 232, 233.)  
Sect. 9 revised, 1992, 379 125 (See 1992, 379 232, 233.)  
Sect. 10, first paragraph amended, 1992, 403 31; section revised, 1992, 379 125 (See 1992, 379 232, 233.)  
Sect. 10A revised, 1992, 379 127 (See 1992, 379 232, 233.)  
Sect. 11, first sentence revised, 1992, 379 128. (See 1992, 379 232, 233.)  
Sect. 15 amended, 1991, 6 49; revised, 1992, 379 129. (See 1991, 6 95-97; 1992, 379 232, 233.)  
Sect. 16 revised, 1992, 379 130 (See 1992, 379 232, 233.)  
Sect. 17 revised, 1992, 379 131 (See 1992, 379 232, 233.)  
Sect. 19B amended, 1992, 379 132 (See 1992, 379 232, 233.)  
Sect. 19C revised, 1992, 379 133 (See 1992, 379 232, 233.)  
Sect. 19D revised, 1992, 379 134. (See 1992, 379 232, 233.)  
Sect. 21 revised, 1992, 379 135. (See 1992, 379 232, 233.)  
Sect. 22, second paragraph revised, 1992, 379 136. (See 1992, 379 232, 233.)  
Sect. 23 revised, 1992, 379 137. (See 1992, 379 232, 233.)  
Sect. 26 amended, 1992, 412 1; revised, 1992, 379 138 (See 1992, 379 232, 233.)  
Sect. 26A revised, 1992, 379 139 (See 1992, 379 232, 233.)  
Sect. 27 amended, 1991, 488 9; 1992, 379 140. (See 1992, 379 232, 233.)

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Sect. 27A revised, 1992, 379 141 (See 1992, 379 232, 233.)  
Sect. 31 repealed, 1992, 379 142 (See 1992, 379 232, 233.)  
Sect. 35 amended, 1992, 379 143. (See 1992, 379 232, 233.)  
Sect. 35A, second paragraph, sentence inserted after first sentence, 1992, 188 6.  
Sect.39 amended, 1992, 404 32; 1992, 379 144. (See 1992, 379 232, 233.)  
Sect. 40 amended, 1992, 379 145. (See 1992, 379 232, 233.)  
Sect. 42A revised, 1992, 379 146 (See 1992, 379 232, 233.)  
Sect. 43 amended, 1992, 379 147. (See 1992, 379 232, 233.)  
Sect. 43A revised, 1992, 379 148 (See 1992, 379 232, 233.)  
Sect. 43B revised, 1992, 379 149. (See 1992, 379 232, 233.)  
Sect. 43D revised, 1992, 379 150. (See 1992, 379 232, 233.)  
Sect. 43E revised, 1992, 379 151 (See 1992, 379 232, 233.)  
Sect. 44 revised, 1992, 379 152 (See 1992, 379 232, 233.)  
Sect. 49 revised, 1992, 379 153 (See 1992, 370 232, 233.)  
Sect. 50, second paragraph revised, 1992, 379 154 (See 1992, 379 232, 233.)  
Sect. 51A, first sentence stricken out and three sentences inserted, 1992, 379 155; section amended, 1992, 379 156 (See 1992, 379 232, 233.)  
Sect. 52 amended, 1992, 379 157. (See 1992, 379 232, 233.)  
Sect. 53 amended, 1992, 379, 158-159 (See 1992, 379 232, 233.)  
Sect. 53A amended, 1992, 379 160. (See 1992, 379 232, 233.)  
Sect. 55 amended, 1992, 379 161. (See 1992, 379 232, 233.)  
Sect. 57 revised, 1992, 379 162. (See 1992, 379 232, 233.)  
Sect. 57A revised, 1992, 379 163 (See 1992, 379 232, 233.)  
(Sect. 58. revised, 1992, 379 164 (See 1992, 379 232, 233.)  
Sect. 58C amended, 1992, 379 165 (See 1992, 379 232, 233.)  
Sect. 59 revised, 1992, 379 166. (See 1992, 379 232, 233.)  
Sect. 60 revised, 1992, 379 167.  
Sects. 61-65, inclusive, repealed, 1992, 379 168. (See 1992, 379 232, 233.)  
Sect. 67 revised, 1992, 379 169 (See 1992, 379 232, 233.)  
Sect. 69 revised, 1992, 379 170 (See 1992, 379 232, 233.)  
Sect. 70 amended, 1992, 379 171 (See 1992, 379 232, 233.)  
Sect. 79 amended, 1992, 379 172 (See 1992, 379 232, 233.)  
Sect. 80 revised, 1992, 379 173. (See 1992, 379 232, 233.)  
Sect. 81 revised, 1992, 379 174. (See 1992, 379 232, 233.)

## CHAPTER 219 - Trial Justices.

## CHAPTER 220 - Courts and Naturalization.

## CHAPTER 221 - Clerks, Attorneys and Other Officers of Judicial Court.

Sect. 5 amended, 1992, 379 175 (See 1992, 379 232, 233.)  
Sect. 37 amended, 1991, 138 206, 207. (See 1991, 138 393.)  
Sect. 69 amended, 1992, 379 176 (See 1992, 379 232, 233. Sect. 70 amended, 1992, 379 177 (See 1992, 379 232, 233.)  
Sect. 71 amended, 1992, 379 179. (See 1992, 379 232, 233.)  
Sect. 80 amended, 1992, 379 179 (See 1992, 379 232, 233.)

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**CHAPTER 221A - THE MASSACHUSETTS LEGAL ASSISTANCE CORPORATION ACT.**

**CHAPTER 221B - CHILD SUPPORT HEARING OFFICERS.**

**CHAPTER 221C - COURT INTERPRETERS FOR THE TRIAL COURT.**

**CHAPTER 222 - Justices of the Peace, Notaries Public and Commissioners.**

**CHAPTER 223 - Commencement of Actions, Service of Process.**

**CHAPTER 223A - Jurisdiction of Courts and of the Commonwealth over Persons in Other States and Counties.**

**CHAPTER 224 - Arrest on Mense Process and Supplementary Proceedings in Civil Actions.**

**CHAPTER 225 - PROCESS AFTER JUDGEMENT FOR NECESSARIES OR LABOR.**

**CHAPTER 226 - Bail.**

**CHAPTER 227 - Proceedings against Absent Defendants and upon Insufficient Service.**

**CHAPTER 228 - Survival of Actions and Death and Disabilities of Parties.**

**CHAPTER 229 - Actions for Death and Injuries Resulting in Death.**

**CHAPTER 230 - Actions By and Against Executors and Administrators.**

**CHAPTER 231 - Pleading and Practice.**

Sect. 60G, paragraph (a) revised, 1991, 398 95A. (See 1991, 398 111.)

Sect. 85P 1/2 added, 1991, 275.

Sect. 140C 1/2 added, 1991, 470.

**CHAPTER 231A - Procedure for Declaratory Judgments.**

**CHAPTER 231B - Contribution among Joint Tortfeasors**

**CHAPTER 232 - Set-off and Tender.**

**CHAPTER 232A - Tender.**

**CHAPTER 233 - Witnesses and Evidence.**

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### **CHAPTER 234 - Juries.**

Sect. 4 amended, 1992, 403 33.

### **CHAPTER 234A - Office Of Jury Commissioner For The Commonwealth.**

### **CHAPTER 235 - Judgement and Execution.**

Sect. 34A amended, 1991, 494 4,5; section revised, 1992, 153 30. (See 1992, 153 85.)

### **CHAPTER 236 - Levy of Executions on Land.**

### **CHAPTER 237 - Writs of Entry.**

### **CHAPTER 238 - Writs of Dower.**

### **CHAPTER 239 - Summary Process for Possession of Land.**

Sect. 2A amended, 1991, 554 3; second sentence revised, 1991, 554 4. (See 1991, 554 7.)

### **CHAPTER 240 - Proceedings for Settlement of Title to Land.**

### **CHAPTER 241 - Partition of Land.**

### **CHAPTER 242 - Waste and Trespass.**

### **CHAPTER 243 - Actions for Private Nuisances.**

### **CHAPTER 244 - Foreclosure and Redemption of Mortgages.**

Sect. 1 revised, 1991, 157 2. (See 1991, 157 8.)

Sect. 2, second sentence revised, 1991, 157 3. (See 1991, 157 8.)

Sect. 14, first sentence amended, 1991, 157 4; sentence inserted after first sentence, 1991, 157 5; amended, 1992, 285; second paragraph revised, 1992, 287 (See 1991, 157 8.)

Sect. 15, first sentence revised, 1991, 157 6; third sentence stricken out, 1991, 157 7 (See 1991, 157 8.)

### **CHAPTER 245 - Informations by the Commonwealth.**

### **CHAPTER 246 - Trustee Process.**

Sect. 28, third sentence revised, 1992, 153 31 (See 1992, 153 85.)

### **CHAPTER 247 - Replevin.**

### **CHAPTER 248 - Habeas Corpus and Personal Liberty.**

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### **CHAPTER 249 - Audita Querela, Certiorari, Mandamus and Quo Warranto.**

### **CHAPTER 250 - Writs of Error, Vacating Judgment, Writs of Review.**

### **CHAPTER 251 - Uniform Arbitration Act for Commercial Disputes. (Former title, Arbitration.)**

Sect. 1 amended, 1991, 398 96 (See 1991, 398 111.)

### **CHAPTER 252 - Improvement of Low Land and Swamps.**

### **CHAPTER 253 - Mills, Dams and Reservoirs.**

Sect. 39 amended, 1991, 552 131. (See 1991, 552 131.)

### **CHAPTER 254 - Liens on Buildings and Land.**

Sect. 5A, third and fourth paragraphs stricken out and three paragraphs inserted, 1991, 153; third paragraph, two sentences added, 1992, 400 17 (See 1992, 400 19.)

### **CHAPTER 255 - Mortgages, Conditional Sales and Pledges of Personal Property, and Liens Thereon.**

Sect. 12G, first paragraph revised, 1992, 118 18; section amended, 1992, 118 19, 20; sentence added, 1992, 118 21; section amended, 1992, 118 22, 23, 24, 25; paragraph inserted after seventh paragraph, 1992, 118 26; eighth paragraph, second sentence revised, 1992, 118 27.

Sect. 25, two paragraphs added, 1992, 394.

Sect. 25A revised, 1991, 481 25.

### **CHAPTER 255A - Trust Receipts and Pledges without Possession in the Pledgee.**

### **CHAPTER 255B - Retail Installment Sales of Motor Vehicles.**

Sect. 10 amended, 1992, 118 28, 29, 30; fourth paragraph, sentence added, 1992, 118 31; section amended, 1992, 118 32, 33, 34, 35; paragraph inserted after eighth paragraph, 1992, 118 36.

### **CHAPTER 255C - Insurance Premium Finance Agencies.**

Sect. 14A amended, 1992, 118 37; paragraph inserted after second paragraph, 1992, 118 38; section amended, 1992, 118 39; fifth paragraph revised, 1992, 118 40; two paragraphs inserted after sixth paragraph, 1992, 118 41.

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### **CHAPTER 255D - Retail Installment Sales and Services.**

Sect. 26 amended, 1992, 118 42-49; paragraph inserted after seventh paragraph, 1992, 118 50; section amended, 1992, 286 262 (See 1992, 286 278, 279.)

### **CHAPTER 255E - LICENSING OF CERTAIN MORTGAGE LENDERS AND BROKERS.**

New chapter inserted, 1991, 144 | 3. (See 1991, 144 | 5.)

### **CHAPTER 256 - Recognizances for Debts.**

### **CHAPTER 257 - Seizure And Libelling Of Forfeited Property.**

CHAPTER 258 - Claims And Indemnity Procedure for the Commonwealth, Its Municipalities, Counties And Districts And The Officers And Employees Thereof.  
Sect. 1 amended, 1992, 343 5.

Sect. 9A amended, 1991, 412 92. (See 1991, 412 139.)

### **CHAPTER 258A - Compensation of Victims of Violent Crimes.**

### **CHAPTER 258B - Rights of Victims and Witnesses of Crime.**

Sect. 4 revised, 1991, 138 274 (See 1991, 138 393.)

Sect. 6 amended, 1991, 138 208. (See 1991, 138 393.)

Sect. 8, first paragraph, fourth sentence revised, 1991, 138 209; second paragraph, first paragraph revised, 1991, 138 210. (See 1991, 138 393.)

Sect. 9, second sentence revised, 1991, 138 212. (See 1991, 138 393.)

### **CHAPTER 259 - Prevention of Frauds and Perjuries.**

### **CHAPTER 260 - Limitation of Actions.**

Sect. 21 amended, 1991, 310 1. (See 1991, 310 2.)

### **CHAPTER 261 - Costs in Civil Actions.**

(See 1992, 286 278, 279.)

Sect. 53 amended, 1991, 412 93.

(See 1991, 412 139.)

Sect. 53B amended, 1991, 412 94.

Sect. 53C amended, 1991, 412 95.

(See 1991, 412 139.)

### **CHAPTER 263 - Rights of Persons Accused of Crime.**

Sect. 1A revised, 1991, 412 96. (See 1991, 412 139.)

Sect. 4, paragraph added, 1991, 488 10; last paragraph, sentence added, 1992, 398 7; last paragraph amended, 1992, 379 180 (See 1992, 379 232, 233.)



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Sect. 6, sentence added, 1992, 379 181 (See 1992, 379 232, 233.)

### **CHAPTER 264 - Crimes against Governments.**

### **CHAPTER 265 - Crimes against the Person.**

Sect. 13F, paragraph added, 1992, 374.

Sect. 21A added, 1992, 412 2.

Sect. 42 added, 1991, 33 101 (See 1991, 33 155.)

Sect. 43 added, 1992, 31.

### **CHAPTER 266 - Crimes Against Property.**

Sect. 98A amended, 1991, 350.

Sect. 146 added, 1992, 64.

### **CHAPTER 267 - Forgery and Crimes against the Currency.**

### **CHAPTER 268 - Crimes against Public Justice.**

Sect. 6 amended, 1991, 552 132.

### **CHAPTER 268A - Conduct of Public Officials and Employees. (Former title, Code of Ethics.)**

### **CHAPTER 268B - Financial Disclosure by certain Public Officials and Employees.**

Sect. 1 amended, 1992, 286 264 (See 1992, 286 278, 279.)

Sect. 2 amended, 1991, 412 97. (See 1991, 412 139.)

Sect. 5 amended, 1992, 286 265 (See 1992, 286 278, 279.)

### **CHAPTER 269 - Crimes Against Public Peace.**

Sect. 1 amended, 1991, 412 98 (See 1991, 412 139.)

### **CHAPTER 270 - Crimes Against Public Health.**

Sect. 16 amended, 1991, 412 99 (See 1991, 412 139.)

### **CHAPTER 271 - Crimes against Public Policy.**

### **CHAPTER 272 - Crimes against Chastity, Morality, Decency and Good Order.**

Sect. 98A amended, 1992, 286 266. (See 1992, 286 278, 279.)

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### **CHAPTER 273 - Desertion, Non-support and Illegitimacy.**

Sect. 64, second paragraph amended, 1991, 138 213 (See 1991, 138 393.)

### **CHAPTER 273A - Uniform Reciprocal Enforcement Of Support. (Former title, Enforcement of the Duty to Support Dependents.)**

### **CHAPTER 274 - Felonies, Accessories and Attempts to Commit Crimes.**

#### **CHAPTER 275 - Proceedings to Prevent Crimes.**

Sect. 4, second sentence stricken out, 1992, 379 182 (See 1992, 379 232, 233.)

Sect. 8 revised, 1992, 379 183 (See 1992, 379 232, 233.)

Sect. 11 amended, 1992, 379 184. (See 1992, 379 232, 233.)

Sect. 13 revised, 1992, 379 185 (See 1992, 379 232, 233.)

Sect. 15, paragraph (a), first sentence amended, 1991, 138 216 (See 1991, 138 225, 393.)

Sect. 18, third sentence revised, 1991, 138 217 (See 1991, 138 393.)

### **CHAPTER 276 - Search Warrants, Rewards, Fugitives from Justice, Arrest, Examination, Commitment and Bail, Probation Officers and Board of Probation.**

Sect. 35 revised, 1991, 138 268; section revised, 1992, 23 22. (See 1991, 138 393.)

Sect. 57 amended, 1992, 201 1; paragraph inserted after first paragraph, 1992, 201 2.

Sect. 58 amended, 1992, 201 3, 4, 5; 1992, 379 186. (See 1992, 379 232, 233.)

Sect. 65 amended, 1992, 379 187. (See 1992, 379 232, 233.)

Sect. 83 revised, 1992, 379 188 (See 1992, 379 232, 233.)

Sect. 83A repealed, 1992, 379 189. (See 1992, 379 232, 233.)

Sect. 89A amended, 1992, 379 190. (See 1992, 379 232, 233.)

Sect. 98, first paragraph, last two sentences stricken out, 1991, 138 296; second paragraph, second sentence amended, 1991, 138 297; section revised, 1992, 379 191. (See 1991, 138 393; 1992, 379 232, 233.)

Sect. 99 revised, 1992, 379 191. (See 1992, 379 232, 233.)

Sect. 99A repealed, 1992, 379 192 (See 1992, 379 232, 233.)

### **CHAPTER 276A - District Court Pretrial Diversion of Selected Offenders.**

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Sect. 28E amended, 1991, 488 11, 12.

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28 amended, 1992, 379 197. (See 1992, 379 232, 233.)

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